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Thursday
March 8, 1984

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Federal Deposit Insurance Corporation
Nuclear Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Aviation Safety
Federal Aviation Administration

Commodity Futures
Commodity Futures Trading Commission

Continental Shelf
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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.

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National Defense
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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

Federal Crop Insurance Corporation

7 CFR Part 422

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: Under the authority contained in the Potato Crop Insurance Regulations (7 CFR Part 422), the Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for crop insurance on potatoes in one county in Virginia and two counties in North Carolina. This action is necessary because the actuarial tables for those counties have not been placed on file in the service offices by the required date. The intended effect of this notice is to advise all interested parties of the extension of sales closing dates and to comply with the provisions of the potato crop insurance regulations with respect to the authority of the Manager, FCIC, to extend sales closing dates.

EFFECTIVE DATE: March 8, 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: Under the provisions contained in the Potato Crop Insurance Regulations (7 CFR Part 422), the closing date for accepting applications for crop insurance on potatoes is February 28. Because of a delay in preparation and filing of the actuarial tables in Northampton County, Virginia, and Pamlico and Pasquotank Counties, North Carolina, FCIC is extending the sales closing date for accepting applications in those counties.

Under the authority contained in 7 CFR 422.7(b) of the Potato Crop Insurance Regulations, the closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result during such period of extension. If adverse conditions should develop during such period, FCIC will immediately discontinue the acceptance of applications.

List of Subjects in 7 CFR Part 422

Crop insurance, Potatoes.

Accordingly, under the authority contained in 7 CFR 422.7(b) of the Potato Crop Insurance Regulations, the Federal Crop Insurance Corporation herewith gives notice that the closing date for accepting applications for potato crop insurance in the States and Counties listed below, is extended through the close of business on March 16, 1984:

Virginia
Northampton
North Carolina
Pamlico
Pasquotank

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

Done in Washington, D.C., on February 28, 1984.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: February 29, 1984.

Approved by:

Edward Hews,
Acting Manager.

[FR Doc. 84–6098 Filed 3–7–84; 8:45 am]
BILLING CODE 3410–08–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Delta Air Lines, Inc.

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 Delta Air Lines, Inc.

EFFECTIVE DATE: February 24, 1984.

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

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Delta Air Lines, Inc. on February 24, 1984 to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates 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 "Delta Air Lines, Inc." under "At Nassau".

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

Dated: February 27, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-6298 Filed 3-7-84; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-020]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Lethal Avian Influenza interim rule (1) by deleting the area designated as a quarantined area in New Jersey because of lethal avian influenza and (2) by making the extraordinary emergency provisions of the interim rule no longer applicable to New Jersey. This action is necessary because it has been determined that lethal avian influenza no longer exists in New Jersey. The effect of this action is to delete unnecessary prohibitions and restrictions on the interstate movement of live poultry and certain other items from the previously quarantined area in New Jersey; and to make no longer applicable to New Jersey provisions for inspections and seizures upon any premises; disposal of poultry and other items; cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items affected with or exposed to lethal avian influenza.

DATES: Effective date is March 6, 1984. Written comments must be received on or before May 7, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Background

This document amends the Lethal Avian Influenza interim rule by deleting the area designated as a quarantined area in New Jersey because of lethal avian influenza and removing New Jersey from the extraordinary emergency provisions of the interim rule. The Lethal Avian Influenza interim rule is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 368-369, 2742-2744, 3446-3448, 3494, 3839-3845, 5723-5724, 7978-7979).

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Quarantined Areas

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry. The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Prior to the effective date of this document, the quarantined area in New Jersey included portions of Cumberland, Gloucester, and Salem Counties. Lethal avian influenza had been found to occur in New Jersey only on one premises in Salem County. The poultry on that premises in Salem County have been depopulated. Also, extensive surveys conducted on all commercial and noncommercial poultry premises in the previously quarantined area indicate that there are no lethal avian influenza virus or antibodies in poultry within the previously quarantined area and that lethal avian influenza no longer exists in New Jersey.

Under these circumstances there is no longer a basis for imposing prohibitions or restrictions on the movement of live poultry or other items from any area in New Jersey because of lethal avian influenza.

Extraordinary Emergency Provisions

The extraordinary emergency provisions of the interim rule apply to States where an extraordinary emergency exists because of lethal avian influenza. These provisions are specifically authorized under the Act of July 2, 1962 (21 U.S.C. 134-134h). In this connection, the extraordinary emergency provisions provide for inspections and seizures upon any premises in such States; disposal of poultry and other items; cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items affected with or exposed to lethal avian influenza. Prior to the effective date of this document, the extraordinary emergency provisions applied to New Jersey and Pennsylvania. It is necessary to continue to apply the extraordinary emergency provisions to Pennsylvania. However, under the circumstances explained above, there is no longer a basis for applying the extraordinary emergency provisions to New Jersey.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from New Jersey, and to benefit New Jersey by declaring that lethal avian influenza no longer exists in New Jersey.

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

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512-1 with respect to

this interim rule. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from New Jersey, and to benefit New Jersey by declaring that lethal avian influenza no longer exists in New Jersey.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, 9 CFR Part 81 is amended as follows:

PART 81—LETHAL AVIAN INFLUENZA

§ 81.4 [Amended]

1. Section 81.4 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as (b) and (c), respectively.

§ 81.10 [Amended]

2. Section 81.10 is amended by removing "New Jersey and" in the first and second sentences, and by revising the last sentence to read "The Commissioner of Agriculture of Pennsylvania has been informed of these facts."

§ 81.11 [Amended]

3. The first sentence in § 81.11 is amended by removing "New Jersey and".

§ 81.12 [Amended]

4. The first sentence in § 81.12 is amended by removing "New Jersey and".

(Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2–17, 2.51, and 371.2(d))

Done at Washington, D.C. this 6th day of March, 1984.

W. E. Ketter,

Acting Deputy Administrator, Veterinary Services

[FR Doc. 84-6361 Filed 3-6-84; 2:19 pm]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

General Statement of Policy and Procedure for Enforcement Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Revised general statement of policy.

SUMMARY: The NRC is publishing minor revisions to its enforcement policy (47 FR 9987 (March 9, 1982)) based upon its experience to date in implementing the policy. The policy statement is intended to inform licensees and the public of the bases for taking various enforcement actions. The policy is codified as Appendix C to Part 2 of Title 10 of the Code of Federal Regulations. The Commission has also directed that a study of the enforcement program be performed by a small committee of individuals from outside the agency to be selected by the Commission. As a result of this study, additional changes to the policy may be proposed. Comments on these revisions are solicited and will be considered in the in-depth study of the enforcement program.

EFFECTIVE DATE: This revised statement of policy is effective March 8, 1984 while comments on the policy are being received. Submit comments on or before June 1, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments and suggestions to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments may be examined in the U.S. Nuclear Regulatory Commission Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jane A. Axelrad, Director, Enforcement Staff, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301–492–4909).

SUPPLEMENTARY INFORMATION:

Background

The criteria used by the Commission to conduct its enforcement activities were first published on October 17, 1972 (37 FR 21962). These criteria were subsequently modified on January 3, 1975 (40 FR 820) and on December 3, 1979 (44 FR 77135). In late 1979, the Commission directed the staff to prepare a comprehensive statement of enforcement policy. This staff effort was given added urgency by the enactment of Pub. L. 96–295 (signed June 30, 1980), that, among other things, amended Section 234 of the Atomic Energy Act to raise the maximum civil penalty the NRC can impose from $5,000 to $100,000 per violation per day and eliminated the provision limiting the total civil penalties for any 30-day period to $25,000. On September 4, 1980, the Commission approved a proposed general statement of policy on enforcement. Comments were solicited on the policy and a series of public meetings was held. On March 9, 1982, the Commission published a final version of the policy (47 FR 9987).

The policy has now been in effect for about two years. The Commission directed the staff to evaluate the policy and recommend changes if any were necessary. The staff met with groups of utility representatives and public interest groups and consulted the NRC Regional Administrators and Office Directors soliciting comments on whether any changes to the policy should be made. The Commission has determined that, pending further study, no major changes should be made to the policy at this time. The Commission has determined, however, that certain minor revisions should be made now.

The Commission has also directed that an in-depth study of the enforcement program be performed by a small committee of individuals from outside the agency to be selected by the Commission. This study will begin this spring. As a result of this study, additional changes to the policy may be proposed.

The Commission is soliciting comments on the minor revisions described below. These comments will be considered in the in-depth study of the enforcement program. In addition, the Commission is particularly interested in comments on the issue of material false statements. In the VEPCO decision in 1976, Virginia Electric Power Company (North Anna Power Station, Units 1 and 2) CLI–76–22, 4 NRC 480, affirmed, *Virginia Electric & Power Co. v. NRC, 571* F 2d 1289 (4th Cir. 1978), the Commission defined the term "material false statement" as a statement that is false by omission or commission and has the capability to influence a reasonable agency expert. The Commission's staff has been applying this definition and has taken enforcement actions in several cases for violations involving material false statements.

The Commission is interested in comments on the agency's policy on material false statements. Specifically, has the Commission's emphasis on material false statements had a positive effect on the quality of communications with the NRC or has it had a chilling effect on such communications? Should the definition of material false statement be changed to apply only to written statements, submitted under oath? Should materiality be contingent upon the safety significance of the underlying information? Should "materiality" be dependent upon actually influencing an agency reviewer as opposed to having the capability of influencing a reasonable agency reviewer? What would the expected effect of such changes be? As discussed above, these comments will be considered in the in-depth study of the enforcement program and may result in further changes to the policy.

In the following paragraphs, the revisions to the policy which are being made now are described. Only the sections to which changes were made are discussed here. The numbering of the sections tracks the section numbers in the policy.

I. Introduction and Purpose

1. The word "noncompliance" was changed to "violation" wherever it appears in the policy to more precisely describe the focus of the enforcement policy.

2. The phrase "noncompliance should be more expensive than compliance" has been changed to "sanctions should be designed to ensure that a licensee does not deliberately profit from violations of NRC requirements." This change was made to clarify the original intent that licensees committing deliberate violations should receive higher sanctions to remove any benefit attributable to the violation. If this provision were read literally, sanctions for some inadvertent violations of technical specifications would be in the million-dollar range but would not likely prevent future violations. The Commission has concluded that the purpose of the enforcement policy to deter future noncompliance would be better served by reserving such sanctions for deliberate violations of NRC requirements.

II. Statutory Authority and Procedural Framework

The statutory authority section has been revised to note that sections 84 and 147 of the Atomic Energy Act, in addition to the sections already enumerated, authorize the imposition of civil penalties for violations of regulations implementing those provisions.

III. Severity of Violations

1. A few minor editorial changes were made. In addition, changes were made to reflect that a new Supplement, Supplement VIII, was added. This Supplement is discussed in more detail under Supplement VIII.

2. Language has been added to reflect the practice that has been adopted of evaluating some violations in the aggregate and assigning a single severity level for a group of violations. The existing policy provided that to focus on the underlying cause of a violation, the cumulative total civil penalty for all violations that contributed to or were unavoidable consequences of that problem would be based on the amount shown in the civil penalty tables. Since the amount in the tables is based upon the severity level of a violation, the Commission has found it necessary in some cases to aggregate the violations for the assignment of a severity level. In addition, this change is being made to recognize that individual violations, when viewed collectively, may have a greater significance than when considered separately. By aggregating the violations to evaluate the severity level, the Commission hopes to focus attention on the underlying problem or programmatic deficiencies where appropriate.

3. The existing policy indicates that a licensee will be cited for a failure to report a condition or event if it was aware of the condition or event or if enough information existed that the licensee should have been aware of the condition or event. The policy has been clarified to indicate that a licensee will not normally be cited for failure to report a condition or event unless the licensee was actually aware of the condition or event that it failed to report.

4. A clarifying example has been added to the section on willfulness to indicate that inadvertent clerical errors in a document submitted to the NRC is an example of an act that does not rise to the level of careless disregard.

IV. Enforcement Conferences

A new section has been added to the policy containing a description of the circumstances under which enforcement conferences will be held and the information that should be discussed at such conferences. The references in sections IV.B and IV.E to enforcement conferences have been deleted and the substance of these provisions has been included in the new section.

In incorporating the substance of section IV.B, two changes were made. The Commission has noted that enforcement conferences will normally be closed to the public. In addition, the existing policy provided that a civil penalty would not be imposed for a Severity Level IV violation unless a licensee had been cited previously for a similar violation for which an enforcement conference had been held and for which corrective action had proved ineffective. The Commission has, on occasion, wanted to impose a civil penalty for a Severity Level IV violation similar to a previous violation but for which an enforcement conference had not been held. The policy has been changed to delete the reference to a previous similar Severity Level IV violation for which an enforcement conference had been held. Instead, the policy states that the NRC may elect to hold an enforcement conference for Severity Level IV violations which, if repeated, could lead to escalated enforcement action. The policy also states that civil penalties may be imposed for previous similar Severity Level IV violations for which corrective action has proved ineffective in achieving compliance. The NRC will normally hold an enforcement conference before proposing a civil penalty for a Severity Level IV violation.

V. Enforcement Actions

A. Notice of Violation

A few minor editorial changes were made similar to those made in the previous sections. For example, the word "licensee" was changed to "recipient" where appropriate to reflect that under the recent change to 10 CFR 2.200 and 2.201, non-licensees may now be the recipients of Notices of Violation.

B. Civil Penalty

1. The provisions of the policy providing that generally, civil penalties are imposed for Severity Level I and II violations and are considered and usually imposed for Severity Level III violations have been changed. First, the policy has been changed to indicate that mitigation factors may be applied to Severity Level II violations. The purpose of this change is to provide additional incentives to licensees to identify, report, and correct violations. The existing policy that mitigation will not be allowed for Severity Level I violations has not been changed. Second, the policy has been changed to delete the words "usually imposed" for Severity Level III violations. Instead, civil penalties will be considered for

these violations. This is consistent with other changes to the policy that are being made to eliminate the many smaller penalties that have been issued to reactor licensees for violations of lesser safety significance.

2. Several changes were made to the factors considered for mitigation or escalation of a penalty.

a. *Prompt identification and reporting*—The reference in this factor, and in the introductory material, to self-disclosing incidents has been deleted. This provision has been difficult to implement, and the Commission has determined that self-identification and reporting should be encouraged to the maximum extent practicable. Therefore, credit of up to 50% will be considered for any violation promptly identified, reported and corrected by a licensee. The amount of credit to be given will be based upon the ease with which it was identified. Thus, less credit will be given for self-disclosing incidents (such as acute overexposures that show up on film badges) than for violations discovered during a licensee audit or surveillance program, but some credit may be given if appropriate.

b. *Corrective action to prevent recurrence*—The policy has been changed to allow for escalation by as much as 50% (instead of the previous 25%) if corrective action is not prompt or if the corrective action is only minimally acceptable. Mitigation of up to 50% will be allowed for unusually prompt and extensive corrective actions. Previously, the policy contained four escalating factors, each allowing for 25% escalation, and two mitigating factors, each allowing for 50% mitigation. However, since the Commission is adding a factor for performance that allows for up to 100% mitigation or escalation, neither the escalation factors nor the mitigation factors will add up to 100%. Instead, the amount of possible escalation will be equal to the amount of possible mitigation for each factor.

c. *Enforcement history*—This factor has been revised to provide for up to 100% mitigation of the base civil penalty for prior good performance in the general area of concern. The policy also provides for up to 100% escalation (increased from 25%) for poor performance in the general area of concern. Under this provision, a civil penalty can be fully mitigated for a first offense in an area of concern or for an offense in an area in which no previous offense had occurred for a period of at least two years. However, a civil penalty can be doubled if a similar violation occurs within a two-year period. It is expected that as a result of this change, fewer small penalties will be issued, particularly for reactors.

In considering prior performance, prior enforcement history, including previous Severity IV and V violations in the area of concern, and escalated enforcement actions will be considered. For reactor licensees, the Systematic Assessment of Licensee Performance (SALP) ratings will also be considered in determining whether mitigation or escalation is appropriate.

d. *Prior Notice of Similar Events*—The only change to this factor was to increase the percentage allowable for escalation from 25% to 50% for the reasons described above.

e. *Multiple Occurrences*—The percentage for escalation in this factor was changed from 25% to 50%. In addition, the qualification on when this factor may be used (when NRC identifies the violation or for violations associated with self-disclosing incidents) has been deleted. The Commission believes that escalation of a penalty may be appropriate where multiple examples of a violation are identified, regardless of who identifies them. However, escalation under this factor may be offset by mitigation for prompt identification and reporting of a violation.

3. Three other changes regarding escalation of penalties have been made. First, consistent with the addition of the factor on past performance, the policy now states that in cases involving willfulness, flagrant NRC-identified violations, repeated poor performance in an area of concern, or serious breakdown in management controls, the NRC intends to apply its full enforcement authority where such action is warranted. Second, a statement has been added to clarify that management involvement in a violation may result in a higher sanction but the lack of such involvement does not mitigate a penalty. This change is being made as a result of the decisions in *Consolidated X-Ray Service Corp.*, ASLBP–83–483–01 OT, 17 NRC 693 (April 28, 1983) and *Atlantic Research*, ALAB–594, 11 NRC 841 (1980) in which an Administrative Law Judge and an Appeal Board, respectively, decided to mitigate two civil penalties because management was not directly involved in the violations. The Commission has determined that mitigation for lack of management involvement could encourage lack of management involvement in licensed activities and might result in a decrease in protection of the public health and safety. The Commission expects management to be closely involved in the control of licensed activities to prevent violations of regulatory requirements. If management causes or condones violations of regulatory requirements, sanctions will be appropriately escalated.

Third, the language on escalation of a penalty for duration and the use of daily civil penalties has been clarified. The policy did not explicitly allow for escalation for duration other than through daily civil penalties. In some cases, it is desirable to escalate a civil penalty for duration without assessing a daily civil penalty. The language has been changed to provide for this.

4. The language regarding Commission approval of issuance of proposed penalties in excess of 3.75 times the maximum civil penalty for a single Severity Level I violation has been moved to the section on Responsibilities (Section VII).

5. The language regarding focusing on the fundamental problems has been clarified as described in Section III above.

6. A number of changes were made to the civil penalty tables:

a. *Safeguards*—Table 1A was revised to establish the same base penalty amount for safeguards violations for reactor licensees regardless of the category of material. This was done because the original designation by IAEA of categories of material was not intended to refer to reactor facilities. The upper limit for the base penalty was selected because the safety consequences of reactor sabotage are considered equal to the safety consequences of theft of material from a Category 1 fuel facility.

b. *Materials Licensees*—The base penalties have been adjusted for some categories of licensees, and base penalties have been added which apply to uranium mills and conversion facilities. These changes were made as a result of experience gained in working with the policy to better equate the amounts of the base civil penalties for various licensees with their health and safety significance.

Table 1A was revised to increase the base civil penalty to $100,000 for Severity Level I violations by power reactor licensees, except for those involving transportation, because the maximum civil penalty is generally appropriate for such violations unless mitigating circumstances are present. This will also result in an increase of the base civil penalties for other severity levels.

C. Escalation of Enforcement Sanctions

Table 2 has been changed to indicate that a civil penalty might not be imposed for the first Severity Level III violation in an area of concern or for an offense in an area in which no previous offense had occurred for a period of at least two years. This change is consistent with the change to the factors allowing complete mitigation for good performance in an area of concern.

D. Related Administrative Actions

The references to enforcement conferences have been deleted and their substance has been covered in section IV. Some minor editorial changes have also been made.

VI. Responsibilities

This section has been changed to reflect the present responsibilities of the Regional Administrators and to reflect existing Commission guidance regarding when Commission consultation is required. In addition to the circumstances previously enumerated in the policy, Commission consultation is now required before issuance of any proposed enforcement action that involves a Severity Level I violation or a material false statement. Commission consultation was required before issuance of a civil penalty involving 3.75 times the Severity Level I values shown in Table 1A. Now, Commission consultation is required prior to issuance of a civil penalty involving 3 times the Severity Level I values shown in Table 1A. For reactor operations, this amount will be $300,000.

VII. The Supplements

The supplements have been changed in several respects. As described below, a new supplement involving emergency planning has been added. In addition, the introductory language to each of the severity levels in each of the Supplements has been changed to clarify that the examples are only examples and that the examples themselves illustrate the significance of violations of that type. For example, under the old policy, the introductory language for Severity Level I violations under Supplement I contained the words "Very significant violations involving." The revised policy will state "Violations involving for example." The examples provided are examples of violations that the Commission considers to be very significant.

a. *Supplement I.*

1. The policy now includes violations of technical specification limiting conditions for operation (TS LCOs) as Severity Level III violations. However, the examples provided in the policy are confusing. They include TS LCO violations involving a loss of function as examples of both Severity Level II and Severity Level III violations. Furthermore, the TS example for Severity Level III includes a "degraded condition and sufficient information existed to alert the licensee that he was in an action statement condition" which does not take into account the factor that is most often considered in determining the severity level of a TS violation, the safety significance of the system involved in the violation. The Commission is clarifying these examples by deleting the references to loss of function and degraded condition and by providing more explicit examples based upon the safety significance of the violation. The examples provided, two in Severity Level III and two in Severity Level IV, were chosen as fairly obvious examples of significant and less significant TS violations.

2. The word "serious" has been deleted from example 3, Severity Level III, Supplement I because the Commission believes that dereliction of duty itself constitutes a serious violation.

3. The words "when the reported matter does not constitute a violation" have been deleted from Supplement I, Severity Level IV, because these words are unnecessary.

b. *Supplement II.*

No changes were made to Supplement II.

c. *Supplement III.*

The safeguards supplement was revised in three ways.

1. The present examples were clarified to indicate that it is the loss of one or more of the elements of access control that determines the severity level of a violation.

2. New examples were added to distinguish violations relating to the protection of safeguards information of lesser significance from those that involve information which would significantly assist an individual in an act of radiological sabotage or theft of special nuclear material.

3. The failure to perform a proper search at an access control point that results in the introduction of contraband to the site was added as a Severity Level III violation. Some violations of search requirements may be considered minor. However, the search procedure is expected to uncover attempts to introduce contraband to the site and, when this failure is demonstrated by the actual introduction of contraband, it is clearly a significant violation.

d. *Supplement IV*—Minor changes were made to this supplement. A change was made to one example of a Severity Level III violation to bring the example into closer conformance with the relative significance of similar examples under other severity levels for this supplement.

e. *Supplement V*—Minor changes were made to this supplement to ensure that a graduated approach to violations was adequately described in the examples.

f. *Supplement VI*—Minor changes were made to this supplement.

g. *Supplement VII.*

1. Examples were added to this supplement to address the Commission's increasing concern with violations involving falsification of records. The Commission views falsification of records which the NRC requires be kept to be a serious concern. The records are required to be kept to enable a licensee to adequately control the safety of its licensed activities. In addition, deliberate falsification of records of significant information by management personnel is obviously a serious violation. Accordingly, violations involving deliberate falsification of significant records by or with the knowledge of management are considered Severity Level I violations. Either deliberate falsification, or falsification by or with the knowledge of management, of significant records is described as an example of a Severity Level II violation. Any other falsification of significant records is described as an example of a Severity Level III violation.

2. The examples for violations involving discrimination against an employee in violation of Section 210 of the ERA have been clarified. Violations by senior corporate management have been categorized as Severity Level I violations. Violations by plant management above first-line supervision have been categorized as Severity Level II violations, and violations by first-line supervision have been categorized as Severity Level III violations.

3. The examples regarding Part 21 violations have been made consistent with statutory authority.

h. *Supplement VIII—Emergency Preparedness.*

The existing Enforcement Policy did not contain any examples of emergency preparedness violations in any of the supplements. However, the Commission has been taking enforcement actions under the emergency preparedness rules and guidance is necessary regarding what enforcement actions are appropriate. Accordingly, the Commission has developed a new Supplement VIII on Emergency Preparedness containing examples of

emergency preparedness violations of varying severity. The examples are based upon the planning standards in 10 CFR 50.47(b). Since the planning standards on assessment and notification are considered to be the most significant, violations of more than one of these standards is considered a Severity Level II violation. No examples of Severity Level I violations of planning standards are provided because the Commission did not believe that violations of these standards should be considered as significant as a failure to classify, notify, or respond to an event in a general emergency, the example provided of a Severity Level I violation. The other examples are based upon failure to promptly classify, notify, or respond to an event, and are distinguished by the emergency action level that best describes the event. By "correctly classify," the Commission means classify at a sufficiently high protective action level. Enforcement action will not normally be taken for overclassifying an event.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 552 of Title 5 of the United States Code, the following statement of policy is published as Appendix C to 10 CFR Part 2 as a document subject to codification to be effective immediately.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

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

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Sec. 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Secs. 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sec. 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Secs. 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Secs. 2.300-2.309 also issued under Pub. L. 97-415, 96 Stat. 2071 (42 U.S.C. 2133). Secs. 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 as amended (42 U.S.C. 4332). Secs. 2.700a, 2.719 also issued under 5 U.S.C. 554. Secs. 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557, § 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Secs. 2.800 and 2.808 also issued under 5 U.S.C. 553. Sec. 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91-580, 84 Stat. 1473 (42 U.S.C. 2135).

2. Appendix C to Part 2 is revised to read as follows:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

The following statement of general policy and procedure explains the enforcement policy and procedures of the U.S. Nuclear Regulatory Commission and its staff in initiating enforcement actions, and of presiding officers, the Atomic Safety and Licensing Appeals Board, and the Commission in reviewing these actions. This statement is applicable to enforcement in matters involving the public health and safety, the common defense and security, and the environment.[1]

I. Introduction and Purpose

The purpose of the NRC enforcement program is to promote and protect the radiological health and safety of the public, including employees' health and safety, the common defense and security, and the environment by:

- Ensuring compliance with NRC regulations and license conditions;
- Obtaining prompt correction of violations;
- Deterring future violations; and
- Encouraging improvement of licensee performance, and by example, that of industry, including the prompt identification and reporting of potential safety problems.

Consistent with the purpose of this program, prompt and vigorous enforcement action will be taken when dealing with licensees who do not achieve the necessary meticulous attention to detail and the high standard of compliance which the NRC expects of its licensees. It is the Commission's intent that sanctions should be designed to ensure that a licensee does not deliberately profit from violations of NRC requirements. Each enforcement action is dependent on the circumstances of the case and requires the exercise of discretion after consideration of these policies and procedures. In no case, however, will licensees who cannot achieve and maintain adequate levels of protection be permitted to conduct licensed activities.

[1] Antitrust enforcement matters will be dealt with on a case-by-case basis.

II. Statutory Authority and Procedural Framework

A. Statutory Authority

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended.

Section 161 of the Atomic Energy Act authorizes NRC to conduct inspections and investigations and to issue orders as may be necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property. Section 186 authorizes NRC to revoke licenses under certain circumstances (e.g., for material false statements, in response to conditions that would have warranted refusal of a license on an original application, for a licensee's failure to build or operate a facility in accordance with the terms of the permit or license, and for violation of a NRC regulation). Section 234 authorizes NRC to impose civil penalties not to exceed $100,000 per violation per day for the violation of certain specified licensing provisions of the Act, rules, orders, and license terms implementing these provisions, and for violations for which licenses can be revoked. In addition to the enumerated provisions in section 234, sections 84 and 147 authorize the imposition of civil penalties for violations of regulations implementing those provisions. Section 232 authorizes NRC to seek injunctive or other equitable relief for violation of regulatory requirements.

Section 206 of the Energy Reorganization Act authorizes NRC to impose civil penalties for knowing and conscious failures to provide certain safety information to the NRC.

Chapter 18 of the Atomic Energy Act provides for varying levels of criminal penalties (i.e., monetary fines and imprisonment) for willful violations of the Act and regulations or orders issued under Sections 65, 161(b), 161(i), or 161(o) of the Act. Section 223 provides that criminal penalties may be imposed on certain individuals employed by firms constructing or supplying basic components of any utilization facility if the individual knowingly and willfully violates NRC requirements such that a basic component could be significantly impaired. Section 235 provides that criminal penalties may be imposed on persons who interfere with inspectors.

Section 236 provides that criminal penalties may be imposed on persons who attempt to or cause sabotage at a nuclear facility or to nuclear fuel. Alleged or suspected criminal violations of the Atomic Energy Act are referred to the Department of Justice for appropriate action.

B. Procedural Framework

10 CFR Part 2, Subpart B, of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. 10 CFR 2.201 sets forth the procedures for issuing notices of violation.

The procedure to be used in assessing civil penalties is set forth in 10 CFR 2.205. This regulation provides that the appropriate NRC Office Director initiates the civil penalty process by issuing a notice of violation and proposed imposition of a civil penalty. The

licensee is provided an opportunity to contest in writing the proposed imposition of a civil penalty. After evaluation of the licensee's response, the Director may mitigate, remit, or impose the civil penalty. An opportunity is provided for a hearing if a civil penalty is imposed.

The procedure for issuing an order to show cause why a license should not be modified, suspended, or revoked or why such other action should not be taken is set forth in 10 CFR 2.202. The mechanism for modifying a license by order is set forth in 10 CFR 2.204. These sections of Part 2 provide an opportunity for a hearing to the affected licensee. However, the NRC is authorized to make orders immediately effective if the public health, safety or interest so requires or, in the case of an order to show cause, if the alleged violation is willful.

III. Severity of Violations

Regulatory requirements [2] have varying degrees of safety, safeguards, or environmental significance. Therefore, the relative importance of each violation must be identified as the first step in the enforcement process.

Consequently, violations are categorized in terms of five levels of severity to show their relative importance within each of the following eight activity areas:

Reactor Operations; Facility Construction; Safeguards; Health Physics; Transportation; Fuel Cycle and Materials Operations; Miscellaneous Matters; and Emergency Preparedness.

Licensed activities not directly covered by one of the above listed areas, e.g., export license activities, will be placed in the activity area most suitable in light of the particular violation involved. Within each activity area, Severity Level I has been assigned to violations that are the most significant and Severity Level V violations are the least significant. Severity Level I and II violations are of very significant regulatory concern. In general, violations that are included in these severity categories involve actual or high potential impact on the public. Severity Level III violations are cause for significant concern. Severity Level IV violations are less serious but are of more than minor concern; i.e., if left uncorrected, they could lead to a more serious concern. Severity Level V violations are of minor safety or environmental concern.

Comparisons of significance between activity areas are inappropriate. For example, the immediacy of any hazard to the public associated with Severity Level I violations in Reactor Operations is not directly comparable to that associated with Severity Level I violations in Reactor Construction.

While examples are provided in Supplements I through VIII for determining the appropriate severity level for violations in each of the eight activity areas, the examples are neither exhaustive nor controlling.

These examples do not create new requirements. Each is designed to illustrate the significance which the NRC places on a particular type of violation of NRC requirements. Each of the examples in the supplements is predicated on a violation of a regulatory requirement.

In each case, the severity of a violation will be characterized at the level best suited to the significance of the particular violation. In some cases, violations may be evaluated in the aggregate and a single severity level assigned for a group of violations.

The severity level of a violation may be increased if the circumstances surrounding the matter involve careless disregard of requirements, deception or other indications of willfulness. The term "willfulness" as used here embraces a spectrum of violations ranging from deliberate intent to violate or falsify to and including careless disregard for requirements. Willfulness does not include acts which do not rise to the level of careless disregard, e.g., inadvertent clerical errors in a document submitted to the NRC. In determining the specific severity level of a violation involving willfulness, consideration will be given to such factors as the position of the person involved in the violation (e.g., first-line supervisor or senior manager), the significance of any underlying violation, the intent of the violator (i.e., negligence not amounting to careless disregard, careless disregard, or deliberateness), and the economic advantage, if any, gained as a result of the violation. The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation.

The NRC expects licensees to provide full, complete, timely, and accurate information and reports. Accordingly, unless otherwise categorized in the Supplements, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter that should have been reported. A licensee will not normally be cited for a failure to report a condition or event unless the licensee was actually aware of the condition or event which it failed to report. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances surrounding the matter.

IV. Enforcement Conferences

Whenever the NRC has learned of the existence of a potential violation for which a civil penalty or other escalated enforcement action may be warranted, the NRC will normally hold an enforcement conference with the licensee prior to taking enforcement action. The NRC may also elect to hold an enforcement conference for other violations, e.g., Severity Level IV violation which, if repeated, could lead to escalated enforcement action. The purpose of the enforcement conference is to: (1) Discuss the violations, their significance and causes, and the licensee's corrective actions, (2) determine whether there are any aggravating or mitigating circumstances, and (3) obtain other information which will help determine the appropriate enforcement action.

In addition, during the enforcement conference, the licensee will be given an opportunity to explain to the NRC what corrective actions (if any) were taken or will be taken following discovery of the potential violation. Licensees will be told when a meeting is an enforcement conference. Enforcement conferences will not normally be open to the public.

When needed to protect the public health and safety or common defense and security, escalated enforcement action, such as the issuance of an immediately effective order modifying, suspending, or revoking a license, will be taken prior to the enforcement conference. In such cases, an enforcement conference may be held after the escalated enforcement action is taken.

V. Enforcement Actions

This section describes the enforcement sanctions available to NRC and specifies the conditions under which each may be used. The basic sanctions are notices of violation, civil penalties, and orders of various types. Additionally, related administrative mechanisms such as bulletins and confirmatory action letters are used to supplement the enforcement program. In selecting the enforcement sanctions to be applied, NRC will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, such as in transportation matters. With very limited exceptions, whenever a violation of NRC requirements is identified, enforcement action is taken. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. For the vast majority of violations, action by an NRC regional office is appropriate in the form of a Notice of Violation requiring a formal response from the recipient describing its corrective actions. The relatively small number of cases involving elevated enforcement action receives substantial attention by the public, and may have significant impact on the licensee's operation. These elevated enforcement actions include civil penalties; orders modifying, suspending or revoking licenses; or orders to cease and desist from designated activities.

A. Notice of Violation

A notice of violation is a written notice setting forth one or more violations of a legally binding requirement. The notice normally requires the recipient to provide a written statement describing: (1) corrective steps which have been taken and the results achieved; (2) Corrective steps which will be taken to prevent recurrence; and (3) the date when full compliance will be achieved. NRC may require responses to notices of violations to be under oath. Normally, reponses under oath will be required only in connection with civil penalties and orders.

NRC uses the notice of violation as the standard method for formalizing the existence of a violation. A notice of violation is normally the only enforcement action taken, except in cases where the criteria for civil penalties and orders, as set forth in Sections IV.B and IV.C, respectively, are met. In such cases, the notice of violation will be issued in conjunction with the elevated actions.

[2] The term "requirement" as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

Because the NRC wants to encourage and support licensee initiative for self-identification and correction of problems, NRC will not generally issue a notice of violation for a violation that meets all of the following tests:

(1) It was identified by the licensee;

(2) It fits in Severity Level IV or V;

(3) It was reported, if required;

(4) It was or will be corrected, including measures to prevent recurrence, within a reasonable time; and

(5) It was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation.

Licensees are not ordinarily cited for violations resulting from matters not within their control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees. Accordingly, this policy should not be construed to excuse personnel errors. Enforcement actions involving individuals, including licensed operators, will be determined on a case-by-case basis and must be approved by the Director of the responsible Program Office.[3]

B. Civil Penalty

A civil penalty is a monetary penalty that may be imposed for violation of: (a) Certain specified licensing provisions of the Atomic Energy Act or supplementary NRC rules or orders, (b) any requirement for which a license may be revoked, or (c) reporting requirements under Section 206 of the Energy Reorganization Act. Civil penalties are designed to emphasize the need for lasting remedial action and to deter future violations.

Generally, civil penalties are imposed for Severity Level I violations, are imposed absent mitigating circumstances for Severity Level II violations, are considered for Severity Level III violations, and may be imposed for Severity Level IV violations that are similar [4] to previous violations for which the licensee did not take effective corrective action.

In applying this guidance for Severity Level IV violations, NRC normally considers civil penalties only for similar Severity Level IV violations that occur after the date of the last inspection or within two years, whichever period is greater.

Civil penalties will normally be assessed for knowing and conscious violations of the reporting requirements of Section 206 of the Energy Reorganization Act, and for any willful violation of any Commission requirement including those at any severity level.

NRC imposes different levels of penalties for different severity level violations and different classes of licensees. Tables 1A and 1B show the base civil penalties for various reactor, fuel cycle, and materials programs. The structure of these tables generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration. Generally, operations involving greater nuclear material inventories and greater potential consequences to the public and licensee employees receive higher civil penalties. Regarding the secondary factor of ability of various classes of licensees to pay the civil penalties, it is not the NRC's intention that the economic impact of a civil penalty be such that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities. The deterrent effect of civil penalties is best served when the amounts of such penalties take into account a licensee's "ability to pay." In determining the amounts of civil penalties for licensees for whom the tables do not reflect the ability to pay, NRC will consider as necessary an increase or decrease on a case-by-case basis.

NRC attaches great importance to comprehensive licensee programs for detection, correction, and reporting of problems that may constitute, or lead to, violation of regulatory requirements. This is emphasized by giving credit for effective licensee audit programs when licensees find, correct, and report problems expeditiously and effectively. To encourage licensee self-identification and correction of violations and to avoid potential concealment of problems of safety significance, application of the adjustment factors set forth below may result in no civil penalty being assessed for violations which are identified, reported (if required), and effectively corrected by the licensee.

On the other hand, ineffective licensee programs for problem identification or correction are unacceptable. In cases involving willfulness, flagrant NRC-identified violations, repeated poor performance in an area of concern, or serious breakdown in management controls, NRC intends to apply its full enforcement authority where such action is warranted, including issuing appropriate orders and assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $100,000 per violation, per day. In this regard, while management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty, the lack of such involvement may not be used to mitigate a civil penalty. Allowance of mitigation could encourage lack of management involvement in licensed activities and a decrease in protection of the public health and safety.

NRC reviews each proposed civil penalty case on its own merits and adjusts the base civil penalty values upward or downward appropriately. Tables 1A and 1B identify the base civil penalty values for different severity levels, activity areas, and classes of licensees. After considering all relevant circumstances, adjustments to these values may be made for the factors described below:

1. *Prompt Identification and Reporting.* Reduction of up to 50% of the base civil penalty may be given when a licensee identifies the violation and promptly reports the violation to the NRC. In weighing this factor, consideration will be given to, among other things, the length of time the violation existed prior to discovery, the opportunity available to discover the violation, the ease of discovery and the promptness and completeness of any required report. No consideration will be given to this factor if the licensee does not take immediate action to correct the problem upon discovery.

2. *Corrective Action to Prevent Recurrence.* Recognizing that corrective action is always required to meet regulatory requirements, the promptness and extent to which the licensee takes corrective action, including actions to prevent recurrence, may be considered in modifying the civil penalty to be assessed. Unusually prompt and extensive corrective action may result in reducing the proposed civil penalty as much as 50% of the base value shown in Table 1. On the other hand, the civil penalty may be increased as much as 50% of the base value if initiation of corrective action is not prompt or if the corrective action is only minimally acceptable. In weighing this factor, consideration will be given to, among other things, the timeliness of the corrective action, degree of licensee initiatives, and comprehensiveness of the corrective action—such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern.

3. *Past Performance.* Reduction by as much as 100% of the base civil penalty shown in Table 1 may be given for prior good performance in the general area of concern. On the other hand, the base civil penalty may be increased as much as 100% for prior poor performance in the general area of concern.

In weighing this factor, consideration will be given to, among other things, the effectiveness of previous corrective action for similar problems, overall performance such as Systematic Assessment of Licensee Performance (SALP) evaluations for power reactors, and prior enforcement history including Severity Level IV and V violations in the area of concern. For example, failure to implement previous corrective action for prior similar problems may result in an increase in the civil penalty.

4. *Prior Notice of Similar Event.* The base civil penalty may be increased as much as 50% for cases where the licensee had prior knowledge of a problem as a result of a licensee audit, or specific NRC or industry notification, and had failed to take effective preventive steps.

5. *Multiple Occurrences.* The base civil penalty may be increased as much as 50% where multiple examples of a particular violation are identified during the inspection period.

The above factors are additive. However, in no instance will a civil penalty for any one violation exceed $100,000 per day.

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[3] Section 234 of the Atomic Energy Act gives the Commission authority to impose civil penalties for violations on "any person." "Person" is broadly defined in Section 11s of the AEA to include individuals, a variety of organizations, and any representatives or agents. This gives the Commission authority to impose civil penalties on employees of licensees or on separate entities when a violation of a requirement directly imposed on them is committed.

[4] The word "similar," as used in this policy, refers to those violations which could have been reasonably expected to have been prevented by the licensee's corrective action for the previous violation.

The duration of a violation may also be considered in assessing a civil penalty. A greater civil penalty may be imposed if a violation continues for more than a day. For example:

(1) If a licensee is aware of the existence of a condition which results in an ongoing violation and fails to initiate corrective action, each day the condition existed may be considered as a separate violation and, as such, subject to a separate additional civil penalty.

(2) If a licensee is unaware of a condition resulting in a continuing violation, but clearly should have been aware of the condition or had an opportunity to correct the condition but failed to do so, a separate violation and attendant civil penalty may be considered for each day that the licensee clearly should have been aware of the condition or had an opportunity to correct the condition, but failed to do so.

(3) Alternatively, whether or not a licensee is aware or should have been aware of a violation that continues for more than one day, the civil penalty imposed for one violation may be increased to reflect the added significance resulting from the duration of the violation.

The Tables and the mitigating factors determine the civil penalties which may be assessed for each violation. However, to focus on the fundamental underlying causes of a problem for which enforcement action appears to be warranted, the cumulative total for all violations which contributed to or were unavoidable consequences of that problem may be based on the amount shown in the table for a problem of that Severity Level, as adjusted. If an evaluation of such multiple violations shows that more than one fundamental problem is involved, each of which, if viewed independently, could lead to civil penalty action by itself, then separate civil penalties may be assessed for each such fundamental problem. In addition, the failure to make a required report of an event requiring such reporting is considered a separate problem and will normally be assessed a separate civil penalty, if the licensee is aware of the matter that should have been reported.

Table 1A—Base Civil Penalties

	Plant operation, construction, health physics and EP	Safeguards	Transportation	
			Greater than type A quantity [1]	Type A quantity or less [2]
a. Power reactors	$100,000	$100,000	$100,000	$5,000
b. Test reactors	10,000	10,000	10,000	2,000
c. Research reactors & critical facilities	5,000	5,000	5,000	1,000
d. Fuel fabricators and industrial processors [3]	25,000	[4] 100,000	25,000	5,000
e. Mills and uranium conversion facilities	10,000		5,000	2,000
f. Industrial users of material [5]	10,000		5,000	2,000
g. Waste disposal licensees	10,000		5,000	2,000
h. Academic or medical institutions [5]	5,000		2,500	1,000
i. Other material licensees	1,000		2,500	1,000

[1] Includes irradiated fuel, high level waste, unirradiated fissile material, and any other quantities requiring Type B packaging.
[2] Includes low specific activity waste (LSA), low level waste, Type A packages, and excepted quantities and articles.
[3] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.
[4] This amount refers to Category 1 licensees (as defined in 10 CFR 73.2(bb)). Licensed fuel fabricators not authorized to possess Category 1 material have a base penalty amount of $50,000.
[5] Includes industrial radiographers, nuclear pharmacies, and other industrial users.
[6] This applies to nonprofit institutions not otherwise categorized under sections "a" through "g" in this table.

Table 1B—Base Civil Penalties

[Base Civil Penalty Amount]

Severity Level	Percent of amount listed in Table 1A
I	100
II	80
III	50
IV	15
V	5

C. Orders

An order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take such other action as may be proper (*see* 10 CFR 2.202 and 2.204). Orders may be issued as set forth below. Orders may also be issued in lieu of, or in addition to, civil penalties, as appropriate.

(1) License Modification Orders are issued when some change in licensee equipment, procedures, or management controls is necessary.

(2) Suspension Orders may be used:

(a) To remove a threat to the public health and safety, common defense and security, or the environment;

(b) To stop facility construction when: (i) Further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component, or (ii) the licensee's quality assurance program implementation is not adequate to provide confidence that construction activities are being properly carried out;

(c) When the licensee has not responded adequately to other enforcement action;

(d) When the licensee interferes with the conduct of an inspection or investigation; or

(e) For any reason not mentioned above for which license revocation is legally authorized.

Suspension may apply to all or part of the licensed activity. Ordinarily, a licensed activity is not suspended (nor is a suspension prolonged) for failure to comply with requirements where such failure is not willful and adequate corrective action has been taken.

(3) Revocation Orders may be used:

(a) When a licensee is unable or unwilling to comply with NRC requirements,

(b) When a licensee refuses to correct a violation,

(c) When a licensee does not respond to a notice of violation where a response was required,

(d) When a licensee refuses to pay a fee required by 10 CFR Part 170, or

(e) For any other reason for which revocation is authorized under Section 186 of the Atomic Energy Act (e.g., any condition which would warrant refusal of a license on an original application).

(4) Cease and Desist Orders are typically used to stop an unauthorized activity that has continued after notification by NRC that such activity is unauthorized.

Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the order is afforded. For cases in which the NRC believes a basis could reasonably exist for not taking the action as proposed, the licensee will ordinarily be afforded an opportunity to show cause why the order should not be issued in the proposed manner.

D. Escalation of Enforcement Sanctions

NRC considers violations of Severity Levels I, II, or III to be serious. If serious violations occur, NRC will, where necessary, issue orders in conjunction with civil penalties to achieve immediate corrective actions and to deter further recurrence of serious violations. NRC carefully considers the circumstances of each case in selecting and applying the sanction(s) appropriate to the case in accordance with the criteria described in Sections V.B and V.C, above.

Examples of enforcement actions that could be taken for similar Severity Level I, II, or III violations are set forth in Table 2. The actual progression to be used in a particular case will depend on the circumstances. However, enforcement sanctions will normally escalate for recurring similar violations.

Normally the progression of enforcement actions for similar violations will be based on violations under a single license. When more than one facility is covered by a single license, the normal progression will be based on similar violations at an individual facility and not on similar violations under the same license. However, it should be noted that under some circumstances, e.g., where there is common control over some facet of facility operations, similar violations may be charged even though the second violation occurred at a different facility or under a different license. For example, a physical security violation at Unit 2 of a dual unit plant that repeats an earlier violation at Unit 1 might be considered similar.

TABLE 2.—EXAMPLES OF PROGRESSION OF ESCALATED ENFORCEMENT ACTIONS FOR SIMILAR VIOLATIONS IN THE SAME ACTIVITY AREA UNDER THE SAME LICENSE

Severity of violation	Number of similar violations from the date of the last inspection or within the previous two years (whichever period is greater)		
	1st	2nd	3rd
I	a+d	a+b+c	d.
II	a	a+b	a+b+c.
III		a	a+b.

a. Civil penalty.
b. Suspension of affected operations until the Office Director is satisfied that there is reasonable assurance that the licensee can operate in compliance with the applicable requirements; or modification of the license, as appropriate.
c. Show cause for modification or revocation of the license, as appropriate.
d. Further action, as appropriate.

E. Related Administrative Actions

In addition to the formal enforcement mechanisms of notices of violation, civil penalties, and orders, NRC also uses administrative mechanisms, such as bulletins, circulars, information notices, generic letters, notices of deviation, and confirmatory action letters to supplement its enforcement program. NRC expects licensees to adhere to any obligations and commitments resulting from these processes and will not hesitate to issue appropriate orders to make sure that such commitments are met.

(1) Bulletins, Circulars, Information Notices and Generic Letters are written notifications to groups of licensees identifying specific problems and recommending specific actions.

(2) Notices of Deviation are written notices describing a licensee's or a vendor's failure to satisfy a commitment where the commitment involved has not been made a legally binding requirement. A notice of deviation requests a licensee or vendor to provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

(3) Confirmatory Action Letters are letters confirming a licensee's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment.

F. Referrals to Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justice for investigation. Referral to the Department of Justice does not preclude the NRC from taking other enforcement action under this General Statement of Policy. However, such actions will be coordinated with the Department of Justice to the extent practicable.

VI. Public Disclosure of Enforcement Actions

In accordance with 10 CFR 2.790, all enforcement actions and licensees' responses are publicly available for inspection. In addition, press releases are generally issued for civil penalties and orders. In the case of orders and civil penalties related to violations at Severity Levels I, II, or III, press releases are issued at the time of the order or the proposed imposition of the civil penalty. Press releases are not normally issued for Notices of Violation.

VII. Responsibilities

The Director, Office of Inspection and Enforcement, as the principal enforcement officer of the NRC, has been delegated the authority to issue notices of violations, civil penalties, and orders.[5] Regional Administrators may also issue notices of violation for Severity Levels IV and V vialtions and may sign notices of violation for Severity Level III violations with no proposed civil penalty and proposed civil penalty actions with the concurrence of the Director, IE. In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, the Director, IE or the Regional Administrator must exercise judgment and discretion in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to impose a civil penalty and the amount of such penalty, after considering the general principles of this statement of policy and the technical significance of the violations and the surrounding circumstances.

The Commission will be provided written notification of all enforcement actions involving civil penalties or orders. The Commission will be consulted prior to taking enforcement action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating with the potential radiological or other hazards associated with continued operation.

(2) Proposals to impose civil penalties in amounts greater than 3 times the Severity Level I values shown in Table 1A;

(3) Any proposed enforcement action that involves a Severity Level I violation;

(4) Any enforcement action that involves a finding of a material false statement;

(5) Any action the Office Director believes warrants Commission involvement; or

(6) Any proposed enforcement action on which the Commission asks to be consulted.

Supplement I—Severity Categories

Reactor Operations

A. Severity I—Violations involving for example:

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, being exceeded;

2. A system[6] designed to prevent or mitigate a serious safety event not being able to perform its intended safety function[7] when actually called upon to work;

3. An accidental criticality; or

4. Release of radioactivity offsite greater than ten (10) times the Technical Specifications limit.[8]

B. Severity II—Violations involving for example:

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function; or

2. Release of radioactivity offsite greater than five (5) times the Technical Specifications limit.

C. Severity III—Violations involving for example:

1. A significant violation of a Technical Specification Limiting Condition for Operation where the appropriate Action Statement was not satisfied within the time allotted by the Action Statement, such as:

a. In a pressurized water reactor, in the applicable modes, having one high-pressure safety injection pump inoperable for a period in excess of that allowed by the action statement; or

b. In a boiling water reactor, one primary containment isolation valve inoperable for a period in excess of that allowed by the action statement.

2. A system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions (e.g., safety system not operable unless offsite power is available; materials or components not environmentally qualified);

3. Dereliction of duty on the part of personnel involved in licensed activities;

4. Changes in reactor parameters which cause unanticipated reductions in margins of safety;

5. Release of radioactivity offsite greater than the Technical Specifications limit; or

6. Failure to meet the requirements of 10 CFR 50.59 such that a required license amendment was not sought.

D. Severity IV—Violations involving for example:

1. A less significant violation of a Technical Specification Limiting Condition for Operation where the appropriate Action Statement was not satisfied within the time allotted by the Action Statement, such as:

a. In a pressurized water reactor, a 5% deficiency in the required volume of the condensate storage tank; or

b. In a boiling water reactor, one subsystem of the two independent MSIV leakage control subsystems inoperable.

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[5] The Directors of the Offices of Nuclear Reactor Regulation and Nuclear Material Safety and Safeguards have also been delegated similar authority, but it is expected that normal use of this authority by NRR and NMSS will be confined to actions necessary in the interest of public health and safety. The Director, Office of Administration, has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license fees. It is planned to consider redelegation of some or all of these authorities to the Administrators of the NRC Regional Offices over the next several years.

[6] "System" as used in these supplements, includes administrative and managerial control systems, as well as physical systems.

[7] "Intended safety function" means the total safety function, and is not directed toward a loss of redundancy. For example, considering a BWR's high pressure ECCS capability, the violation must result in complete invalidation of both HPCI and ADS subsystems. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

[8] The Technical Specification limit as used in this Supplement (Items A.4, B.2 and C.5) does not apply to the instantaneous release limit.

2. Failure to meet the requirements of 10 CFR 50.59 that does not result in a Severity Level I, II, or III violation;

3. Failure to meet regulatory requirements that have more than minor safety or environmental significance; or

4. Failure to make a required Licensee Event Report.

E. Severity Level V—Violations that have minor safety or environmental significance.

Supplement II—Severity Categories

Part 50—Facility Construction

A. Severity I—Violations involving a structure or system that is completed [9] in such a manner that it would not have satisfied its intented safety related purpose.

B. Severity II—Violations involving for example:

1. A breakdown in the quality assurance program as exemplified by deficiencies in construction QA related to more than one work activity (e.g., structural, piping, electrical, foundations). Such deficiencies normally involve the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits and normally involve multiple examples of deficient constuction or construction of unknown quality due to inadequate program implementation; or

2. A structure or system that is completed in such a manner that it could have an adverse effect on the safety of operations.

C. Severity III—Violations involving for example:

1. A deficiency in a licensee quality assurance program for construction related to a single work activity (e.g., structural, piping, electrical or foundations). Such significant deficiency normally involves the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits, and normally involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;

2. Failure to confirm the design safety requirements of a structure or system as a result of inadequate preoperational test program implementation; or

3. Failure to make a required 10 CFR 50.55(e) report.

D. Severity IV—Violations involving failure to meet regulatory requirements including one or more Quality Assurance Criteria not amounting to Severity Level I, II, or III violations that have more than minor safety or environmental signficance.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement III—Severity Categories

Safeguards

A. Severity I—Violations involving for example:

1. An act of radiological sabotage or actual theft, loss, or diversion of a formula quantity of strategic special nuclear material[10] (SSNM);

2. Actual entry of an unauthorized individual into a vital area or material access area from outside the protected area (i.e., penetration of both barriers) that was not detected at the time of entry; or

3. Failure to promptly report knowledge of an actual or attempted theft or diversion of SSNM or an act of radiological sabotage.

B. Severity II—Violations involving for example:

1. Actual theft, loss or diversion of special nuclear material (SNM) of moderate strategic significance;[11]

2. Failure to control access such that all three elements of access control (barrier, monitoring, and response) at the protected area or vital area are inadequate or two of three elements are inadequate in both the protected and vital area;

3. Failure to implement approved compensatory measures when the central and secondary alarm stations are inoperable;

4. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of a formula quantity of SNM from areas of authorized use or storage; or

5. Failure to use established transportation security systems designed or used to prevent the theft, loss, or diversion of a formula quantity of SNM or acts of radiological sabotage.

C. Severity III—Violations involving for example:

1. Failure to control access such that two of the three elements of access control at the vital area or protected area barrier are inadequate;

2. Failure to control access to a transport vehicle or the SNM being transported that does not constitute a Severity I or II violation;

3. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of SNM of moderate strategic significance from areas of authorized use or storage;

4. Failure to implement approved compensatory measures when the central (or secondary) alarm station is inoperable;

5. Failure to conduct a proper search at the access control point that results in introduction to the site of firearms, explosives, incendiary devices, or other items which could be used for industrial sabotage; or

6. Failure to properly secure or protect classified or other sensitive safeguards information which would significantly assist an individual in an act of radiological sabotage or theft of special nuclear material.

D. Severity IV—Violations involving for example:

1. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of SNM of low strategic significance [12] from areas of authorized use or storage;

2. Failure to implement 10 CFR Parts 25 and 95 and information addressed under Section 142 of the Act, and the NRC approved security plan relevant to those parts;

3. Failure to control access to a vital area or material access area from inside the protected area or failure to control access to the protected area in that one of the three elements of access control is inadequate;

4. Failure to properly secure or protect classified or other sensitive safeguards information which would not significantly assist an individual in an act of radiological sabotage or theft of special nuclear material; or

5. Other violations, such as failure to follow an approved security plan, that have more than minor safeguards significance.

E. Severity V—Violations that have minor safeguards significance.

Supplement IV—Severity Categories

Health Physics 10 CFR Part 20 [13]

A. Severity I—Violations involving for example:

1. Single exposure of a worker in excess of 25 rems of radiation to the whole body, 150 rems to the skin of the whole body, or 375 rems to the feet, ankles, hands, or forearms;

2. Annual whole body exposure of a member of the public in excess of 2.5 rems of radiation;

3. Release of radioactive material to an unrestricted area in excess of ten times the limits of 10 CFR 20.106;

4. Disposal of licensed material in quantities or concentrations in excess of ten times the limits of 10 CFR 20.303; or

5. Exposure of a worker in restricted areas of ten times the limits of 10 CFR 20.103.

B. Severity II—Violations involving for example:

1. Single exposure of a worker in excess of 5 rems of radiation to the whole body, 30 rems to the skin of the whole body, or 75 rems to the feet, ankles, hands or forearms;

2. Annual whole body exposure of a member of the public in excess of 0.5 rems of radiation;

3. Release of radioactive material to an unrestricted area in excess of five times the limits of 10 CFR 20.106;

4. Failure to make an immediate notification as required by 10 CFR 20.403(a)(1) and 10 CFR 20.403(a)(2);

5. Disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.303; or

6. Exposure of a worker in restricted areas in excess of five times the limits of 10 CFR 20.103.

C. Severity III—Violations involving for example:

1. Single exposure of a worker in excess of 3 rems of radiation to the whole body, 7.5 rems to the skin of the whole body, or 18.75 rems to the feet, ankles, hands or forearms;

2. A radiation level in an unrestricted area such that an individual could receive greater than 100 millirem in a one hour period or 500 millirem in any seven consecutive days;

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[9] "Completed" means completion of construction including review and acceptance by the construction QA organization.

[10] See 10 CFR 73.2(bb).

[11] See 10 CFR 73.2(x).

[12] See 10 CFR 73.2(y).

[13] Personal over exposures and associated violations, incurred during a life saving effort, will be treated on a case-by-case basis.

3. Failure to make a 24-hour notification as required by 10 CFR 20.403(b) or an immediate notification required by 10 CFR 20.402(a);

4. Substantial potential for an exposure or release in excess of 10 CFR 20 whether or not such exposure or release occurs (e.g., entry into high radiation areas, such as under reactor vessels or in the vicinity of exposed radiographic sources, without having performed an adequate survey, operation of a radiation facility with a nonfunctioning interlock system);

5. Release of radioactive material to an unrestricted area in excess of the limits of 10 CFR 20.106;

6. Improper disposal of licensed material not covered in Severity Levels I or II;

7. Exposure of a worker in restricted areas in excess of the limits of 10 CFR 20.103;

8. Release for unrestricted use of contaminated or radioactive material or equipment which poses a realistic potential for significant exposure to members of the public, or which reflects a programmatic (rather than isolated) weakness in the radiation control program;

9. Cumulative worker exposure above regulatory limits when such cumulative exposure reflects a programmatic, rather than an isolated weakness in radiation protection;

10. Conduct of licensee activities by a technically unqualified person; or

11. Significant failure to control licensed material.

D. Severity IV—Violations involving for example:

1. Exposures in excess of the limits of 10 CFR 20.101 not constituting Severity Level I, II, or III violations;

2. A radiation level in an unrestricted area such that an individual could receive greater than 2 millirem in a one hour period or 100 millirem in any seven consecutive days;

3. Failure to make a 30-day notification required by 10 CFR 20.405;

4. Failure to make a followup written report as required by 10 CFR 20.402(b), 20.408, and 20.409; or

5. Any other matter that has more than minor safety or environmental significance.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement V—Severity Categories

Transportation [14]

A. Severity I—Violations of NRC transportation requirements involving for example:

1. Annual whole body radiation exposure of a member of the public in excess of 0.5 rems of radiation; or

2. Breach of package integrity resulting in surface contamination or external radiation levels in excess of ten times the NRC limits.

B. Severity II—Violations of NRC transportation requirements involving for example:

1. Breach of package integrity resulting in surface contamination or external radiation levels in excess of NRC requirements;

2. Surface contamination or external radiation levels in excess of five times NRC limits that did not result from a breach of package integrity; or

3. Failure to make required initial notifications associated with Severity Level I or II violations.

C. Severity III—Violations of NRC transportation requirements involving for example:

1. Breach of package integrity;

2. Surface contamination or external radiation levels in excess of, but less than a factor of five above NRC requirements, that did not result from a breach of package integrity;

3. Any noncompliance with labelling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:

a. Improper identification of the type, quantity, or form of material;

b. Failure of the carrier or recipient to exercise adequate controls; or

c. Substantial potential for personnel exposure or contamination, or improper transfer of material; or

4. Failure to make required initial notification associated with Severity Level III violations.

D. Severity IV—Violations of NRC transportation requirements involving for example:

1. Package selection or preparation requirements which do not result in a breach of package integrity or surface contamination or external radiation levels in excess of NRC requirements; or

2. Other violations that have more than minor safety or environmental significance.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement VI—Severity Categories

Fuel Cycle and Materials Operations

A. Severity I—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed ten times the limts specified in the license;

2. A system designed to prevent or mitigate a serious safety event not being operable when actually required to perform its design function; or

3. A nuclear criticality accident.

B. Severity II—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed five times the limits specified in the license; or

2. A system designed to prevent or mitigate a serious safety event being inoperable.

C. Severity III—Violations involving for example:

1. Failure to control access to licensed materials for radiation purposes as specified by NRC requirements;

2. Possession or use of unauthorized equipment or materials in the conduct of licensee activities which degrades safety;

3. Use of radioactive material on humans where such use is not authorized;

4. Conduct of licensed activities by a technically unqualified person;

5. Radiation levels, contamination levels, or releases that exceed the limits specified in the license; or

6. Medical therapeutic misadministrations.

D. Severity IV—Violations involving for example:

1. Failure to maintain patients hospitalized who have cobalt-60, cesium-137, or iridium-192 implants or to conduct required leakage or contamination tests, or to use properly calibrated equipment;

2. Other violations that have more than minor safety or environmental significance; or

3. Failure to report medical diagnostic misadministrations.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement VII—Severity Categories

Miscellaneous Matters

A. Severity I—Violations involving for example:

1. A Material False Statement (MFS) [15] in which the statement made was deliberately false;

2. Falsification of records which NRC requires be kept of significant information in which the records were deliberately falsified by or with the knowledge of management;

3. A knowing and intentional failure to provide the notice required by Part 21; or

4. Action by senior corporate management in violation of Section 210 of the ERA against an employee.

B. Severity II—Violations involving for example:

1. A MFS or a reporting failure, involving information which, had it been available to the NRC and accurate at the time the information should have been submitted, would have resulted in regulatory action or would likely have resulted in NRC seeking further information;

2. A MFS in which the false statement was made with careless disregard;

3. Deliberate falsification of records which NRC requires be kept involving significant information;

4. Action by plant management above first-line supervision in violation of section 210 of the ERA against an employee; or

5. A failure to provide the notice required by Part 21.

C. Severity III—Violations involving for example:

1. A MFS not amounting to a Severity Level I or II violation.

[14] Some transportation requirements are applied to more than one licensee involved in the same activity such as a shipper (10 CFR 73.20) and a carrier (10 CFR 70.20a). When a violation of such a requirement occurs, enforcement action will be directed against the responsible licensee which, under the circumstances of the case, may be one or more of the licensees involved.

[15] In essence, a Material False Statement is a statement that is false by omission or commission and is relevant to the regulatory process. As can be seen in the examples, in determining the specific severity level of a violation involving material false statements or falsification of records, consideration will be given to such factors as the position of the person involved in the violation (e.g., first line supervisor or senior manager), the significance of the information involved, and the intent of the violator (i.e., negligence not amounting to careless disregard, careless disregard, or deliberateness). The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation.

2. Deliberate falsification, or falsification by or with the knowledge of management, of records which the NRC requires be kept that did not involve significant information.

3. Action by first-line supervision in violation of section 210 of the ERA against an employee; or

4. Inadequate review or failure to review such that, if an appropriate review had been made as required, a Part 21 report would have been made.

D. Severity IV—Violations involving for example:

1. Inadequate review or failure to review under Part 21 or other procedural violations associated with Part 21 with more than minor safety significance;

2. A false statement caused by an inadvertent clerical or similar error involving information which, had it been available to NRC and accurate at the time the information should have been submitted, would probably not have resulted in regulatory action or NRC seeking additional information; or

E. Severity V—Violations of minor procedural requirements of Part 21.

Supplement VIII—Severity Categories

Emergency Preparedness

A. Severity I—Violations involving for example:

In a general emergency, licensee failure to promptly: (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff).

B. Severity II—Violations involving for example:

1. In a site area emergency, licensee failure to promptly: (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. Licensee failure to meet or implement more than one emergency planning standard involving assessment or notification.

C. Severity III—Violations involving for example:

1. In an alert, licensee failure to promptly: (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. Licensee failure to meet or implement one emergency planning standard involving assessment or notification.

D. Severity IV—Violations involving for example: Licensee failure to meet or implement any emergency planning standard or requirement not directly related to assessment and notification.

E. Severity V—Violations that have minor safety or environmental significance.

Dated at Washington, D.C., this 2nd day of March, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-6176 Filed 3-7-84; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, Delegations of Authority and Notices of Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC is amending its regulations to delegate authority to its Board of Review to withdraw any notice of assessment of civil money penalty issued by it under section 7(j)(15) or 8(i) or 18(j) of the Federal Deposit Insurance Act or section 106(b)(2) of the Bank Holding Company Act and any notice of charges issued by it under section 8(b) of the Federal Deposit Insurance Act pursuant to authority delegated by the Board of Directors, and to delegate authority jointly to the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision to issue a section 8(b) order where a proposed order to cease and desist, as approved by the Board of Directors, is agreed to without change by the respondent.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: James L. Meador, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4171.

SUPPLEMENTARY INFORMATION: Section 303.13(o) of FDIC's rules and regulations (12 CFR 303.13(o)) delegates authority to FDIC's Board of Review to initiate an administrative cease-and-desist proceeding by the issuance of a notice of charges under section 8(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(1)) and to issue a notice of assessment of civil money penalty under section 7(j)(15), 8(i) and 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 7(j)(15), 8(i) and 18(j)) and section 106(b)(2) of the Bank Holding Company Act (12 U.S.C. 1972(b)(2)). Under circumstances where the unsafe or unsound practice and condition or violation of law or regulation or condition imposed by the agency in connection with the granting of any application or request no longer exists or intervening corrective action by the bank has rendered it to be of such diminished magnitude as to no longer require formal regulatory action by the FDIC, the notice of charges or notice of assessment may be withdrawn. Under pre-existing procedure, the withdrawal of a notice of charges or notice of assessment was accomplished by the action of FDIC's Board of Directors. This required unnecessary administrative effort and delay. The amendment delegates authority to the Board of Review to withdraw any notice of charges issued by the Board of Review under delegated authority.

The Board of Directors also has delegated authority jointly to the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision to issue a section 8(b) order to cease and desist where a proposed order, as approved by the Board of Directors, is agreed to without change by the respondent. This delegation of authority eliminates duplication of administrative effort and consequent delay.

Regulatory Factors

The requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are inoperative here because the amendments do not impose recordkeeping or reporting burdens on any insured bank or other member of the public.

The amendments are rules of agency practice and procedure. The Regulatory Flexibility Act (5 U.S.C. 603, 604) does not require the preparation of a regulatory flexibility analysis because the amendments will not cause a significant economic impact on any insured bank or other member of the public.

The amendments are technical, nonsubstantive changes to FDIC's rules of practice and procedure. In accordance with FDIC's statement of policy regarding the "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979) and the Administrative Procedure Act (5 U.S.C. 553), the FDIC dispenses with general notice and public participation, and makes the amendments effective on publication in the **Federal Register**.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations, Bank deposit insurance, Banks, banking.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION CONTROL

Part 303 of chapter III of title 12 of *Code of Federal Regulations* is amended as follows:

1. The authority citation for Part 303 reads as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–79, 79 Stat. 244; sec. 1, Pub. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90–505, 82 Stat. 856; secs. 6(c) (7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. By inserting the words "Board of Directors or the" in § 303.13(o)(2)(i) between the words "the" and "Board of Review".

3. By adding a new paragraph (o)(9) to § 303.13 as follows:

§ 303.13 Other delegations of authority.

* * * * *

(o) * * *

(9) *Withdrawal of notice of charges or notice of assessment of civil money penalty issued by the Board of Review under delegated authority.* The Board of Review is hereby delegated authority to withdraw and terminate any notice of assessment of civil money penalty issued by itself under section 7(j)(15) or 8(i) or 18(j) of the Federal Deposit Insurance Act or section 106(b) of the Bank Holding Company Act and any notice of charges issued by itself under section 8(b)(1) of the Federal Deposit Insurance Act pursuant to authority delegated to the Board of Review by the Board of Directors.

By order of the Board of Directors, March 5, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–6266 Filed 3–7–84; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–20708, File No. S7–975]

Exemption for Certain Foreign Government Securities for Purposes of Futures Trading

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule which designates British and Canadian government securities as "exempted securities" under the Securities Exchange Act of 1934 (the "Exchange Act") for purposes only of the Exchange Act's application to the marketing in this country of certain futures contracts on those securities. The rule would have the effect of removing the designated securities from the class of securities on which futures trading is forbidden by the Commodity Exchange Act ("CEA"). Trading the underlying securities, absent compliance with applicable registration and other requirements, would remain prohibited to the same extent as under current law.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Eneida Rosa, Esq., Branch of Options Regulation, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202) 272–7345.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under recently enacted amendments to the CEA, [1] the trading of futures contracts on individual securities is prohibited, unless such securities qualify as "exempted securities" under Section 3 of the Securities Act of 1933 ("Securities Act") or Section 3(a)(12) of the Exchange Act. Since the legislative history of the new amendments indicates that Congress did not intend to forbid the marketing of futures on British government bonds (so-called "gilt-edged" bonds or "gilts") [2] in this country so long as the futures contracts are not settled here and the bonds themselves are not traded here, the Commission proposed Rule 3a12–8 under the Exchange Act, which would designate such bonds, as well as certain Canadian government securities, as "exempted" securities under Section 3(a)(12) for the purpose of permitting futures trading in this country. [3]

The Futures Trading Act of 1982 ("Futures Trading Act"), signed by President Reagan on January 11, 1983, adds Section 2(a)(1)(B)(v) to the CEA and provides that:

> * * * [n]o person shall offer to enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under Section 3 of the Securities Act of 1933 or Section 3(a)(12) of the Securities Exchange Act of 1934 * * *.

The apparent effect of this language would be to prohibit both the offer and the acceptance in this country of any future on any individual security, including the British gilt and Canadian government securities, unless the security qualifies as an "exempted security" under Section 3 of the Securities Act or 3(a)(12) of the Exchange Act. Foreign government bonds, generally, are not exempted securities under either of these sections. Section 3(a)(12) also provides, however, that the term "exempted security" includes:

> * * * such other securities * * * as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an "exempted security" or to "exempted securities."

Therefore, the Commission may exclude gilt or Canadian bond futures from the proscription in the CEA's new Section 2(a)(1)(B)(v) by exempting, subject to appropriate limitations, the underlying bond.

The effect of the CEA's new language on foreign government security futures traded on foreign boards of trade was specifically addressed when Congress was considering the Futures Trading Act. Representatives Timothy Wirth and Tom Daschle, members of the two House committees which deliberated on

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[1] The Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2294.

[2] "Gilt-edged" generally refers to a variety of obligations of the British government, British local authorities, British nationalized industries, and Commonwealth central governments and corporations. The references in the legislative history, however, were specifically to the long-term British government bonds on which futures currently trade. While the references hereinafter, to "gilts" include only long-term obligations of the British government, the proposed rule includes no limitation as to the term of the debt instrument. *See* footnote 6 infra.

[3] Securities Exchange Act Release No. 19811 (May 25, 1983), 48 FR 24725 (June 2, 1983 "Proposing Release").

the bill, discussed the question on the House floor, in the context of gilt futures. The Securities and Exchange Commission and the Commodity Futures Trading Commission ("CFTC") had jointly proposed the provision in question as part of a jurisdictional agreement (the "SEC/CFTC Accord" or "Accord"). Mr. Daschle noted his understanding that neither agency had intended to bar gilt futures trading. Mr. Wirth agreed that the provision had not intended to bar gilt futures trading, but pointed out that clarifying legislation would be unnecessary in view of the SEC's intention to take administrative action to allow the sale of these futures contracts in this country.[4]

To satisfy this Congressional expectation, the Commission proposed for comment Rule 3a12–8.[5] Aside from certain drafting changes, a new condition concerning the location of the markets trading the relevant futures contracts, and the deletion of a condition relating to the frequency of settlement on the futures, the rule adopted is substantially similar to the rule proposed. The Commission continues to believe that the rule will be useful both in removing any questions regarding the applicability of the Exchange Act to futures on the subject foreign securities and in averting the unnecessary application of the CEA's ban on trading futures in these securities.[6]

As noted in the Proposing Release, the Commission wishes to effectuate Congress' intentions without abandoning its long-standing policy of subjecting foreign government securities, for most purposes, to the requirements of the federal securities laws.[7]

The final terms of Rule 3a12–8 create an exemption for British and Canadian government debt securities limited to (a) futures trading; (b) underlying securities that are not registered in the United States; (c) transactions not involving contracts deliverable in the United States; and (d) securities that are the subject of a futures contract traded on a market located in the country whose government issues those securities. The Commission believes these limitations are both within the intent of Congress and reasonably related to the regulation of the securities markets.

II. Discussion

Five comment letters were received in response to the Proposing Release.[8] The questions raised in the Proposing Release and the points made by commentators have resulted in five main areas of concern in connection with the proposed rule: (1) Whether the Commission's proposed conditions of exemption might amount to an inappropriate regulation of futures trading; (2) whether the exemption should extend to securities underlying futures contracts traded on American contract markets; (3) whether the wording of the proposed rule so limits the extent of the proposed exemption as to render it a nullity; (4) how the proposed exemption might affect regulation of domestic securities trading and general regulatory policy; and (5) the importance of conditioning the exemption by requiring that the foreign board of trade over which the futures are traded be located in the country issuing the underlying bond.

A. Jurisdiction

The CBT and the Merc objected strenuously to Rule 3a12–8 as proposed. Both maintained that, as restricted and conditioned, it amounted to an attempt by this Commission to regulate futures trading and to designate contract markets, despite the exclusive jurisdiction of the CFTC in these areas.

The CFTC has no authority to regulate, exclusively or otherwise, futures contracts that cannot lawfully be traded. Therefore, if the underlying security is not an "exempted security" within the meaning of the securities laws, the overlying futures contract is not subject to CFTC regulation.[9] As the Joint Explanatory Statement noted, "* * * the CFTC would have exclusive jurisdiction over all *permissible* futures contracts as well as options on those futures * * *." (Emphasis added.)[10]

In recognition of the Commission's direct and substantial regulatory interest in futures on securities groups or indices, the Congress granted it a strong voice in the determination of which such contracts should be authorized.[11] Since the regulatory interests of the Commission are even more directly implicated in the trading of futures on individual non-exempt securities, the Commission does not consider it inconsistent with the policy of the CEA for the Commission to exercise its well-established authority to conditionally exempt securities in such a way as to assure that any consequent futures trading will not impair the Commission's regulation of the securities markets.

The Commission concurs that it would be inappropriate as a policy matter for it to establish an elaborate futures regulatory structure in the process of providing a conditional exemption for foreign government securities. These exemptive conditions, however, though inevitably having an impact on which futures may trade and which may not—are reasonably related to the goals of securities regulation and protection of the securities markets, and the Commission thus believes that they may properly be incorporated into its rule. The Conditions in Rule 3a12–8 are directed to these goals. Specifically, the conditions are designed to minimize the impact of the exemption on securities distribution and trading in the United States, in a manner consistent with discussion on the floor of Congress at

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[4] Congressional Record, H. 7492 (daily ed., September 23, 1982). *See also* letter of Chairman John S. R. Shad to Senator David L. Boren, attaching memorandum of June 2, 1982 from SEC General Counsel to Chairman Shad; letter of Chairman Phillip McB. Johnson to Senator Boren (June 3, 1982). The CEA section 2(a)(1)(B)(v) was to be designated section 2(a)(1)(B)(iv) at the time these letters were written.

[5] While futures on Canadian government bonds and bills were not specifically addressed in the legislative history, no basis has appeared for treating them differently from the gilt futures contracts and they were included in the rule proposal at the request of the Toronto Stock Exchange ("TSE").

[6] Since November 1982, the LIFFE has traded a futures contract on long-term British government bonds known as the "long gilt." It was the legality of this contract with which the legislative history was specifically concerned. *See* Proposing Release and materials cited therein. In order to meet Congressional expectations that this contract could trade legally in the United States, CFTC and Commission staff have taken the position in several exchanges of correspondence that administrative action against the sale here of the LIFFE gilt futures will not be taken while proposed Rule 3a12–8 is pending. *See* File No. S7–975.

[7] Moreover, this rulemaking, has not been viewed as an occasion for an overall review of the question of futures on individual securities, a matter deferred, at the time of the Accord, for later consideration. *See* SEC/CFTC Joint Explanatory Statement reprinted in H. Rept. No. 97–626, 97th Cong., 2d Sess., Pt. 2 at 13 (1982).

[8] These letters were from the following: Thomas R. Donovan, President, Chicago Board of Trade "(CBT"), July 5, 1983; the London International Financial Futures Exchange ("LIFFE") forwarded by letter of John Umana, Arnold & Porter, July 12, 1983; Huntly McKay, Vice President for Markets and Market Development, TSE, July 12, 1983; Thomas Eric Kilcollin, Vice President of Research and Chief Economist, Chicago Mercantile Exchange ("Merc"), July 26, 1983; and Kenneth Raisler, General Counsel, CFTC, August 1, 1983.

[9] The CFTC would have the authority—the exclusive administrative authority—to bring an action to halt such unlawful futures trading. Rule 3a12–8, however, does not purport to transfer this authority to the SEC or to affect it other than to specify instruments that may lawfully be the subject of futures contracts.

[10] H. Rpt. 626, Pt. 2, *supra*, at 13.

[11] *See* CEA Section 2(a)(1)(B)(iv); *see also* Senate Rpt. 390 97th Cong., 2d Sess., at 6 and 7 (1982); House Rpt. 565, 97th Cong., 2d Sess., Pt. 2, at 18 (1982); House Rpt. 626, Pt. 2, *supra*, at 14 and at note 6.

the time the Futures Trading Act of 1982 was under consideration.[12]

B. Restriction to Foreign Contracts

The Merc and the CBT argued that the proposed exemption should leave room for the CFTC to designate American boards of trade as contract markets for futures on the exempted British and Canadian securities. They believed that to do otherwise would suggest that the SEC rather than the CFTC has the right to designate contract markets, and would confine the futures to precisely those markets over which United States government agencies have the least regulatory power.

The Commission has made no determination regarding expansion of the exemption to futures contracts traded on domestic boards of trade. The Commission does believe that such action raises discrete concerns regarding the expansion of cash trading that might develop if there were present here substantial markets in the overlying futures. In addition, no exemption broader than the one adopted today is clearly contemplated in the events leading to this rulemaking. The letters of Chairmen Shad and Johnson to Senator Boren speak only for foreign contracts.[13] In addition, Congressman Wirth's discussion in the House of Representatives also refers to foreign futures.[14] Moreover, the specific futures contract discussed—the long gilt—is in fact a foreign future, *i.e.*, one traded on a foreign board of trade. Therefore, the Commission believes that the rule should continue to be aimed narrowly at foreign futures at this time. If, after futures are traded resulting from the adoption of the rule, there are proposals to trade such futures contracts in the United States, the Commission may revisit this issue.

The Proposing Release also sought comments on the advisability of limiting the proposed rule to foreign futures contracts traded solely on a board of trade located in the country whose government issues the underlying security. The Merc and the CBT challenged the Commission's authority to "designate" contract markets in this manner, while the CFTC suggested that non-issuer governments might have an equally strong interest in the integrity of any board of trade within their jurisdiction. The CFTC also felt that the absence or discontinuance of trading in the territory of the issuer government would not necessarily mean that the contract itself was without economic usefulness. It advised the Commission to defer consideration of the matter, since, at present, the markets trading futures on the prospective exempted securities are, in fact, located within the territories of the issuer-governments. The Commission agrees with the CFTC that it is appropriate to defer consideration until proposals relating to other markets have been made. The Commission believes that this cautious approach is furthered by limiting this rule to markets and locations presently known.[15]

C. The "Nullity" Problem

LIFFE and the CFTC were concerned with Rule 3a12–8's proposed language defining the foreign government securities as "exempted" from all provisions of the 1934 Act which by their terms do not apply to exempted securities "*but only insofar as such provisions may be construed to apply to the offer or sale of foreign futures contracts* * * *." (emphasis added).

These commentators suggested that if the CFTC's exclusive jurisdiction over futures trading precludes application of any Exchange Act provision to futures trading, the proposed rule would declare the securities exempted only for a nonexistent class of cases, and, therefore, would fail for lack of effect. The CFTC recommended that the Commission replace the limiting language referring to application of Exchange Act provisions with this limitation: "but only insofar as the designated foreign government security underlies and is the subject of foreign futures contracts."

The Commission does not regard the wording proposed as entirely without effect. The exemption, for example, would at least have precluded private actions brought on the theory that Section 15(c)(2) of the 1934 Act (forbidding broker-dealer fraud in off-exchange transactions but not extending to transactions in exempted securities) confers a private right of action [16] and that the CFTC's exclusive authority is merely an administrative one, so that where a private right of action derives directly from the statute, suit arguably may be brought under the securities laws where the transaction sued upon has both a securities and a commodities aspect.[17]

In addition, the Commission believes that it would go beyond the intent of Congress to remove virtually all Exchange Act authority over the enumerated foreign securities, and it does not intend to do so simply because the securities are deliverable on a foreign futures contract. However, the Rule's wording has been revised in order to leave no doubt that the Rule is intended to permit the trading of futures contracts of the type it describes, in accordance with the understanding of Congress.

D. Relationship to General Regulatory Policy and American Securities Markets

Rule 3a12–8 will make available in the United States for the first time [18] futures on individual securities not themselves considered appropriate for exemption from registration. The exemption has been drawn cautiously, but inevitable problems are posed in integrating any such exemption into the general scheme of federal securities regulation.

1. *Disclosure.* The fundamental purpose of the federal securities laws is to require disclosures that will enable investors to judge for themselves the

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[12] *See* remarks of Rep. Wirth, Congressional Record, H. 7492 (daily ed., September 23, 1982): Thus, if the SEC were to deem the gilt-edged securities * * * exempted securities, *for the purpose of transactions in foreign futures contracts* * * *, such transactions would be permitted * * *. I understand from the SEC that it intends promptly to take the necessary administrative action to accomplish this result *so long as actual trading of the underlying* * * * *securities does not occur in this country* * * *. (Emphasis added.)

[13] Letter of Chairman John S. R. Shad to Senator David L. Boren, attaching memorandum of June 2, 1982, from SEC General Counsel to Chairman Shad; letter of Chairman Phillip McB. Johnson to Senator Boren, June 3, 1982. *See* File No. S7–975 and Proposing Release.

[14] *See* note 12, *supra.*

[15] The location restriction, it should be understood, will prevent application of the rule for purposes of futures traded on a market outside the issuer-country. It will not, however, remove from the rule's protection futures traded on a market inside the issuer country because another market has been established outside that country. The Commission also believes requiring markets be located in the jurisdiction of the designated governments will reduce the likelihood that some off-shore futures markets might be established or utilized for the purpose of disguised marketing of the underlying securities. In view of these considerations, the Commission adopts the rule with the suggested restriction as to market location.

[16] *See Franklin National Bank* v. *L.B. Meadows & Co.*, 318 F. Supp. 1339 (E.D.N.Y. 1970); *see also American Bank & Trust Co.* v. *Barad Shaff Securities Corp.*, 335 F. Supp. 1276, 1282 (S.D.N.Y. 1972); *but see Walck* v. *American Stock Exchange, Inc.*, 565 F. Supp. 1051, 1059 (E.D. Pa. 1981), *aff'd*, 687 F. 2d 778 (3d cir. 1982), *cert. denied* 103 Sup. Ct. 2118 (1983).

[17] There is susbstantial authority on both sides of the latter proposition. *See Mordaunt* v. *Incomco*, 686 F.2d 815 (9th Cir. 1982); *Peavey Co.* v. *Mitchell*, CCH Fed. Sec. L. Rpts. ¶ 99593 (W.D. Okla 1983) *Mullis* v. *Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 492 F. Supp. 1345 (D. Nev. 1980) and *Westlake* v. *Abrams*, 504 F. Supp. 337 (N.D. Ga. 1980); *see also Witzel* v. *Chartered Systems Corp.*, 490 F. Supp. 343, 347–48 (D. Minn. 1980). *But see Gonzales* v. *Paine, Webber, Jackson & Curtis, Inc.*, 493 F. Supp. 499 (S.D.N.Y. 1980); *Fairchild, Arabatzis & Smith* v. *Prometco Co.*, 470 F. Supp. 610 (S.D.N.Y. 1979); *Hofmayer* v. *Dean Witter & Co.*, 459 F. Supp. 733 (N.D. Cal. 1978); *Bartels* v. *International Commodities Corp.*, 435 F. Supp. 865 (D. Conn. 1977); *see also E.F. Hutton & Co.* v. *Schank*, 456 F. Supp. 507 (D. Utah 1976).

[18] Except as already noted above. *See* note 6 *supra.*

prospects and creditworthiness of the securities issuer. This aim would be frustrated if disclosure requirements could be circumvented simply by marketing the investment on a delayed delivery basis by use of a derivative instrument rather than on a cash delivery basis.

For this reason, the Proposing Release sought comment on the possibility of restricting the exemption to underlying securities issued by a government as to which some type of securities acts disclosure had been made. None of the five commentators wrote to suggest or support such a requirement. The Toronto Stock Exchange ("TSE") feared that a disclosure requirement might impose more compliance costs than the TSE's small futures market could justify. The Merc argued that the Commission was without authority to apply a disclosure requirement to futures transactions, and the CFTC reserved comment pending a specific disclosure proposal.[19]

In the interests of simplicity and in view of the other safeguards provided in Rule 3a12–8, the Commission has elected at this time not to incorporate a disclosure requirement into the rule. Americans have relatively ready access to information about the governments presently covered by the rule, most of it in the English language.[20] Furthermore, with respect to disclosures relating to the credit-worthiness of the issuer, the Division notes that, presently, there are securities products available, *i.e.*, British pound and Canadian dollar options, whose value is as dependent on the condition and policy of those foreign governments as are the governments' debt securities. With respect to these securities, however, no disclosure about the governments is required.

2. *Delivery.* One of the principal safeguards incorporated in the exemption, as currently drafted, is its restriction to securities delivered abroad. These restrictions should hamper the development of a domestic market in the unregistered bonds and deter utilization of futures contracts as if they were simply deferred-delivery cash transactions.

The Merc objected that delivery in the United States was irrelevant to any concern over "a flood of unregistered offerings in the United States," pointing out that the Securities Act addresses offers and sales made within the federal government's jurisdiction, not the locale of the delivery point.

In the Commission's judgment, delivery of the securities located outside the United States will inhibit the development of domestic trading in these unregistered securities. Therefore, the Commission has determined to retain the delivery restriction.[21] Furthermore, as already noted, the Congressional discussion cited by the Proposing Release in support of the rule assumed that "actual trading of the underlying gilt-edged securities" would not occur in this country.[22]

The LIFFE expressed concern about the specific language of the proposed Rule's foreign delivery requirement paragraph as originally drafted. That paragraph would have excepted from the exemption any security delivered within the United States pursuant to a foreign futures contract, or "pursuant to any other purchase * * * sale or exchange * * * [or] sold or offered for sale in contemplation of delivery within the United States." LIFFE feared that under the quoted terms, once a particular gilt bond had been sold or delivered in the United States, regardless of whether the transaction had any connection to a LIFFE futures contract, that bond (and perhaps, all bonds of the same issue or series) might, thereafter, be considered ineligible for the exemption. Consequently, any futures contract for which it was a deliverable issue might become ineligible for sale in the United States.

The Rule is not intended to have such an effect nor to expose LIFFE to the threat of litigation on the basis of transactions beyond its oversight or control. The Commission will only set the condition, therefore, that the exemption shall not be available with respect to any futures contract deliverable in the United States.

3. *Unregistered Securities.* The exclusion of registered securities from the exemption was proposed to prevent futures trading from disrupting regulated markets for registered underlying securities.[23] It may be contended that there is not a large likelihood of manipulation in the market for British or Canadian government debt. Nevertheless, investors' markets should not be subject to the vagaries of a "shadow market" in the same or derivative instruments, subject to a differing or less rigorous regulatory regime. In addition, it would seem anomalous to maintain a U.S. delivery prohibition if some eligible bonds themselves were registered and trading in United States cash markets. This limitation, moreover, is not likely to interfere with contracts used as tools for hedging in or speculating on foreign interest rates (rather than as deferred delivery cash deals), because nearly all British and Canadian government debt currently registered in this country is denominated in U.S. dollars.[24]

4. *Delivery Periods.* Several commentators criticized the proposal to confine the exemption to securities underlying a foreign futures contract having no more than one delivery month per quarter.

The Merc objected to this provision on a number of grounds. In addition to questioning the appropriateness of this limitation on the flexibility of markets to design suitable futures contracts, if questioned whether this limitation would in fact serve the Commission's objective of preventing circumvention of the federal securities laws by use of the futures markets. The CBT objected generally to this and other restrictions imposed by the SEC. The CFTC saw no significant investor protection issues that could be affected by the frequency of delivery periods and questioned the need for them. The Commission remains concerned that the futures markets in these instruments not be employed simply to avoid the registration and other provisions of the federal securities laws. We concur, however, that this may not be an essential limitation in accomplishing that purpose.[25] Accordingly, the Commission is not at this time adopting any restriction on the frequency or length of delivery periods.[26]

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[19] The type of disclosure provision contemplated would not have related to the futures transaction itself but to the information publicly available concerning the security itself. Thus, the Commission suggested that the exemption might be limited to the securities of issuers currently filing a Form 18K with the Commission. *See* Proposing Release, at 24726 n. 6.

[20] This information includes registration information for certain British and Canadian government securities, noted in the Proposing Release, that are registered in the United States.

[21] The Merc suggests that domestic delivery would improve the regulatory picture by making the delivery subject to the oversight of American authorities. The Commission believes, however, that it would also broaden the appeal and possibilities for abuse of the futures contracts.

[22] Remarks of Rep. Timothy Wirth, Congressional Record, H. 7492 (daily ed., September 23, 1982).

[23] The Merc felt that if disruption of regulated markets were the only problem, then futures trading could be permitted on all unregistered securities. Disruption, of course, is not the only problem. Circumvention of the disclosure policies embodied in the securities laws and inconsistency with the Commission's general policy requiring registration prior to the distribution of foreign government issues are also relevant.

[24] *See* Proposing Release.

[25] Moreover, none of the existing contracts that will be affected by Rule 3a12–8 settle more often than quarterly.

[26] The Proposing Release also raised several questions concerning the tools available to the CFTC to deal with these foreign futures contracts and specifically solicited comment on whether Commission action should await or coordinate with further rulemaking by the CFTC.

The CFTC's comment stated that it had no immediate plans to promulgate rules in the foreign

Continued

For the reasons stated above, the Commission adopts Rule 3a12–8, as set forth below, providing an exemption from the Exchange Act for British and Canadian government debt securities and limited to (a) futures trading; (b) uderlying securities not registered in the United States; (c) transactions not involving contracts deliverable in the United States; and (d) securities that are the subject of a futures contract traded solely on a market located in the country whose government issues those securities.

III. Regulatory Flexibility Act Considerations

The Chairman of the Commission certified in connection with the Proposing Release that Rule 3a12–8, if adopted, would not have a significant economic impact on a substantial number of small entities. None of the comments addressed the certification.

IV. Effects on Competition and Other Findings

Section 23(a)(2) of the Act [27] requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered Rule 3a12–8 in light of the standards cited in Section 23(a)(2) and believes that adoption of Rule 3a12–8 will not impose any burden on competition not necessary or appropriate in furtherance of the Act, since, as stated herein, it is designed to assure the lawful availability in this country of certain foreign government security futures not otherwise permitted under the terms of the CEA. The Rule, thus, serves to expand the range of financial products available in the United States and enhances competition in financial markets. In addition, the Rule does not impose a burden on competition because absent substantive amendments to the federal securities laws, the domestic exhanges could not under any circumstances trade these foreign government securities futures contracts in the United States. Finally, any minimal burden on competition imposed by the conditions in Rule 3a12–8 is outweighted by the need to ensure that futures trading on these securities is consistent with the goals and purposes of the federal securities laws by minimizing the impact of the Rule on securities trading and distribution in the United States.

The Commission finds, in accordance with the Administrative Procedure Act,[28] that the adoption of Rule 3a12–8 is exemptive in nature. Accordingly, the foregoing action becomes effective immediately upon publication in the **Federal Register.**

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Statutory Basis

Proposed Rule 3a12–8 is adopted under the Act, [15 U.S.C. 78a *et seq.*, and particularly Sections 3(a)(12), and 23(a) 15 U.S.C. 78c(a)(12) and 78w(a)].

VI. Text of Final Rule

Accordingly, Title 17, Chapter II of the Code of Federal Regulations is amended by adding § 240.3a12–8 as follows:

PART 240—GENERAL RULES AND REGULATION, SECURITIES EXCHANGE ACT OF 1934

§ 240.3a12–8 Exemption for designated foreign government securities for purposes of futures trading.

(a) When used in this Rule, the following terms shall have the meaning indicated: (1) The term "designated foreign government security" shall mean a security not registered under the Securities Act of 1933 nor the subject of any American depositary receipt so registered, and representing a debt obligation of the government of

(i) The United Kingdom of Great Britain and Northern Ireland; or

(ii) Canada.

(2) The term "qualifying foreign futures contracts" shall mean any contracts for the purchase or sale of a designated foreign government security for future delivery, as "future delivery" is defined in 7 U.S.C. 2, provided such contracts require delivery outside the United States, any of its possessions or territories, and are traded on or through a board of trade, as defined at 7 U.S.C. 2, that is located within the nation whose government issues the designated foreign government securities to which the contracts relate.

(b) Any designated foreign government security shall, for purposes only of the offer, sale or confirmation of sale of qualifying foreign futures contracts, be exempted from all provisions of the Act which by their terms do not apply to an "exempted security" or "exempted securities."

By the Commission.

Dated: March 2, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–6301 Filed 3–7–84; 8:45 am]

BILLING CODE 8010–01–M

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futures area, but at the same time it expressed no reservations about its capacity and authority to deal with regulatory questions the contemplated futures trading might present, and, it recommended prompt action adopting an exemption. Moreover, the CFTC also noted the strong interest foreign governments have in regulating futures exhanges in their jurisdiction.

In light of these consideration, the Commission has determined to proceed with the promulgation of Rule 3a12–8 at this time without awaiting further action by the CFTC.

[27] 15 U.S.C. 78w(a)(2).

[28] 5 U.S.C. 553(d).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 84–57]

Amendment Removing China From the List of Countries Entitled to Special Tonnage Tax Exemption

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by removing the People's Republic of China (China) from the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. The Department of State informed Customs that, due to the expiration of the U.S.-China Agreement on Maritime Transport, there is no longer satisfactory evidence that no discriminatory duties of tonnage or imposts are being imposed in ports of China upon vessels belonging to citizens of the U.S. or on their cargoes. Therefore, privileges regarding exemption from the payment of discriminatory duties upon vessels registered in China which enter U.S. ports cannot be granted by the U.S. at this time.

EFFECTIVE DATE: December 16, 1983.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money", on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of

proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. 141). Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money.

By letter dated December 19, 1983, the Department of State informed the Customs Service that the U.S.-China Agreement on Maritime Transport, which was signed and took effect on September 17, 1980, expired on December 16, 1983. When this Agreement was signed, there was satisfactory evidence that no discriminatory duties of tonnage or imposts were being imposed or levied in ports of China upon vessels wholly belonging to citizens of the U.S., or upon the produce, manufactures, or merchandise imported into China on vessels from the U.S. Accordingly, T.D. 82–16, published in the **Federal Register** on January 14, 1982 (47 FR 2084), amended § 4.22, Customs Regulations, by granting reciprocal privileges to vessels of China as of September 17, 1980. However, since no successor Agreement has yet been concluded and because the only assurances the Government of China has provided the U.S. Government concerning tonnage duties were contained in the Maritime Agreement, which expired December 16, the Department of State believes that the U.S. is no longer in possession of satisfactory evidence regarding the absence of discriminatory duties of tonnage or imposts on U.S. vessels. Therefore, the Department of State recommended to customs that China be removed, effective December 16, 1983, from the list of nations whose vessels are exempted from the payment of the special tonnage tax and the payment of light money. On December 30, 1983, the Director, Carriers, Drawback and Bonds Division of the Customs Service determined that effective December 16, 1983, China should be deleted from the list in § 4.22.

By virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), the President has delegated the authority to grant this exemption to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951, a amended by E.O. No. 10882, July 18, 1960 (3 CFR, 1959–1963 Comp., Ch II). By Treasury Department Order 165–25 the Secretary of the Treasury delegated authority to the Commissioner of Customs to prescribe regulations relating to § 4.22 and other sections of the Customs Regulations relating to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82–201), dated October 13, 1982, the Commissioner delegated authority to grant this exemption and to amend these sections to the Assistant Commissioner (Commercial Operations), who redelegated this authority to the Director, Office of Regulations and Rulings, who then re-delegated it to the Director, Regulations Control and Disclosure Law Division.

Finding

On the basis of the information received from the Secretary of State, as described above, it has been determined that the United States is no longer in possession of satisfactory evidence regarding the absence of discriminatory duties of tonnage or imposts imposed on U.S. vessels in ports of China. Therefore, China is removed from the list of nations whose vessels are exempted from the payment of the special tonnage tax and the payment of light money as of December 16, 1983.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Regulations Amendment

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.22 [Amended]

To reflect this change, § 4.22, Customs Regulations (19 CFR 4.22), is amended by deleting "China.*" from the list of nations entitled to exemptions from special tonnage taxes and deleting "*See also Taiwan." below "Zaire." on the same list.

(R.S. 251, as amended, 4219, as amended, 4228, as amended, 4255, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 5, 121, 128, 141)).

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

This document is not subject to the provisions of section 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a major impact analysis is not required.

Drafting Information

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

Dated: March 1, 1984.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 84-6261 Filed 3-7-84; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 10

Caribbean Basin Initiative

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to interim Customs Regulations relating to the Caribbean Basin Initiative which were published as T.D. 84–14 in the **Federal Register** on January 5, 1984 (49 FR 852). Comments were to have been received on or before March 5, 1984.

Customs has been requested to extend the comment period because of the complicated issues raised and the need to solicit the views of the governments affected by the interim regulations. Customs believes the request has merit. Accordingly, the period of time for the submission of written comments is extended to May 4, 1984.

DATE: Comments must be received on or before May 4, 1984.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the

Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: William L. Marchi, Duty Assessment Division (202-566-2957); Legal Aspects: Francis W. Foote, Classification and Value Division (202-566-2938); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Dated: March 2, 1984.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 84-6177 Filed 3-7-84; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Parts 1 and 301

[T.D. 7948]

Tax Return Preparers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the Income Tax Regulations under sections 6107(b) and the Regulations on Procedure and Administration under section 7216(b) of the Internal Revenue Code of 1954. The amendment under section 6107(b) relates to the retention of records of income tax returns prepared by a corporation or a partnership as an income tax return preparer. The amendment under section 7216(b) relates to disclosure to grand juries of income tax return information by the preparers of the returns. These amendments to the regulations clarify existing regulations under sections 6107(b) and 7216(b).

EFFECTIVE DATES: The changes made by this Treasury decision are effective on April 9, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-290-82) or call 202-566-3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1983, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6107(b) and the Regulations on Procedure and Administration under section 7216(b) (26 CFR Part 301) (48 FR 52087). The proposed amendment to section 6107(b) designated the person required to retain records of income tax returns when the income tax return preparer is a corporation or partnership which has been dissolved. The proposed amendment to regulations under section 7216(b) clarified that disclosure of tax return information by an income tax return preparer to a grand jury does not trigger the penalty provision of section 7216(a). There were no written comments or requests for a public hearing. Therefore, the regulations are being published as they appeared in the notice of proposed rulemaking.

Discussion

Section 6107(b) provides that an income tax return preparer must retain a copy of each income tax return prepared, or a list of the taxpayers for whom such returns were prepared, available for inspection upon request for a specified 3-year period. When the preparer is a corporation or a partnership which is dissolved before expiration of the 3-year period, the question has arisen as to who must retain the above described records for inspection until the 3-year period has expired. This amendment to the regulation would place that duty upon all persons under state law who are responsible for winding up the affairs of the corporation or partnership. If no persons are designated under state law, then the regulations provide that, collectively, the directors of the corporation or the general partners of the partnership shall be required to retain the records for the requisite 3-year period.

Section 7216(b) provides that the penalty provision of section 7216(a) will not apply to the disclosure or use of information by preparers of returns if the disclosure is made pursuant to provisions of the Code or pursuant to an order of a court. Section 7216(b)(3) gives the Secretary regulatory authority to prescribe other exceptions to section 7216(a). This amendment to the regulation would clarify that disclosure of tax return information by an income tax return preparer to a grand jury does not trigger the penalty provision of section 7216(a).

Drafting Information

The principal author of these regulations is Mary Frances Pearson of the Legislation and Regulations Division 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 these regulations, both on matters of substance and style.

Regulatory Flexibility Act of 1980 and Executive Order 12291

Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this regulation is not subject to Executive Order 12291.

List of Subjects

26 CFR 1.601-1—1.6109-2

Income taxes, Administration and procedure, and Payment of tax.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information and Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 301 are amended as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. Section 1.6107-1(b) is amended by adding three sentences at the end thereof to read as set forth below:

§ 1.6107-1 Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or record.

* * * * *

(b) *Copy or record to be retained.* * * * If the person subject to the record retention requirement of this paragraph (b) is a corporation or a partnership which is dissolved before completion of the 3-year period, then all persons who under state law are responsible for the winding up of the affairs of the corporation or partnership shall be subject, on behalf of the corporation or partnership, to these record retention requirements until completion of the 3-year period. If state law does not specify any person or persons as responsible for winding up, then, collectively, the directors or general partners shall be subject, on behalf of the corporation or partnership, to the record retention requirements of this paragraph (b). For purposes of the penalty imposed by section 6695(d), such designated persons shall be deemed to be the income tax return preparer and will be jointly and severally liable for each failure.

* * * * *

Regulations on Procedure and Administration

PART 301—[AMENDED]

Par. 2. Section 301.7216–2 is amended as follows:

(1) Paragraph (c)(2) is redesignated as (c)(3) and a new paragraph (c)(2) is added as set forth below:

(2) Paragraph (d) is amended by removing the period at the end thereof and adding ", or before any grand jury which may be convened by the court."

§ 301.7216–2 Disclosure or use without formal consent of taxpayer.

* * * * *

(c) *Disclosure pursuant to an order of a court or a Federal or State agency.* * * *

(2) A subpoena issued by a grand jury, Federal or State, or

* * * * *

This Treasury decision is issued under the authority contained in sections 7216(b)(3) and 7805 of the Internal Revenue Code of 1954 (85 Stat. 529; 26 U.S.C. 7216 and 68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 15, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–6272 Filed 3–7–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 218 and 256

Collection of Royalties, Rentals, Bonuses, and Other Monies Due the Federal Government From Outer Continental Shelf (OCS) Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The MMS is publishing this final rule requiring all offshore lessees/payors to remit to MMS by electronic funds transfer (EFT) all royalty payments in the amount of $50,000 or more. Payment of the four-fifths bonus and the first year's lease rental, regardless of amount, shall also be made by EFT.

This payment method will provide the U.S. Treasury with funds on the actual date of transfer rather than several days later, as is the case with current manual check-clearing procedures. It will also significantly improve MMS internal controls for handling receipt of payments.

The one-fifth bonus deposit is not to be paid by EFT. In addition, this regulation requires the Federal Government (Government) to pay interest on the one-fifth bonus bid if it is returned to the high bidder.

This final rule supersedes the interim final rule published on June 10, 1983, as 30 CFR 256.13 (48 FR 26778–26779) and subsequently redesignated as 30 CFR 218.155 on August 5, 1983 (48 FR 35639–35643), as part of an overall redesignation and reorganization of regulations in 30 CFR Chapter II.

In addition, paragraph (f) of 30 CFR 256.47 is amended to correctly reference this final rule.

EFFECTIVE DATE: March 8, 1984.

ADDRESS: Deputy Associate Director for Royalty Management (Policy), 12203 Sunrise Valley Drive, Mail Stop 660, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm, (703) 860–7511.

SUPPLEMENTARY INFORMATION: This rule requires EFT payment utilizing the Federal Reserve Communications System (FRCS) link to the Treasury Financial Communications System (TFCS), when the aggregated royalty amount payable to MMS on the payment due date is $50,000 or more. EFT payments for royalties shall begin only after a payor is notified by MMS. All four-fifths bonus bid payments plus the first year's rentals are also to be made by EFT, beginning with lease offerings after February 1, 1984. Further payment instructions for the four-fifths bonus bid plus the first year's rental will be provided in the notice of each lease offering.

Payors will not be held responsible for late payments resulting from actions beyond their control including mechanical or systems failure of the FRCS or TFCS. However, late payments resulting from a payor's action, such as improper coding instructions given to the bank to authorize EFT, will be the payor's responsibility.

Payments for rentals in any amount (except for the first year's rental), or for royalties totaling less than $50,000 on payment due date, may be paid by EFT, check, bank draft, or money order payable to: "Department of the Interior—MMS." Please note that payment by EFT requires prior approval by the MMS Royalty Management Accounting Center in Lakewood, Colorado.

The interim final rule published on June 10, 1983, and effective July 11, 1983, provided for a 60-day public comment period which ended August 9, 1983. During that comment period fourteen (14) responses were received by MMS from lessees and other interested parties. All comments received during the 60-day period were considered in this final rulemaking, and the text of the 30 CFR Part 218 rule has been changed to reflect those comments where appropriate.

Comments Received on Interim Final Rule 30 CFR 256.13 (now 218.155)

(a) *General Comments:* Eight commentors expressed concern that the payor will not receive positive confirmation showing that the MMS has received the EFT payment and that the payment will not be properly credited to the payor's account. Of particular concern was the fear that leases might be cancelled for failure to make proper rental payments, due to some inadvertent error. Also of concern was the possibility that, in the case of lease offerings, a successful high bid could be rejected due to an EFT payment error.

The MMS recognizes these concerns and has taken steps to prevent potential problems. The MMS Accounting Center will notify the appropriate OCS regional office of receipt of all EFT bonus (four-fifths) and first year rental payments on the same business day of receipt. When MMS records indicate that payment has not been received by the due date, MMS will notify the bidder. A 2-day grace period is provided for completing the payment. Late payment charges and penalties will be assessed, however, if it

is determined that the delay is the payor's fault or the fault of the payor's bank (agent).

A related concern, expressed by several commentors, was how MMS could match payments made by EFT to the supporting documentation and report forms submitted separately by the payor.

The payor, when instructed by MMS to begin making payments by EFT, will be given specific coding instructions for the message to be transmitted with the EFT payment. The MMS will match the EFT payment coding information with the proper Form(s) MMS–2014 or other data submitted by the payor. If all payments are properly made when due, MMS will not contact the payor. If, however, any problem should occur, MMS will immediately contact the payor to begin the process of reconciliation. Should any payor desire to verify that a particular payment has been satisfactorily made the payor can contact the MMS Accounting Operations Division, Lakewood, Colorado, for confirmation.

One commentor stated that the payor should always have the right to deliver payment in cash or any other manner acceptable to MMS if a safe and timely EFT payment cannot be made.

If problems occur with the EFT system, MMS will determine, at that time, whether an alternate method of payment should be made and will in turn notify the payor.

One commentor suggested that the EFT payment system should be extended to all payments for Federal and Indian mineral leases.

The MMS may eventually expand the EFT payment system to include all (or more) payments, but this will not be done until MMS has had sufficient experience to evaluate the effect of this system on the cash management and internal control objectives of MMS.

One commentor indicated that there was an apparent contradiction in the interim final rule. Specifically, this commentor took issue with the MMS statement that the economic effect of the rule was deemed not significant while simultaneously stating that there would be substantial savings to the Government.

Under Executive Order 12291 a major rule is defined as, among other things, a regulation that is likely to result in an annual effect on the economy of $100 million or more. This rulemaking is estimated to save the Government a little less than $5 million per year which is substantial but is not significant enough to constitute a major rule.

One commentor objected to the use of EFT, stating that it would be substantially more expensive to all payors due to the need to insure internal control and the monitoring of payments. This commentor suggested either retaining the present method of making payments by check, or offering payors the option of using the "Automated Clearing House" (ACH) payment system.

The present method of payment by check or the use of the ACH system does not satisfy the MMS purpose to provide the U.S. Treasury with funds on the actual date of transfer. To make the transition less burdensome, MMS has relaxed the interim rule by making EFT mandatory only for payments of (a) royalties of $50,000 or more and (b) the four-fifths bonus bid plus the first year's rental.

One commentor objected to the loss of check clearing float time as an abrogation of the sanctity of contracts and suggested that two additional payment days be granted to make up for this lost float time.

The MMS disagrees. This rule will simply expedite receipt of the amount rightfully due the Government on a certain date and does not contradict any lease term.

(b) *Specific Comments:* The following comments and responses are grouped by the applicable paragraph of § 218.155. Please note that the interim final regulation was published at 30 CFR Part 256 and the final regulation is published at 30 CFR Part 218. Please also note that the format of the rule has been changed. For example, § 218.155(b) does not entirely correspond to what was formerly § 256.13(b) in the terim final rule.

Section 218.155, Paragraph (a)

Seven commentors expressed concern that aggregating corporate wide payments would create severe logistical and accounting problems because most large corporations have multiple payments and disbursement centers.

It is not the intention of MMS to force corporations to disrupt their present operations. Some corporations have several payor codes, each representing a division or a group of divisions or disbursement centers. The aggregated $50,000 payment floor for EFT payments applies to each payor code. Thus, each payor code will be treated as a separate entity for purposes of this rule.

Four commentors recommended greater payment flexibility, permitting any mineral revenue payment, at the discretion of the payor, regardless of size or timing, to be made by EFT.

The MMS agrees with this recommendation and payment for rentals of mineral lands, other than first year rentals, may be made by EFT (or other means) at the option of the payor either prior to or on their due date. The EFT system has been recently enhanced to handle a larger volume a transactions and, therefore, smaller payments can now be handled without difficulty.

Three commentors suggested that the floor for payment by EFT be raised from $50,000 to $100,000. One of these commentors further suggested that the $100,000 EFT payment floor apply only to individual, not aggregated, payments due.

Since the purpose of this rule is to maximize the immediate availability of funds to the U.S. Treasury, MMS rejected this comment.

One commentor suggested that the phrase "on payment due date" in paragraph (a) be changed to "on any given day" to make paragraph (a) consistent with paragraph (b), and to allow payments to be made before the payment due date at the discretion of the payor.

The phrase "on payment due date" was made consistent throughout and "any given day" was removed from the final rule. It is intended that EFT be required when the aggregated royalty liability on payment due date is $50,000 or more. This does not preclude early payment by EFT of all or part of the amount so determined. If early payments are made, each portion of the aggregated amount must be paid by EFT even though each portion remitted is less than $50,000.

One commentor stated that MMS lacks the authority to compel payment of rentals in aggregate because of the contractual nature of the lease.

MMS believes that it does have the authority under the Federal Oil and Gas Royalty Management Act of 1982, but the final rule has been modified so that it will not require the aggregation of rentals and their payment by EFT, except for the first year's rental paid with the four-fifths bonus bid amount. The MMS will accept rental payments by EFT, however, if the payor prefers to do so.

One commentor recommended that rentals be paid separately from royalties and earlier than the due date so that a payor would have sufficient time, prior to the due date, to verify that the MMS had received the lease rental. This would avoid any possibility of lease cancellation by MMS.

Under this final rule, rentals (other than the first-year's rental paid with the four-fifths bonus bid which must be paid by EFT) may be paid by several means, including EFT, either prior to or on the due date.

One commentor stated that payors should be given 90 days lead time prior to changing from present payment procedures to EFT so that the payor may rearrange its internal accounting procedures.

As indicated in paragraph (a)(3) of § 218.155, MMS will notify and give instructions to each payor when to begin payment. The MMS intends to give adequate notification and sufficient lead time before starting a payor on EFT.

Section 218.155, Paragraph (b)

Three commentors stated that MMS should utilize EFT if it is required to return the one-fifth bonus bid amount plus interest.

The MMS agrees and will make refunds by EFT upon request by the bidder.

Five commentors dealt with various aspects of the payment of interest by MMS on bouns bid and first-year rental monies. One of these recommended that MMS clarify that the words "returned for the convenience of the Government" to include lease sales cancelled by court orders or for any other reason not the fault of the high bidder.

The MMS did not use the term "for the convenience of the Government" in the final rule.

One commentor stated that the successful bidder should also receive interest on the bid deposit for lease issuance delays which are beyond their control and if such delays are continued, the bidder should have the option to withdraw the successful bid and obtain a refund which includes interest.

The MMS believes that the bidder should be cognizant that various difficulties, such as delays, are part of the normal risks of leasing property on public lands. These risks should be factored into the bidding. The MMS has, however, a 90-day limitation to announce the valid high bidder and to forward lease forms for execution. If this time limitation is exceeded, the high bids shall be considered rejected and will be returned with interest.

One commentor stated that unsuccessful bidders should also receive earned interest on deposited cash bids.

Unsuccessful bidders have their one-fifth bonus bid checks returned to them; the checks are not deposited by the Government. The payment of interest, therefore, would not be appropriate.

One commentor stated that the account in which deposits are held in escrow should earn interest rates competitive with short-term money market rates.

The amounts in the escrow account will be invested only in public debt securities. These Treasury bill type of securities are competitive with money market rates.

One commentor stated that the interest payment provisions should have been effective upon publication of the interim final rule rather than being effective with lease offerings after January 1, 1984.

The MMS could not accept this recommendation because the logistics of making arrangements with the Department of the Treasury precluded implementation of an earlier date.

Section 218.155, Paragraph (c)

Four commentors objected to the 10 business day time period for paying the four-fifths bonus bid and the first year's rental.

The MMS agrees, and 11 business days will be allowed. This will give the bider not less than 15 calendar days to make the payment.

Two commentors stated that the word "will" should be changed to "may," to allow MMS the discretion to waive penalties whenever late or improper payment is due to an inadvertent key punch or other clerical error by the payor's personnel.

It will be MMS policy to determine if there are mitigating reasons why a payment is late or improper before enforcing any penalty. The wording in the rule, however, will be retained to ensure that MMS has the authority to impose penalties when appropriate.

Three commentors expressed concern that the rule was not clear as to what is meant by "third party, mechanical, or systems failure errors."

The MMS regards any error occurring after the payor has given proper instructions to its bank and its bank has propertly initiated the EFT, as such an error. However the final rule does not contain the term "third party * * * errors."

Two commentors stated that the noon e.s.t. deadline for EFT payments is too early in the day for west coast and Alaska payment to be made.

Since MMS has extended the time period from 10 to 11 business days for making payments, this problem should no longer be a concern. Payments from Alaska or the west coast can be made one day earlier, if necessary to meet the deadline.

One commentor asked that the detailed instructions for making payments of the four-fifths bonus bid, which MMS plans to include in the notice of each lease offering, be published in the **Federal Register** for public comment.

Such EFT operating instructions are published in the **Federal Register** for administrative and operational guidance. For purposes of this regulation, public comments are not required under the Administrative Procedure Act. MMS would welcome recommendations for improvement of its procedures at any time.

One commentor asked that MMS define "business day."

"Business day" is now defined in the rule to mean a day on which the OCS regional office issuing the lease, is open for business. This definition if included in the rule at § 218.155(c).

One commentor stated that MMS should elaborate as to what evidence would be adequate to prove third party error.

The MMS does not feel this is necessary at this time. MMS expects to handle each incident individually and will evaluate the need for evidence at that time.

Administrative Procedure Act

Because this final rule reduces the obligations of payors, thus relieving restrictions currently in effect under the Interim Final Rule; and, because it is in the public interest to have this rule in effect prior to the next scheduled lease offering, the MMS has determined that the requirement for publication no less than 30 days before its effective date should be waived. Therefore, under provisions of 5 U.S.C. 553(d)(1) and (3) this final rule is effective immediately upon publication in the **Federal Register**.

Executive Order 12291

The Department has determined that this rule is not a major rule and does not, therefore, require the preparation of a regulatory impact analysis under Executive Order 12291 because it is estimated to result in a total economic effect of less than $5 million annually. The total and individual economic effect is not deemed significant.

Regulatory Flexibility Act

The Department has also determined that this final rulemaking does not require a small entity flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 760 et seq.), because there will not be a substantial number of small entities effected and the economic impact on those affected will be insignificant. Offshore lessees are typically large corporations financially capable of investing the large amounts necessary for proper development of the leased property.

National Environmental Policy Act of 1969

It is hereby determined that this final rulemaking does not constitute a major

Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

Paperwork Reduction Act of 1980

The Department has also determined that this final rulemaking does not constitute any action requiring collection of data and, therefore, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) does not apply.

List of Subjects

30 CFR Part 218

Government contracts, Mineral royalties, Continental shelf, Public lands—mineral resources, Coal, Geothermal energy, EFT, Bids, Rentals, Payments.

30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Pipelines, Public lands-mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Under the authority of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1331 et seq.), Parts 218 and 256 of Chapter II of Title 30 of the Code of Federal Regulations are amended as set forth below.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary for Land and Minerals Management.

PART 218—[AMENDED]

1. Subpart D of 30 CFR Part 218 is amended by revising § 218.155 to read as follows:

§ 218.155 Method of payment.

(a) *Payment of royalties.* (1) All payors (as defined in paragraph (a)(4)), whose aggregated royalty liability to the Minerals Management Service (MMS) on payment due date totals $50,000 or more, must make payment by electronic funds transfer (EFT), through the Federal Reserve Communications System (FRCS) link to the Treasury Financial Communications System (TFCS), unless otherwise directed by the Secretary. Early payment prior to payment due date of all or a portion of the $50,000 or more aggregated royalty liability is permitted, but the payment must be made by EFT.

(2) When the aggregated royalty liability on the payment due date totals less than $50,000, payors must remit by one of the methods described in paragraph (d) of this Section.

(3) Payments to MMS by EFT shall begin only after the payor has received instructions from the MMS Royalty Management Accounting Center in Lakewood, Colorado.

(4) A payor is defined as an entity which has been assigned a payor code number by the MMS—Royalty Management Accounting Center, in Denver, Colorado. A corporation may have one or more payor codes, each representing a division, group of divisions or a disbursement center.

(b) *Payment of the one-fifth bonus bid amount.* (1) Each lease bid must include a payment for the one-fifth bonus bid deposit amount unless the bidder is otherwise directed by the Secretary. Further instructions on how to make payment with the bid will be included in the notice of each lease offering. EFT cannot be used as a method of payment for the one-fifth bonus bid amount.

(2) Beginning with lease offerings held after February 1, 1984, the one-fifth bonus amount received from a high bidder shall be deposited into an escrow account created pursuant to an agreement between the Departments of the Interior and Treasury, pending acceptance or rejection of the bid. The one-fifth bonus funds will be invested in public debt securities. Investment of this amount by the U.S. Government does not indicate acceptance of the bid. The one-fifth bonus checks submitted with bids other than the highest valid bid shall be returned to respective bidders after bids are opened, recorded, and ranked. Return of such checks will not affect the status, validity, or ranking of bids. The one-fifth bonus bid amount received from any high bidder and held by the Government pending acceptance or rejection, will be returned with actual interest earned, if the bid is subsequently rejected. The interest accrued during the period held in the account pending acceptance or rejection of the bid will accrue to the Government when the bid is accepted.

(c) *Payment of the four-fifths bonus bid amount and the first year's rental.* Payment shall be made to MMS by EFT unless otherwise directed by the Secretary. The payment by EFT via the FRCS must be received by the Federal Reserve Bank of New York no later than noon, eastern standard time, on the 11th business day after receipt of the lease forms by the successful bidder. A "business day" is considered to be a day on which the OCS regional office issuing the lease is open for business. The lease will not be executed by the appropriate MMS official until payment is received. Failure to remit by EFT or as directed by the Secretary within the time specified above will result in forfeiture of the one-fifth bonus bid amount and the lease will not be executed by the appropriate MMS official. Payors will not be held responsible for late payment due to actions beyond their control, such as mechanical or systems failure of FRCS or TFCS. Payors will be held responsible for incorrect actions of their bank which result in late payments. A 2-day grace period will be allowed to make up a deficient payment, but a late payment charge will be assessed for this late payment and a penalty will also be assessed if appropriate. Late payment charges will be assessed in accordance with Subpart B of this Part.

(d) *Payment of leased mineral land rentals (other than the first-year rental). Each payor of rentals, in any amount, must use one of the following payment instruments made payable to "Department of the Interior—MMS".*

(1) Federal Reserve check;

(2) Commercial check;

(3) Money order;

(4) Bank draft;

(5) Cashier check;

(6) Certified check; and

(7) Electronic Funds Transfer (requires special instructions from the MMS Accounting Center before use).

(e) *General.* (1) Payors using the appropriate means of payment (EFT, check, etc.) may pay for multiple lease obligations with a single remittance but must ensure that the payment complies with Subpart B of this Part and the remittance advice adequately identifies the single payment. The format to be used for such identification will be provided by the MMS Accounting Center.

(2) Where to pay.

(3) The mailing address for payments to MMS (other than EFT), is available through OCS field offices. This information can also be obtained by contacting the MMS Royalty Management Accounting Center, Denver Federal Center, at Lakewood, Colorado.

(4) Payments received after 4:00 pm, mountain standard time, are considered next day receipts.

(f) *Miscellaneous payments.* Payments shall be made to the manager of the appropriate Outer Continental Shelf field office by cash, check or bank draft payable to "Department of the Interior—MMS" for miscellaneous payments such as:

(1) Pipeline rights-of-way application filing fees and rentals, pipeline accessory site rentals and application fees, and other related costs.

(2) Filing and approval fees for transfers of interest in leases.

PART 256—[AMENDED]

2. 30 CFR Part 256 is amended by revising paragraph (f) of § 256.47 to read as follows:

§ 256.47 [Amended]

* * * * *

(f) Written notice of the authorized officer's action shall be transmitted promptly to those bidders whose deposits have been held. If a bid is accepted, such notice shall transmit three copies of the lease to the successful bidder. As provided in § 218.155, the bidder shall, not later than the 11th business day after receipt of the lease, execute the lease, pay the first-year's rental, and unless deferred, pay the balance of the bonus bid. The bidder shall also file a bond as required in § 256.58 of this title. Deposits and any interest accrued shall be refunded on high bids subsequently rejected.

* * * * *

[FR Doc. 84-6185 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 959

Restrictions on Foreign Intelligence Activities

AGENCY: Department of the Air Force, Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 959—Restrictions on foreign intelligence activities, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 200-19, has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations having general applicability and legal effect are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Colonel Polifka, HQ USAF/INYXM, Washington, D.C. 20330, telephone (202) 695-1395.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by removing Part 959.

List of Subjects in 32 CFR Part 959

Foreign relations, National defense.

PART 959—[REMOVED]

Authority: 10 U.S.C. 8012.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-6258 Filed 3-7-84; 8:45 am]

BILLING CODE 3910-01-M

LIBRARY OF CONGRESS

36 CFR Part 701

Procedures and Services; Use of the Library of Congress Name and Seals

AGENCY: Library of Congress.

ACTION: Final rule.

SUMMARY: The Library of Congress is amending its regulations by adding new text to Title 36, Part 701, *Procedures and Service*. This revision is necessary to inform members of the public and other interested parties concerning the general provisions governing the use of the name "Library of Congress" and the use of the Library of Congress Seal and the official seal of the Library of Congress Trust Fund Board. The new text is intended to provide information of interest to the public or other parties in dealing with the Library of Congress.

EFFECTIVE DATE: April 9, 1984.

FOR FURTHER INFORMATION CONTACT: Howard Blancheri, Executive Officer, Office of the Associate Librarian for Management (287-5560).

SUPPLEMENTARY INFORMATION: The use of the Library of Congress name for other than official use is prohibited except as specifically authorized by The Associate Librarian of Congress. The Library of Congress Seal shall be displayed only on official documents or publications of the Library. As a matter of policy, the official seal of the Library of Congress Trust Fund Board shall be affixed to documents of that body as prescribed by The Librarian of Congress.

List of Subjects in 36 CFR Part 701

Libraries, Library of Congress.

PART 701—[AMENDED]

Accordingly, pursuant to 2 U.S.C. 136, Title 36, Part 701 is amended by adding §§ 701.35 and 701.36 to read as follows:

§ 701.35 Use of the Library of Congress name.

(a) The name "Library of Congress" shall be used officially to represent the Library, its programs, projects, functions, activities, or elements thereof. The Library's name may be used only when it is in the interest of the Library. Any other use by any person(s) or organization(s), except as provided in this section, is prohibited.

(b) Any individual(s) or organization(s), outside the Library wishing to use the Library's name shall submit a written proposal, by U.S. mail or hand delivery, to the Associate Librarian for National Programs, Library of Congress, Washington, D.C. 20540. The proposal shall be submitted at least 60 days in advance of the intended use and shall include, in addition to a copy or draft of the publicity statement, the following: (1) A detailed description of the intended use; (2) the name and telephone numbers of the individual responsible for the intended use, as well as for any arrangements and publicity associated with it; (3) the co-sponsor (if an individual or organization from outside the Library); (4) the speakers, performers (if appropriate); and (5) the date(s), location and intended distribution of publicity materials. After commenting on the appropriateness of the proposal, the Associate Librarian for National Programs will forward the proposal to The Associate Librarian of Congress for final approval or rejection.

(c) Where the contemplated activity or intended use of the Library's name is designed to raise gift funds for the Library, there shall be three (3) additional requirements:

(1) Publicity associated with the intended use shall clearly state the objective for such funds, shall be consistent with the policy expressed in paragraph (a) of this section, and, if the funds are to benefit a specific program in the Library, the publicity shall describe that program; and

(2) No individual(s) shall financially profit from such fund-raising endeavor.

(d) Any permission(s) granted shall apply only to the specific use for which granted. There shall be no blanket or open-ended permissions granted; each intended use shall be individually considered.

(e) If, after permission is granted, there is a breach or violation of any provisions or conditions of this section, The Associate Librarian of Congress shall withdraw permission and give written notice of such to the individual(s) identified in the written request as responsible for the arrangements and publicity.

(f) Whenever it is determined that any person or organization is engaged in or about to engage in an act or practice which constitutes or will constitute conduct prohibited by this section or a violation of any requirements of this section, the Library General Counsel shall take whatever steps are necessary, including seeking the assistance of the

U.S. Department of Justice, to obtain injunctive relief and/or damages.

§ 701.36 Use of the Seal of the Library of Congress and the Library of Congress Trust Fund Board.

(a) The Seal is the official emblem of the Library of Congress and its use is therefore permitted only on official documents or publications of the Library.

(b) The Seal may be used on Library publications, leaflets, brochures, letterhead, or other printed matter prepared as official documents of the Library.

(c) The embossed Seal shall be used primarily to authenticate contracts, agreements, certifications, and other documents signed by The Librarian, or his/her designated representative(s).

(d) With the approval of The Associate Librarian of Congress, the Seal may be used in cooperative programs in which the Library officially engages with other organization(s).

(e) Any other use shall be approved in advance by The Associate Librarian of Congress.

(f) The official Seal of the Library of Congress Trust Fund Board shall be affixed to documents of that body as prescribed by The Librarian of Congress.

(g) Any person or organization that uses the Library Seal or the Seal of the Library of Congress Trust Fund Board in a manner other than as authorized by the provisions of this section shall be subject to the criminal provisions of 18 U.S.C. 1017.

Effective date—This amendment is effective April 9, 1984.

Issued in Washington, D.C., February 27, 1984.

Glen A. Zimmerman,

Associate Librarian for Management, Library of Congress.

[FR Doc. 84-6096 Filed 3-7-84; 8:45 am]
BILLING CODE 1410-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Monthly Certifications of Attendance for Courses Not Leading to a Standard College Degree

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations change the frequency of certifications of attendance for courses not leading to a standard college degree from quarterly to monthly. On September 30, 1981 the General Accounting Office (GAO) issued a report, "Overpayments of Education Benefits Could Be Reduced for Veterans Enrolled in Noncollege Degree Courses" (HRD-81-154). The report stated the VA (Veterans Administration) often overpays veterans in courses not leading to a standard college degree because the number of absences taken were more than permitted during the training period. One recommendation in the study is that the VA switch from quarterly certifications of attendance to monthly certifications for courses not leading to a standard college degree. These regulations implement this recommendation.

EFFECTIVE DATE: August 1, 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 29715 and 29716 of the **Federal Register** of June 28, 1983, there was published a notice of intent to amend part 21 to require monthly certification of attendance for veterans and eligible persons enrolled in courses not leading to a standard college degree.

Interested people were given 30 days in which to submit comments, suggestions or objections. The VA received 21 letters, some containing more than one comment. Fourteen letters were written by school officials. Veterans wrote two letters. Four letters came from various veterans and school organizations. A department in a city government submitted the other letter.

Five commenters stated that they viewed this as another attempt by the VA to place schools offering courses not leading to a standard college degree (NCD courses) at a competitive disadvantage with educational institutions that offer degrees.

This is not the case. The requirement that veterans in NCD courses not be paid for excessive absences is not being imposed solely by regulations. It is a requirement of law that prevents the VA from paying a veteran in an NCD course for more than 30 absences per year. There is no similar requirement for veterans in courses leading to a standard college degree.

Schools offering NCD courses are presently recording absences. These regulations merely cause the absences to be reported more frequently.

Two writers could not see that anything would be gained by monthly certifcations of attendance since schools are required by regulations to report within 30 days when a veteran has an unscheduled termination of training. Although it is true that monthly certifications will not enable the VA to learn of terminations more quickly, this is not the only purpose of monthly certifications.

The major purpose of the switch to monthly certifications is to enable the VA to learn of excessive absences more quickly. The VA is satisfied that monthly certifications of attendance will enable absences to be discovered more quickly. This will prevent overpayments, because the VA will know sooner when the veteran has exceeded the maximum number of absences permitted by law.

The delay in the veteran's receipt of a check was cited by eight writers as a reason for not adopting monthly certifications. The VA is aware that the monthly checks sent to veterans will be delayed somewhat under monthly certifications. After careful consideration the VA has decided that the potential savings in reduced overpayments offset the small delay in payments. It should be pointed out that in recent years the VA has improved the automation involved in processing certifications. The agency has instituted stricter quality control which has resulted in fewer processing errors by VA employees. Therefore, the percentage of cases in which payments are delayed due to VA actions have been reduced.

Two writers implied that VA field stations would be unable to handle their increased workload. The agency, however, is satisfied that its employees will be able to handle the workload.

Thirteen writers objected either to the increased time it would take for schools to submit monthly certifications, the increased cost involved or to both. One stated that the agency's certification that the regulations would not result in a major increase in costs was false. The VA recognizes that administrative costs to schools will increase somewhat as a result of monthly certifications of attendance. The agency does not believe that this will be a major increase as contemplated by Executive Order 12291.

Schools offering NCD courses are already taking attendance. They are already storing this information. This regulation change requires that the veteran's attendance be certified three times in a quarter instead of once. While the agency recognizes that this will increase costs, it does not believe that the increase will be major. Considering the benefits to be gained in reducing overpayments, the agency does not believe that this additional cost is

sufficient to require the agency to withdraw the proposal.

One writer stated that switching to monthly certifications of attendance is not in keeping with the goal of reducing the amount of information collected by the Federal Government. The VA is very much aware of this goal of the Paperwork Reduction Act. Like other agencies of the executive branch of the Federal Government, the VA must remain within its information collection budget. Consequently, it is only when the need is very apparent for increased information from any source that the VA seeks that information. In this instance, the agency thinks that the amount of the overpayments owed the agency makes this need apparent. The information collection requirements contained in § 21.4203 were submitted to OMB for clearance under the Paperwork Reduction Act and have been assigned OMB No. 2900–0354 with an expiration date of August 31, 1986.

Two school officials wrote in support of the amended regulations. One stated that she had certified attendance on both a monthly and a quarterly basis. She stated that she knew from experience that fewer overpayments are caused when attendance is certified monthly.

The other stated that monthly certification helps both the student and the school meet their objectives on a more professional level.

The VA has decided after reviewing all the comments to make the proposed regulations final without change.

The VA has determined that these regulations do not contain 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. As is discussed above, the VA is aware that some increased administrative costs will result from these regulations; however, these increases will not be major ones as contemplated by Executive Order 12291. These regulations will not result in major increases in prices for anyone. They 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 these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. These regulations are exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This proposal will affect some schools which are small entities as defined in RFA. However, after considering the comments received on this subject, the VA does not believe that requiring school officials to certify absences on preprinted certification forms monthly rather than quarterly will have a significant economic impact on these schools, considering that schools are required to maintain this attendance information in any case. This proposal will have no significant economic impact on other types of small entities.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations 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: February 10, 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.

§ 21.4203 [Amended]

1. In § 21.4203, paragraphs (d) and (f)(1) are revised and a parenthetical phrase showing OMB approval of information collection requirements is added to the end thereof to read as set forth below:

* * * * *

(d) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or eligible person interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, this fact must be reported to the Veterans Administration by the school.

(1) If the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (d)(2) or (3) of this section, the school will initiate a report of the change in time for the Veterans Administration to receive it within 30 days of the date on which the change occurs. If the course in which the veteran or eligible person is enrolled does not lead to a standard college degree, the school may include the information on the monthly certification of attendance. (38 U.S.C. 1784(a))

(2) If the enrollment of the veteran or eligible person has been certified by the school for more than one term, quarter or semester and the veteran or eligible person interrupts or terminates his or her training at the end of a term, quarter or semester within the certified period of enrollment, the school shall report the change in status to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. (38 U.S.C. 1784(a))

(3) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the school must report the change in status or change in the number of hours of credit or attendance to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days from the last date of drop-add period or 60 days from the first day of the enrollment period, whichever occurs first. (38 U.S.C. 1784(a))

* * * * *

(f) *Certification*—(1) *Courses not leading to a standard college degree.* (i) The Veterans Administration generally requires that a certification of attendance be submitted monthly for each veteran or eligible person enrolled in a course not leading to a standard college degree. The fact that the course may be pursued on a quarter, semester or term basis, or is measured on a credit-hour basis will not relieve the veteran or eligible person and the school of this requirement. However, this requirement does not apply when the course is pursued on a less than one-half time basis or by a serviceperson while on active duty. (See § 21.4204) It also does not apply to correspondence courses which must meet the requirements of paragraph (e) of this section.

(ii) The certification of attendance must—

(A) Contain the information required for release of payment.

(B) Be signed by the veteran or eligible person and the school (except that the veteran or eligible person need not sign if he or she has interrupted the enrollment and is not available for signature.)

(C) Be signed on or after the final date of the reporting period, and

(D) Clearly show the date on which each person signed. (38 U.S.C. 1784(a))

* * * * *

(Approved by the Office of Management and Budget under control number 2900-0354)

2. In § 21.4204, paragraph (e) is revised as follows:

§ 21.4204 Periodic certifications.

* * * * *

(e) *Farm cooperative courses.* The monthly certification will cover only those periods of classroom instruction which are included in the prescheduled institutional portion of the course. (38 U.S.C. 1784(a))

3. In § 21.4205, the introductory portion preceding paragraph (a) is revised as follows:

§ 21.4205 Absences.

Absences must be reported on the monthly certification of pursuit of a course which does not lead to a standard college degree. (38 U.S.C. 1784(a))

* * * * *

[FR Doc. 84-6267 Filed 3-7-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-VI-FRL 2535-2]

Approval and Promulgation of Revisions to the New Mexico State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action approves revisions to the New Mexico State Implementation Plan (SIP) which were submitted to the Environmental Protection Agency (EPA) on January 23, 1979, and March 28, 1980. The revisions were submitted to fulfill requirements of section 121 (Consultation) and 126(a) (Interstate Pollution Abatement) of the Clean Air Act Amendments of 1977. The intended effect of this action is to meet the procedural requirements of the Clean Air Act.

EFFECTIVE DATE: This rulemaking will be effective on May 7, 1984, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this action should be addressed to Randy Brown of the EPA Region 6 Air Branch (address below). Copies of the State's submittal may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

U.S. Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Randy Brown, State Implementation Plan Section, Air and Waste Management Division, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On January 23, 1979 the Governor of New Mexico submitted a revision to the New Mexico SIP in fulfillment of the Clean Air Act Amendments of 1977. This notice is acting on revised Section X of the January 23rd submittal concerning intergovernmental consultation and interstate pollution abatement and the Intergovernmental Consultation Program submitted by the New Mexico Environmental Improvement Division on March 28, 1980. EPA has reviewed these revisions and developed an Evaluation Report [1] which describes the requirements and evaluates the State's efforts to satisfy those requirements. The evaluation report is available for review during normal business hours at the addresses listed above.

The New Mexico State Implementation Plan has been revised to include the following requirements:

Intergovernmental Consultation

Section 121 of the Act requires intergovernmental consultation and coordination among State and local officials in the achievement of air quality planning and management. The New Mexico Environmental Improvement Division (NMEID) is the designated lead agency for air pollution control statewide and has developed and implemented a process for consultation with relevant local government organizations. The NMEID has entered into formal agreements with the local government organizations for air quality planning in their respective areas of the State.

Interstate Pollution Abatement

Section 126(a)(1) requires each major proposed new or modified stationary source which will adversely affect the air pollution levels outside the state in which it intends to locate to notify all nearby States of such adverse effects. The nearby States shall be notified at least 60 days prior to the date on which commencement of construction is to be permitted. Section 126(a)(2) requires the State to identify all major existing stationary sources which may adversely affect the air pollution level in neighboring states, and to provide the identity of these sources to all affected states. NMEID has committed in section X to notify States in which air quality may be affected and other agencies with the state, appropriate information on significant new (25 T/yr.) or modified sources 60 days prior to the commencement of the allowable construction date. Point source data were exchanged with all neighboring States on relevant existing sources and copies of the letters were submitted by NMEID.

Based on the Agency's review, EPA has determined that the revisions meet the requirements of sections 121 and 126(a) of the Clean Air Act and is hereby approving these revisions to the New Mexico SIP.

The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2).]

Pursuant to the provisions to 5 U.S.C. 605(b), I hereby certify that this proposal will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

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

Incorporation by reference of the State Implementation Plan for the State of New Mexico was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of section

[1] Evaluation Report for Revisions to New Mexico's Plan for Intergovernmental Consultation and Interstate Pollution Abatement, October 1983.

110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7520.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart GG—New Mexico

Section 52.1620 is amended by adding paragraph (c)(31) to read as follows:

§ 52.1620 [Amended]

* * * * *

(c) * * *

(31) Revisions to Section X, Intergovernmental Consultation and Cooperation and Interstate Pollution Abatement, submitted by the Governor on January 23, 1979, the Intergovernmental Consultation Program submitted by the Environmental Improvement Division, March 28, 1980 and copies of letters from the New Mexico Environmental Improvement Division dated November 7, 1977 to the States of Texas, Oklahoma, Arizona, Colorado, and Utah sent in compliance with section 126(a)(2) of the Clean Air Act, as amended in 1977.

[FR Doc. 84-6265 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Docket Nos. AW600MD/AW601MD; A-3-FRL 2540-5]

Revision of the Maryland State Implementation Plan; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of Maryland's 1982 State Implementation Plan (SIP) revisions except for the schedule for developing additional controls for sources of volatile organic compounds (VOC) and the Inspection and Maintenance (I/M) program. The approvability of the I/M program is addressed in a separate Notice appearing elsewhere in today's **Federal Register**, while the approvability of the revised implementation schedule is addressed in the August 3, 1983 **Federal Register** (48 FR 35318). All SIP revisions, except as noted, are approvable and meet the requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide, as required under Part D of the Clean Air Act Amendments of 1977.

DATE: This action is effective on March 8, 1984.

ADDRESSES: You may inspect copies of the SIP revision and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Region III, Air & Waste Management Division, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: James B. Topsale, P.E. (3AW13)

Maryland Air Management Administration, Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201, Attn: George P. Ferreri

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

Copies of the SIP revision are also available at: The Office of the Federal Register, 1100 L Street NW., Room 804, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Topsale, P.E. (3AW13) at the address indicated above or by phone at 215/597-9377. Please reference the EPA docket numbers in all correspondence.

SUPPLEMENTARY INFORMATION: On February 3, 1983, EPA published **Federal Register** Notices (48 FR 5048 and 5067) with preliminary determinations that both the Maryland portion of the National Capital Interstate and Metropolitan Baltimore Intrastate Air Quality Control Regions (AQCRS) had not met the Part D requirements of the Clean Air Act (CAA) for ozone (O_3) and carbon monoxide (CO) standards. This notice today will discuss EPA's previous determinations appearing in both February 3, 1983 **Federal Register** Notices. At that time, EPA proposed approval of all portions of the 1982 State Implementation Plan (SIP) revisions for the subject AQCRS with the exception of the incomplete Inspection and Maintenance (I/M) program. The public comment period on the February 3, 1983 **Federal Register** Notices was extended by EPA to May 5, 1983 (48 FR 11725). On May 4, 1983, the State of Maryland provided EPA with additional information and comments on the I/M issues discussed in the subject Notices. All comments received by EPA relating to the approvability of the proposed Maryland I/M program, including the May 4, 1983 submittal of draft State I/M regulations, will be addressed in a separate Notice appearing elsewhere in today's **Federal Register**.

Also, on December 31, 1983, the State submitted a revised schedule for adopting additional controls for sources of VOC's in both the Baltimore and National Capital Regions. The new schedule is addressed in the separate proposal notice described above.

A number of other comments were also received, not I/M related. Montgomery County offered comments reiterating their support of the plan's transportation and stationary source commitments but requested that EPA and the State work closely together to resolve any problems prior to taking final SIP action. Maryland and EPA have been following this advice. One commentor provided a detailed technical report which provides the basis for contending that attainment of the NAAQS for ozone (O_3) can be achieved by 1987 with RACT alone. Specifically, the report critiques the 1982 Maryland (O_3) SIP modeling protocol which does not conform to the standard EPA-recommended procedures. Because of that comment, EPA requested the State to factor those comments into its modeling protocol. The State complied with EPA's request, and as a result, the State conducted sensitivity tests on the modeling factors relating to those comments. Based on the results of the sensitivity test, EPA has determined that the modeling conducted by Maryland in support of its 1982 O_3 SIP is acceptable. This conclusion applies both to Maryland's City-Specific Empirical Kinetic Modeling Approach (EKMA) and also to the statistical approach.

A response to the comments of the Attorney General of the State of New York is not provided in this Notice; however, a detailed response can be found in the referenced Docket. The Attorney General should also know that Maryland is committed in the SIP to study the feasibility of Stage II vapor recovery as one alternative to further reduce emissions of volatile organic compounds (VOC). Another commentor noted that Baltimore County is erroneously listed as a nonattainment area for CO as shown in Table II of the February 3, 1983 EPA Notice (48 FR 5025). The commentor is correct; EPA inadvertently listed Baltimore County. Therefore, EPA deletes Baltimore County from Table II (48 FR 5025).

Baltimore City is the nonattainment area for CO.

EPA's review of the State of Maryland's SIP submittals is divided into the following sections:

A. Ozone SIP

1. Emission Inventory
2. Modeling/Demonstration of Attainment
3. Reasonable Further Progress
4. Stationary Source Controls
5. Transporation Control Measures
6. Inspection and Maintenance (I/M)

B. Carbon Monoxide SIP

C. Additional Requirements

A. The Ozone (O_3) SIP Evaluation/ Approval

Both February 3, 1983 **Federal Register** Notices (FRNS) for the Maryland National Capital Interstate and Metropolitan Baltimore Intrastate AQCRS proposed approval of the first five (5) sections of the 1982 O_3/CO SIP, as listed above. Since all public comments on the FRNS have been sufficiently resolved, EPA approves the first five portions of the 1982 O_3 SIP, with the exception of the revised schedule for additional VOC controls.

As stated above, the approvability of the revised schedule for VOC controls and the I/M portion of the SIP will be addressed in a separate Notice apearing elsewhere in today's **Federal Register.**

B. Carbon Monoxide SIP Evaluation/ Approval

Both February 3, 1983 FRNS for the Maryland National Capital Interstate and Metropolitan Baltimore Intrastate AQCRS proposed approval of the 1982 CO SIP, except for the I/M portion. No significant comments were received on the CO SIP, therefore, EPA approves the CO SIP, including the revised attainment date of July 1, 1984 and December 31, 1987 for the Metropolitan Baltimore Intrastate and Maryland National Capital Interstate AQCRS, respectively. As with the O_3 SIP, the approvability of the I/M portion of the SIP will be addressed in a separate Notice appearing elsewhere in today's **Federal Register.**

C. Additional Requirements/Approval

Both February 3, 1983 FRNS for the subject AQCRS proposed approval of this portion of the 1982 SIP. No comments were received; therefore, EPA approves this portion of the SIP.

Summary of EPA Action

EPA approves the 1982 O_3/CO SIP, excluding the schedule for VOC controls and the I/M section. This approval is based on EPA's determination that the plan meets the requirements of Sections 110(a)(2) (A)–(F), (H)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under 5 U.S.C. Section 605(b), the Administrator has determined that this action will not have a significant impact on a substantial number of small entities. (See 46 FR 8709).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Authority: Sections 110(a), 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a)).

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

Dated: March 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart V—Maryland

Section 52.1070 is amended by adding paragraph (c)(71) to read as follows.

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(71) Plan Revision, excluding the schedules for additional VOC controls and the required Vehicle Emissions Inspection Program, providing for attainment of the Ozone and Carbon Monoxide Standards, submitted by the State on July 1, 1982 for the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR) and November 5, 1982 for the Maryland portion of the National Capital Interstate AQCR.

[FR Doc. 84-6252 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-1-FRL 2541-5]

Approval and Promulgation of Implementation Plans; Massachusetts; Petroleum Liquid Storage in External Floating Roof Tanks

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Massachusetts. These revisions will reduce volatile organic compound emissions from petroleum liquid storage in external floating roof tanks. The intended effect of this action is to aid the State in its reasonable further progress towards attainment of the ozone standard as required under Part D of the Clean Air Act.

EFFECTIVE DATE: April 9, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408 and the Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, (617) 223–5133.

SUPPLEMENTARY INFORMATION: On November 18, 1983 (48 FR 52491) EPA published a Notice of Proposed Rulemaking (NPR) on Massachusetts' draft regulation for the control of volatile organic compound (VOC) emissions from the storage of petroleum liquid in external floating roof tanks. Massachusetts submitted the final regulation (310 CMR 7.02(12)(a)1(e)) on December 2, 1983 and it fulfills the commitments requested in the NPR. Those commitments are that:

1. The owner or operator of the tank will be required to maintain records for two years, and

2. Any alternative control devices will be reviewed by the Department to determine that the control device design assures a rigid, permanently attached roof, that will cover the entire tank and prevent excessive emissions from wind-induced turbulence.

Installation of this type of cover will convert the external floating roof tanks into internal floating roof tanks and will protect the primary seal from wind-

induced turbulence and thus loss of emissions.

No comments were received on the November 18, 1983 NPR. The revisions and the rationale for EPA's proposed action are explained in that NPR and will not be restated here.

Final Action

EPA is approving the revision to 310 CMR 7.02(12)(a)1(e) "Organic Material, Bulk Plants and Terminals Handling Organic Material" for the control of petroleum liquid storage in external floating roof tanks.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Authority: Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

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

Dated: March 2, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart W—Massachusetts

1. Section 52.1120, is amended by adding paragraph (c)(56) as follows:

§ 52.1120 Identification of Plan.

* * * * *

(c) * * *

(56) A revision to Regulation 310 CMR 7.02(12)(a)1(e) for petroleum liquid storage in external floating roof tanks submitted on December 2, 1983.

* * * * *

[FR Doc. 84-6244 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[Docket No. AW203aMD; AD-III-FRL-2535-4]

Air Programs; Approval of Revisions to Maryland State Plan for Controlling Total Reduced Sulfur Emissions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Maryland has submitted a Secretarial Order which contains a compliance schedule for the Westvaco Paper Mill. The schedule requires Westvaco to achieve full compliance with the State's total reduced sulfur (TRS) regulation by September 1, 1985. EPA proposes to approve the State's Secretarial Order as part of Maryland's Section 111(d) (Clean Air Act) Plan to control TRS emission. This Order meets all of the applicable requirements of 40 CFR Part 60.

EFFECTIVE DATE: April 9, 1984.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air & Waste Management Division, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Mrs. Patricia Gaughan

Maryland Air Management Administration, 201 West Preston Street, Baltimore, MD 21201, Attn: Mr. George P. Ferreri.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AW13) at the Region III address stated above or telephone 215/597-8392.

SUPPLEMENTARY INFORMATION: On May 11, 1982, 47 FR 20127, EPA approved a plan for the State of Maryland, required by Section 111(d) of the Clean Air Act, to control total reduced sulfur (TRS) emissions from Kraft Pulp Mills. The plan contains one State regulation, COMAR 10.18.14, which controls TRS emissions. The regulation applies to only one source—the Westvaco Fine Papers Division, located in Luke, Maryland. The State's TRS plan and the listing of Westvaco as a TRS source are codified in 40 CFR Part 62, Subpart V.

On September 24, 1982, the State of Maryland submitted to EPA a Secretarial Order for the Westvaco Corporation's Kraft Pulp Mill. This Order, which EPA will process as the revision to Maryland's Section 111(d) Plan to control TRS emissions, would allow Westvaco to come into compliance on September 1, 1985. Specifically, the Order requires Westvaco to do the following:

1. Install by November 1, 1984 an incineration system using the existing lime kiln to treat noncondensible gases from the digesters and multiple effect evaporation.

2. Install by June 1, 1985, a new TRS continuous monitoring system.

3. Install by September 1, 1985 a new black liquor oxidation system.

The Secretarial Order also allows Westvaco to discharge TRS emissions from the digesters and multiple-effect evaporators directly into the atmosphere for periods not to exceed twenty (20) days per year when the lime kiln is out of operation for regular maintenance. During this 20-day period, Westvaco will utilize a flare to treat TRS emissions from the digesters.

The State submitted proof that a public hearing was held on September 21, 1982 in Cumberland, Maryland, as required by 40 CFR 60.23. According to testimony given by both Westvaco and the State at the State's public hearing, the installation of the black liquor oxidation system will reduce TRS emissions by 97% from the uncontrolled level and meet the emission limitations contained in COMAR 10.18.14.

Notice of Proposed Rulemaking

On August 2, 1983, 48 FR 34978, EPA proposed approval of this Secretarial Order and requested public comment. During the 30-day public comment period, no comments were received.

EPA Evaluation

Section 10.18.03 of COMAR limits TRS emissions from the entire kraft pulp mill facility (recovery boilers, digesters, evaporators, and smelt tanks) to 0.6 lb/ton of oven dried pulp (ODP). According to information supplied by Maryland on April 25, 1983, the total TRS emissions attributed to the digesters and evaporators, when controlled by the kiln, amount to 0.002 lb/tons ODP. However, the emissions from these sources could be relatively significant when the kiln is shutdown.

A letter dated September 28, 1983 from the State of Maryland stated that Westvaco has agreed to install a natural gas-fired flare to control TRS emissions during periods when the kiln is not operating. Maryland will consider use of the flare as achieving compliance with their regulation only during times when the kiln is not operating. The manufacturer, John Zink Company, estimates that the temperature and retention time of the flare will approach those recommended in the EPA guideline document. In addition,

Maryland has stated that it believes Westvaco will be in compliance with COMAR 10.18.14 through use of this flare system. Based on this information and Maryland's suggestion that it is justified in departing from EPA's Emission Guideline in addressing digester emissions during kiln shutdown, EPA approves the State's flare requirements as meeting 40 CFR 60.24, including § 60.24(d).

In the April 25, 1983 letter, Maryland stated that although the lime kiln is located in West Virginia, it will be inspected by the Maryland Air Management Administration, since the emissions originate from sources located in Maryland and, therefore, is subject to COMAR 10.18.14. EPA finds this procedure to be acceptable. The compliance schedule in the Secretarial Order contains a date (September 1, 1985) by which the necessary control equipment must be installed. This date will also be the date by which final compliance must be attained with the requirements of COMAR 10.18.14 for that specific equipment.

EPA Actions

Based on the above information, EPA approves the State of Maryland's Secretarial Order for the Westvaco Corporation as part of Maryland's Section 111(d) Plan to control TRS emissions.

EPA believes that, based on the information provided by Maryland, the State's Order conforms to the requirements of 40 CFR Part 60.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 62

Air pollution control, Fluorides, Sulfur, Intergovernmental relations, Reporting and record keeping requirements.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 62—[AMENDED]

Title 40, Part 62 Subpart V of the Code of Federal Regulations is revised to read as follows:

* * * * *

Subpart V—Maryland

Plan for Control of Designated Pollutants From Existing Facilities—Section 111(d) Plan

Sec.

62.5100 Identification of plan.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

62.5101 Identification of sources.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

62.5102 Identification of sources.

Authority: Clean Air Act, Sec. 111(d).

Subpart V—Maryland

Plan for Control of Designated Pollutants from Existing Facilities—Section 111(d) Plan

§ 62.5100 Identification of plan.

(a) *Identification of plan.* Maryland Plan for Control Designated Pollutants from Existing Facilities (111(d) plan).

(b) The plan was officially submitted as follows:

(1) Control of sulfuric acid mist from sulfuric acid plants, submitted by the Secretary of Health and Mental Hygiene, State of Maryland on August 30, 1978.

(2) Control of TRS emissions from kraft pulp mills, submitted by the Governor of Maryland on May 18, 1981, and approval of a compliance schedule, submitted by the State of Maryland on September 24, 1982.

(c) *Designated facilities.* The plan applies to existing facilities in the following categories of sources:

(1) Sulfuric Acid Plants;

(2) Kraft Pulp Mills.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

§ 62.5101 Identification of sources.

(a) The plan applies to the following existing sulfuric acid plants:

(1) Olin Corporation, Baltimore City, Maryland.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.5102 Identification of sources.

(a) The plan applies to existing facilities at the following kraft pulp mills:

(1) Westvaco Fine Papers Divisions, Luke, Maryland.

[FR Doc. 84-6091 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2645/R631; PH FRL 2499-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ethalfluralin

Correction

In FR Doc. 84-1 beginning on page 390 in the issue of Wednesday, January 4, 1984, make the following corrections:

1. On page 390, third column, under "**SUPPLEMENTARY INFORMATION**", eleventh line "-ethyl-N-" should have read "[*N*-ethyl-*N*-".

2. On page 391, first column, fourth complete paragraph, seventh line, "25.5" should have read "22.5".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fifty-fourth Revised Service Order No. 1473]

Various Railroads Authorized to Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fifty-fourth Revised Service Order No. 1473.

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, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, 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 DATES: 12:01 a.m., March 8, 1984, and continuing in effect until 11:59 p.m., July 31, 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.

SUPPLEMENTARY INFORMATION:

Decided: March 2, 1984.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254

(RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 6., the authority for the Norfolk and Western Railway Company (NW), to operate the Rock Island's former Pullman District. This authority was deleted at the request of the involved carrier and the Rock Island Trustee, and represents an acquisition of the Rock Island property by NW pursuant to Finance Docket No. 30281. Remaining items in Appendix A are renumbered accordingly.

Appendix A of this order is revised by adding at renumbered Item 6.A., the authority for the Cadillac and Lake City Railway Company (CLK) to operate between Falcon, Colorado and its existing operation at Limon.

Appendix B, of the previous order, is revised by deleting lines 31, 32, and 36, which authority is no longer required by Burlington Northern.

Finally, the effective period of this order is extended until July 31, 1984.

It is the opinion of the Commission that an emergency exists requiring that the railroads named in the appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1473 Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(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. 96–154.

(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. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(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 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 the operations described in Appendix A by interim operators over tracks previously operated by the RI are 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 RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A 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) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., March 8, 1984.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 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, Pub. L. 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.

James H. Bayne,

Acting Secretary.

Appendix A

RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0)

including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. *Chicago and North Western Transportation Company (CNW):*

A. At Omaha, Nebraska, 0.1 mile of industrial trackage in the vicinity of 19th and Pierce Streets.

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

*6. *Cadillac and Lake City Railway Company (CLK):*

A. From Falcon, Colorado (milepost 591.3) to Caruso, Kansas (milepost 430.0) a distance of 161.3 miles.

B. Over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

7. *Baltimore and Ohio Railroad Company (BO):*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

8. *Keota Washington Transportation Company (KWTR):*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

9. *The La Salle and Bureau County Railroad Company (LSBC):*

A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. From Blue Island, Illinois (milepost 16.61), to Mokena, Illinois (milepost 29.6).

C. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

D. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

E. From Pullman Junction, Chicago, Illinois (milepost 13.2); running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

10. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma.

B. At St. Joseph, Missouri.

11. *Iowa Northern Railroad Company (IANR):*

A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa (milepost 225.1).

B. At Vinton, Iowa (milepost 23.4), and west on the Iowa Falls Line to Dysart, Iowa (milepost 40.37).

12. *Iowa Railroad Company (IRRC):*

A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage was sold to CNW, however, the RI trustee holds rights for overhead use.)

E. From East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 5.B.)

G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).

H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. At Rock Island, Illinois including 26th Street Yard.

J. From Altoona to Pella, Iowa.

13. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

14. *Chicago Short Line Railway Company (CSL):*

A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. From Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

15. *Kyle Railroad Company (Kyle):*

A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. Kyle will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. From Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. From Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

16. *North Central Oklahoma Railway, Inc. (NCOK):*

A. From Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. From El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. From Geary, Oklahoma (milepost 0.0) to Homestead, Oklahoma (milepost 42.8) a distance of approximately 43 miles.

D. From North Enid, Oklahoma (milepost 0.30) to Ponca City, Okalhoma (milepost 54.8) a distance of approximately 54.5 miles.

17. *Burlington Northern Railroad Company (BN):*

A. At Burlington, Iowa (milepost 0 to milepost 2.06).

18. Omaha, Lincoln and Beatrice Railway Company (OLB):

A. At Lincoln, Nebraska (milepost 559.16 to milepost 561.37).

19. *Texas North Western Railway Company (TNW):*

A. From Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.

20. *Farmrail Corporation (FMRC):*

A. From west of Elk City (milepost 615.0) to west of Erick, Oklahoma (milepost 642.0), a distance of approximately 27 miles.

21. *East Camden and Highland Railroad Company (EACH):*

A. From Eldorado, Arkansas (milepost 100.50) to Lillie, Louisiana (milepost 125.28) a distance of approximately 24.78 miles.

* Changed.

Appendix B

Line No.	Location to be operated	Railroads using	Rock Island functions to be performed
1	Rock Island Jct., IL, switches	CO/BO, CWPS, CR, CSL	Track maintenance.
2	To ICG connection, Cottage Ave., Chicago, IL.	CWPS	Track maintenance.
3	Irondale Branch, Chicago, IL	CWPS, CR	Track maintenance.
4	Chicago, IL, Regional Port District, Lake Calumet Harbor, West Side.	ICG, CR, CSSB	Track maintenance.
5	Chicago (La Salle St. Station)—Joliet, IL	RTA	Dispatching performed at Des Moines, IA (surburban train operation).
5a	Joliet, IL—16th and Clark Streets	ICG, RTA	Interlocking towers.
6	Moline-East Moline, IL, crossing signals	BN, DRINW	Highway crossing signal maintenance.
7	Rock Island, IL—28th Street	BN	Switchtender handles crossing and BN switches.
8	West Davenport-Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (automatic block signal).
9	Burlington-Mediapolis, IA	BN	Track maintenance; dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10	Eddyville-Beacon, IA	CNW	Track maintenance.
11	Cedar Rapids, IA—4th Street trackage	ICG	Track maintenance.
12	Cedar Rapids, IA—9th Avenue crossing	CNW	Control of CNW-RI crossing and highway crossing signal maintenance.
13	Waterloo, IA—McKinley Street crossing signals.	CNW	Highway crossing signal maintenance.
14	Iowa Jct.-Hollis, IL (Peoria Terminal Co.)	TPW	Track maintenance; dispatching performed by Peoria yardmaster.
15	Des Moines (Easton Blvd.) West Des Moines, IA.	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals-switches controlled at Short Line Tower (automatic block signal).
16	Almena Jct.-CB&Q Jct., KS (Oronoque)	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches (automatic block signal).
17	Colorado Springs-Roswell Industrial District, CO.	ATSF	Track maintenance.
18	Council Bluffs, IA—6th, 7th, 8th St. crossing signals.	BN	Highway crossing signal maintenance.
18a	Council Bluffs, IA, vicinity BN of 14th Street	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19	Albert Lea-Glenville, MN	CNW-ICG	Track and signal maintenance; dispatching performed at Des Moines, IA, which controls CTC.
20	Glenville, MN—Manly, IA	CNW	Operator at Manly.
21	Inver Grove-South St. Paul, MN	CNW, SOO	Track and signal maintenance; dispatching performed at Des Moines, IA, which controls CTC.
22	Limon, CO	UP	Operator.
23	Polo-Airline Jct., MO	MILW	Track and signal maintenance; dispatching performed at Des Moines, IA, which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction.)
24	Atchison, KS—St. Joseph, MO	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK.
25	Wathena-Troy, KS	UP	Track and signal maintenance; dispatching performed at El Reno, OK.
26	Herington, KS—MP crossing interlocking	MP	Interlocking controlled by RI operator (cannot be lined for MP and left unattended—signalling on MP cleared directionally).
27	Dodge City, KS	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge track and bridge maintenance only (line not in service at present).
28	McAlester-Shawnee, OK	MKT	Track and signal maintenance.
29	Shawnee-Oklahoma City, OK	ATSF-MKT	Track and signal maintenance.
30	Malvern-Hot Springs, AR	MP	Dispatching performed at El Reno, OK.
33	Memphis, TN, Section "A" trackage (1,460 feet) owned by LN.	ICG, LN, SOU	Track maintenance.
34	Briark-West Memphis, AR	SSW-MP	Track and signal maintenance; dispatching performed at El Reno, OK. CTC controlled from Kentucky St.
35	West Memphis-Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK. ABS—Block signals operator at Brinkley.
37	Iowa Falls, IA	ICG	Interlocking towers.
38	Rock Island Junction, AR to Hermitage, AR	WSR	Maintenance.
39	Thompson, NE	BN	Diamond crossing maintenance.
40	Beatrice, NE	BN	Diamond crossing maintenance.
41	Centerville, IA	BN	Interlocking plant maintenance and operation.
42	La Salle, IL	BN	Diamond crossing maintenance.
43	Ottawa, IL	BN	Interlocking plant maintenance.
44	Colona, IL	BN	Interlocking plant maintenance.
45	St. Joseph, MO	BN	Diamond crossing maintenance.

[FR Doc. 84-6233 Filed 3-7-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 40228-20]

Groundfish of the Gulf of Alaska

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

ACTION: Emergency interim rule and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the groundfish fishery being conducted in the Western and Central Regulatory Areas of the Gulf of Alaska and, therefore, is increasing the incidental catch limits of Pacific halibut allowed to be taken by U.S. fishermen while trawling for groundfish. He is also exempting from those limits trawling with off-bottom gear. This action is necessary to avoid underutilization and economic wastage of the groundfish resource known to be available and is intended to promote full achievement of the desired harvest level of certain groundfish species.

DATES: In § 672.20, paragraph (e)(1) is suspended from 12:00 noon, Alaska Standard Time (AST), March 8, 1984 until 12:00 noon AST, June 6, 1984. In § 672.20, a new paragraph (e)(3) is added, to be effective in place of paragraph (e)(1) from 12:00 noon AST, March 8, 1984 until June 6, 1984. Comments must be received by April 9, 1984.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fishery in the 3- to 200-mile fishery conservation zone of the Gulf of Alaska is managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). It was approved by the Assistant Administrator for Fisheries (Assistant Administrator), NOAA, on February 24, 1978, and implemented by a final rule effective December 1, 1978 (43 FR 52709, Nov. 14, 1978). It has been amended eleven times.

The original FMP contains restrictions on both foreign and domestic trawling in the Western and Central Regulatory Areas of the Gulf of Alaska that are designed to minimize the taking of Pacific halibut, a species important to another group of domestic fishermen, the halibut longliners. Foreign fishermen are restricted to the use of off-bottom gear when trawling in the Western (159°W.–170°W. longitude) and Central (147°W.–159°W. longitude) Regulatory Areas from December 1 through May 31, a period when juvenile Pacific halibut are in shallow water and are more subject to capture in trawls. Domestic trawlers may use on-bottom gear during this period, but if the total domestic take of halibut in the Western or Central Regulatory Area reaches 29 or 52 metric tons (mt), respectively, all further trawling by domestic fishermen in that regulatory area is prohibited until June 1.

These limits for the prohibited species catch (PSC) were implemented in 1978 and approximated one percent of the amount of Pacific cod expected to be taken annually by domestic fishermen in 1979 and the years following. Domestic catches of groundfish have increased annually since 1979 as market opportunities developed. Most of the increase is attributed to the large quantities of pollock taken in joint-venture fisheries operating in the Shelikof Strait region of the Central Regulatory Area. Relatively few halibut are taken in this fishery because only off-bottom trawl gear has been employed. For example, in 1983 only about 4 mt of halibut was taken incidental to a pollock catch of 132,000 mt. Directed catches of certain other groundfish species that are typically taken with bottom trawls, particularly Pacific cod and flounders, have also been increasing bycatch of halibut in domestic groundfish operations.

The abundance of halibut has increased in the Gulf of Alaska since the FMP was first implemented, and the domestic longline fisheries for them have harvested or exceeded available quotas in recent years. The greater prevalence of halibut has caused them to be more subject to incidental capture by trawls. Recognizing that more halibut will be taken incidental to the groundfish harvest and that the domestic groundfish fisheries would probably reach the existing halibut bycatch limits early in 1984, the Council voted unanimously at its December, 1983, meeting to request the Secretary to implement an emergency rule to increase the allowable incidental catch limits of halibut to 270 mt and 768 mt in the Western and Central Regulatory Areas, respectively. Because few halibut are taken with off-bottom trawl gear, the Council also voted unanimously to request the Secretary to implement an emergency rule to exempt users to off-bottom trawl gear from that restriction.

Under section 305(e) of the Magnuson Act, the Secretary finds that an emergency exists in the developing domestic groundfish fishery because of the present bycatch limits for halibut and has increased those limits to 270 mt and 768 mt in the Western and Central Regulatory Areas, respectively, for a period of 90 days. If, during the period from December 1, 1983, through the 90-day duration of the emergency rule, domestic trawlers reach these limits, the appropriate regulatory areas will be closed to bottom trawling, and domestic trawlers will be restricted to the use of off-bottom trawl gear only. This emergency rule will be in effect for 90 days. We anticipate repromulgating this emergency rule so that it will be effective until June 1, 1984.

Classification

The Assistant Administrator has determined that this rule is necessary to respond to an emergency situation and it is consistent with the Magnuson Act and other applicable law. This action will avoid the disruption that would otherwise occur in the developing domestic groundfish fishery.

The Assistant Administrator also finds that, because achieving the existing halibut PSCs is imminent in the Central Regulatory Area and is expected in the Western Regulatory Area, the reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and a prior opportunity for public comment, or to delay for 30 days the effective date of the rule under the provisions of 5 U.S.C. 553 (b) and (d). However, comments are invited for a period of 30 days following the effective date of this rule. Comments should be sent to the Director, Alaska Region, at the address above. The Council intends to develop for public review an amendment to the FMP to resolve or mitigate for the long term the halibut bycatch problem. Comments on this emergency rule will be considered by the Council in developing that amendment.

The Assistant Administrator prepared an environmental assessment/final regulatory flexibility analysis (EA/FRFA) for this action and concluded that there will be no significant impact on the human environment, as defined by the National Environmental Policy Act. A copy of the EA/FRFA is available at the address above.

The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. He made his decision on the basis of the cost/benefit analysis contained in the EA/FRFA, which is available at the address above. The emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in § 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it was not possible to follow the regular procedures of that order.

This rule will have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. This determination is also based on the analysis presented in the cost/benefit regulatory analysis contained in the EA/FRFA. A summary of the cost/benefit analysis follows:

Based on fall, 1983, figures, a total of 38 domestic vessels, fishing for joint ventures, and 54 other domestic fishing vessels will benefit from increasing the PSC limits. These gains are not affected by additional costs for enforcement or observers. The observers for the joint-venture operations are placed on the processing vessels and their salaries are paid by the joint ventures. The halibut fleet in recent years has grown dramatically in response to the improving conditions in the halibut resource and also as a result of fishermen's expectations of a limited entry system. In 1983, a total of 2,295 vessels (1,849 and 446 in IPHC Regulatory Areas 3A and 3B, respectively) participated in the halibut fishery. Halibut vessels fishing in future years will be adversely affected by this emergency rule. The losses incurred from the emergency rule by the halibut fishery will come in future years from lower revenues because young halibut will be killed by the trawlers and removed from the stock. If the young halibut were allowed to grow naturally and had been caught by the halibut fleet, and assuming no change in the size of the fleet, the per-boat present value of the losses from this emergency interim rule would be, on average, between $664 and $874 per year, assuming a 10 percent discount rate and based on the preliminary data on participation in IPHC Regulatory Areas 3A and 3B

during 1983. The value of the loss is a net, present-value measure, regardless of exogenous shifts in the biomass of the halibut stocks. The short-term benefit to groundfish fishermen of this emergency rule, however, on a per-boat basis is between $20,278 and $37,176. Although this analysis should be used with caution when deriving policy for the long run, evidence of overriding benefits exist to justify this short-term emergency rule.

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

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

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: March 2, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

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

PART 672—GROUNDFISH OF THE GULF OF ALASKA

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

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

2. In § 672.2 a definition for "bottom trawl" is added in appropriate alphabetical order to read as follows:

§ 672.2 Definitions.

* * * * *

Bottom trawl means a trawl in which the ground rope of the net is equipped with bobbins or roller gear.

* * * * *

3. In § 672.20, paragraph (e)(1) is suspended from 12:00 noon AST, March 8, 1984 until 12:00 noon AST, June 6, 1984. A new paragraph (e)(3) is added, effective 12:00 noon AST, March 8, 1984 until 12:00 noon AST, June 6, 1984, to read as follows:

§ 672.20 Optimum yield.

* * * * *

(e) * * *

(3) If, during the period between December 1, and May 31, the Regional Director determines that the estimated total trawl catch of halibut in any regulatory area by vessels regulated by this part will reach amounts listed below, the Secretary will issue a field order under § 672.20 (a) prohibiting, until June 1, groundfish fishing with bottom trawls in that regulatory area by vessels regulated by this part.

Regulatory area	Catch amount (mt)
Western	270
Central	768
Eastern	31

[FR Doc. 84-6268 Filed 3-5-84; 3:58 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 47
Thursday, March 8, 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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 84-308]

Cut Flowers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the "Cut Flowers" regulations with respect to the importation of cut flowers of *Chrysanthemum* spp. from the Dominican Republic by deleting fumigation requirements because of the finding of agromyzids (insects of the family Agromyzidae) when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess). Fumigation would still be required if such cut flowers are found to be infested with other species of agromyzids.

DATES: Written comments must be received on or before April 9, 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, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, Md 20782. Written comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

SUPPLEMENTARY INFORMANTION:

Background

The "Cut Flowers" regulations (contained in 7 CFR 319.74-1 through 319.74-7 set forth provisions relating to the importation of certain cut flowers into the United States. These regulations, among other things, provide for inspection at the port of entry for possible infestation by agromyzids (insects of the family Agromyzidae) of cut flowers from certain countries, including the Dominican Republic. Section 319.74-3 of the regulations further requires that if cut flowers from the Dominican Republic are found to be infested with any species of agromyzids they must be fumigated with methyl bromide in accordance with treatments provided for in § 319.74-3(d).

This document proposes to amend the regulations in 7 CFR 319.74-3 with respect to the importation of cut flowers of *Chrysanthemum* spp. imported from the Dominican Republic by deleting the fumigation requirements because of the finding of agromyzids when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess).

Agromyzids are insect pests of plants that are often found on or with cut flowers. There are more than 1,800 species of agromyzids throughout the world that have been described. Certain species of agromyzids, such as *Agromyza varicornis* (Strobl), *Liriomyza huidobrensis* (Blanchard), *Liriomyza strigata* (Mergen), *Paraphytomyza dianthicola* (Venturi) and *Phytomyza horticola* (Goureau) are not know to occur or are not widely distributed in the United States, and could cause a substantial reduction in the marketability of cut flowers and other agricultural products grown in the United States. In order to prevent the movement into the United States of these injurious insects of cut flowers and other agricultural products, the department has required all imported cut flowers found to be infested with agromyzids at the time of importation to be fumigated with methyl bromide in accordance with specified procedures, except for infested cut flowers from Mexico or Canada and cut flowers of *Chrysanthemum* spp. from Colombia when found to be infested with agromyzids of the species *Liriomyza trifolii*.

These exceptions were based on a determination made by the Department that all of the species of agromyzids on cut flowers imported from Canada or Mexico and the species of agromyzids *Liriomyza trifolii* which occurs on *Chrysanthemum* spp. imported from Colombia are not injurious insects since they are species which if introduced into the United States would not present a significant risk of causing economic damage to persons marketing cut flowers or other agricultural crops grown in the United States (See 48 FR 16875, April 20, 1983). Based on the experience of the Department, it appears that this determination is still valid.

Recently, the Department completed a survey of *Chrysanthemum* spp. in "cut flower" growing areas in the Dominican Republic. Pest interception records reveal that cut flowers of *Chrysanthemum* spp. are the principal source of agromyzids on cut flowers from the Dominican Republic and only *Chrysanthemum* spp. were surveyed in the Dominican Republic. The survey indicated that the only agromyzids which occur in the Dominican Republic and infest cut flowers of *Chrysanthemum* spp. are *Liriomyza trifolii*, *Liriomyza huidobrensis* and a species tentatively identified as *Amauromyza maculosa* (Malloch). The third species has only been tentatively identified because the survey team was unable to obtain the adult stage, making positive identification impossible.

Liriomyza trifolii is widely prevalent and established in the United States and its entry on cut flowers of *Chrysanthemum* spp. from the Dominican Republic does not present a significant risk of causing economic damage to cut flowers and other agricultural products grown in the United States.

Liriomyza huidobrensis is not widely distributed in the United States and its entry on cut flowers of *Chrysanthemum* spp. imported from the Dominican Republic does present a significant risk of causing damage to cut flowers and other agricultural products grown in the United States. The third species of agromyzids found on cut flowers of *Chrysanthemum* spp. from the Dominican Republic, which has not been positively identified, could be a species that could cause damage to cut flowers and other agricultural products grown in the United States.

It is possible in many instances to positively distinguish *Liriomyza trifolii*

from the other two species of agromyzids found on *Chrysanthemum* spp. from the Dominican Republic. This is done by microscopic examination of intercepted insects at the port of entry.

Therefore, in order to remove unnecessary restrictions with respect to the importation of cut flowers of *Chrysanthemum* spp. from the Dominican Republic, this document proposes to amend § 319.74 of the regulations by providing that fumigation shall not be required for such cut flowers because of agromyzids when the agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii*. In those instances in which cut flowers of *Chrysanthemum* spp. are imported from the Dominican Republic and are found to be infested with agromyzids that cannot be identified as *Liriomyza trifolii* (e.g., when the agromyzids are in the early larval or egg stage), such cut flowers would continue to be required to be treated with methyl bromide in accordance with § 319.74–3(d).

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule would have no significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete 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. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512–1.

Further, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. As explained above, this proposal would delete fumigation requirements concerning the importation of certain cut flowers of *Chrysanthemum* spp. from the Dominican Republic. Specifically, it is expected that this proposal, if adopted, would save $5,420 in fumigation and other costs of *Chrysanthemum* spp. cut flowers imported from the Dominican Republic per year. This savings would be spread among all importers of cut flowers for *Chrysanthemum* spp. from the Dominican Republic.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports Plant pests, Plants (Agriculture), Quarantine, Transportation, Flowers.

PART 319—FOREIGN QUARANTINE NOTICES

§ 319.74–3 [Amended]

Accordingly, the second sentence of paragraph (a) of § 319.74–3 of "Subpart-Cut Flowers" in 7 CFR Part 319 would be amended by adding "or the Dominican Republic" immediately after "Colombia".

Authority: (Secs. 5 and 9, 37 Stat. 316, 318, as amended, 7 U.S.C. 159, 162; 7 CFR 2.17, 2.51, and 371.(c).

Done at Washington, D.C., this 2nd day of March 1984.

Harvey L. Ford,

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

[FR Doc. 84–6223 Filed 3–7–84; 8:45 am]

BILLING CODE 3410–34–M

Federal Crop Insurance Corporation

7 CFR Part 431

[Amdt. No. 1]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Supplemental Notice of Proposed Policy Rulemaking and Extension of Comment Period.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith issues this supplemental notice of policy rulemaking and extension of comment period for the purpose of soliciting public comment on its proposed procedure for: (1) Offering soybean crop insurance only on the unit basis provided in the policy for insurance, with guidelines providing no further unit division in 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 on any practice for double-cropped soybeans; and (3) providing that soybeans will not be insured at more than 100 percent of the guarantee based on the county average yield. The intended effect of this supplemental notice is to propose additional changes to the soybean policy for insurance regarding units for insurance purposes, and to extend the comment period 15 days from the date of publication of this notice in the **Federal Register.**

DATE: Written comments, data, and opinions on this supplemental notice of policy rulemaking must be submitted not later than March 23, 1984, to be sure of consideration.

ADDRESS: Written comments on this 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.

The impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 (December 15, 1983). This action in conjunction with the proposed rule published July 27, 1983, at 48 FR 34047 constitutes a review under such procedure 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 (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

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

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

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

On Wednesday, July 27, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at (48

FR 34047) the intended effect of which is to update the policy for insuring soybeans in accordance with Departmental Regulation 1512-1, requiring review of the regulations as to need, currency, clarity, and effectiveness of the regulations, and to comply with the Office of Management and Budget (OMB) regulations requiring publication of the OMB control numbers assigned to information collection requirements of the soybean crop insurance regulations.

The public was given 60 days in which to submit written comments on the proposed rule, but none were received.

The notice of proposed rulemaking published at 48 FR 34047, July 27, 1983, was incorrectly listed as Amendment No. 4, and should have read Amendment No. 1. That error is corrected herein.

In reviewing the regulations for issuance as a final rule, it was determined that certain changes involving unit determination and guarantees for soybean crop insurance should be made in order to preserve the actuarial integrity of the program. The changes, outlined below, are contained on the actuarial table filed in the service office and have a direct bearing on the provisions of the soybean policy. FCIC considers these changes to be sufficiently important to solicit public comment for an additional period of time before implementation.

The regulations for insuring soybeans, published as a notice of proposed rulemaking in the **Federal Register** on July 27, 1983, do not reflect this proposed procedure as to units for insurance purposes. Therefore, FCIC has determined that public comment on these additional changes would be solicited by means of this supplemental notice of policy rulemaking and extension of comment period. Due to the time constraints involved in notifying policyholders, amending actuarial tables, and publishing policies, FCIC has determined to solicit public comments for 15 days from the date of publication of these regulations.

Background

FCIC believes the changes outlined herein are necessary to preserve the actuarial integrity of the soybean crop insurance program. The prohibition against further unit division for those states with a cumulative loss ratio of at least 1.30 and a cumulative premium income of at least $1 million, and the provision for the limited yield guarantee for preferred practices to not exceed 100 percent of the maximum yield guarantee for the unit based on the county average yield will reduce expected losses and substitute for a substantial premium increase.

While soybeans following another small grain crop which reaches the heading stage in the same year are insurable under the policy, the guarantee should be reduced 15 percent because soybeans planted in such a manner are generally planted at less than the optimum time for planting and soil structure (available nutrients, and moisture supply) and conditions are such that reduced yields will usually result.

This notice extends the time for comment on the proposed rule published at 48 FR 34047, and requests comment on the proposed changes set out above, including the provisions for unit determination as outlined below.

Written comments should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

All written comments made pursuant to this notice 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 431

Crop insurance, Soybeans.

Supplemental Notice of Policy Rulemaking and Extension of Comment Period

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 issues this supplemental notice of policy rulemaking for the purpose of proposing additional changes to the Soybean Crop Insurance Regulations (7 CFR Part 431) as follows:

1. The Authority for 7 CFR Part 431 is:

Authority: Secs. 506, 516, Pub. L. 75-450, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 431.1 is revised to read as follows:

§ 431.1 Availability of soybean insurance.

(a) Insurance shall be offered under the provisions of this subpart on:

(1) Soybeans in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybeans insurance shall be offered.

(2) Only on the unit basis provided in the soybean crop insurance policy with no further unit division in those states with a cumulative loss ratio of at least 1.30 over the life of the program, and a cumulative premium income of at least $1 million over the previous five years. Soybeans will not be insured at more than 100 percent of the maximum yield guarantee offered for the unit under the area coverage plan.

(b) The yield guarantee will be reduced 15 percent on all double-cropped soybeans. This reduction is applicable to all practices.

Done in Washington, D.C., on December 12, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 29, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-6099 Filed 3-7-84; 8:45 am]

BILLING CODE 3410-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

[Docket No. PRM-35-5]

Nuclear Radiation Consultants: Receipt of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a notice of receipt of a petition for rulemaking submitted by Nuclear Radiation Consultants. The petition requests that the NRC amend its regulations governing the human uses of byproduct material to permit any health professional with appropriate training and experience to obtain a license authorizing the use of a specific medical diagnostic device containing a radiation source. The petitioner requests this action so that a greater number of health professionals could be licensed to use the device.

DATE: Submit comments by May 7, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555,

Attention: Correspondence and Records Branch.

Hand deliver comments to: Room 1121, 1717 H Street NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m.

For a copy of the petition write: Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Inspect and copy comments received on the petition at: The NRC Public Document Room, 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492–7086 or Toll Free (800) 368–5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking from Nuclear Radiation Consultants. This petition for rulemaking has been assigned Docket No. PRM–35–5.

The petitioner requests that the NRC amend its regulations governing the human uses of byproduct material to permit any health professional with appropriate training and experience to obtain a license to use a specific medical diagnostic device that contains a radioactive source. This device is a dual photon spine scanner, also known as a bone mineral analyzer, that uses the radioactive isotope 153 Gd. The device is useful in diagnosing osteoporosis, a disorder common in women over 60 years old.

Currently, NRC regulations require that persons authorized to use sources and devices containing byproduct material be physicians, as defined in 10 CFR 35.3(b), who meet specified training and experience requirements. In Policy and Guidance Directive FC 83–24, the NRC determined that dentists and podiatrists could be exempted from the requirement that the person authorized to use radioactive material be a physician if the proposed dentist or podiatrist user—

1. Is licensed to practice dentistry or podiatry by a State or territory of the United States, District of Columbia, or Commonwealth of Puerto Rico; and

2. As a minimum, has received a total of eight hours of training in basic radiation physics and instrumentation, radiation biology, and radiation protection.

The petitioner's requested amendment would allow any health professional with the training and experience required by FC 83–24 to become licensed to use 153 Gd in bone mineral analyzers. The petitioner believes that NRC's requirements are unduly restrictive because individuals who have the training and experience required by FC 83–24 but are not physicians are not able to become authorized users. The petitioner contends that the use of the device cannot be considered the practice of medicine because it is a diagnostic tool used to acquire information. Therefore, the petitioner considers it unreasonable to believe that only physicians are capable of using bone mineral analyzers without risk to public health and safety.

The NRC invites public comment on PRM–35–5. Those who intend to submit comments on the petition may obtain a copy of the petition from the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Washington, D.C., this 2nd day of March 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–6175 Filed 3–7–84; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–ASW–43; Predecessor Docket No. 80–ANE–42]

Airworthiness Directives; Sikorsky Aircraft Model S–76A Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would adopt a new airworthiness directive (AD) which supersedes Amendment 39–4019 (AD 80–23–51). Amendment 39–4019 requires an initial and repetitive inspection to detect cracks in the main rotor spars on Sikorsky Model S–76A series helicopters. The new AD would include the requirements of the previous AD except it would extend the repetitive inspection interval and list new Sikorsky inspection procedures. The FAA has determined from service experience that the time interval for repetitive inspections may be extended.

DATES: Comments must be received on or before March 23, 1984.

ADDRESS: Comments on the proposal may be mailed in duplicate to: Regional Counsel, Attention: Docket No. 83–ASW–43, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; or delivered in duplicate to: Office of the Regional Counsel, Southwest Region, Room 100, Building 3B, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Comments may be inspected in Room 100, Building 3B, between 8 a.m. and 4:30 p.m., Monday through Friday.

The applicable sections of the manufacturer's S–76A Composite Materials Manual, SA–4047–76–5, may be obtained from Sikorsky Aircraft, Division of United Technologies, North Main Street, Stratford, Connecticut 06602.

A copy of the applicable paragraphs, 2–7 and 2–7A, of the S–76A Composite Materials Manual, SA 4047–76–5, is contained in the Rules Docket at the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 100, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Donald F. Thompson, Airframe Section, ANE–152, Boston Aircraft Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone number (617) 273–7336.

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

All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket located at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 100, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

This proposal would supersede Amendment 39–4019 (46 FR 3498), AD 80–23–51, which required an initial and repetitive inspection of the main rotor spar on certain main rotor blades

installed on Sikorsky Model S–76A helicopters. After issuing Amendment 39–4019, the FAA determined from service experience that the time interval between repetitive inspections could be increased from "300 hours' time in service" to "500 hours' time in service." The first incident of main rotor blade spar cracking occurred after 999 hours' time in service which served as the basis for the original AD 300-hour inspection interval. Since Amendment 39–4019, AD 80–23–51, was issued, additional incidents of main rotor spar cracks have been reported. These reports ranged from 1,398 hours to 3,062 hours' total time in service. On the basis of these reports, the FAA has determined that an inspection interval of 500 hours would be sufficient. In addition, the FAA mailing address contained in AD 80–23–51 would be changed due to reorganization. The mandatory reporting requirement would be deleted because mandatory reporting under FAR 21.3 and compliance with the existing operating and maintenance rules would be sufficient.

The proposed AD would also include a provision to allow adjustment of the inspection interval where justified for individual operators. Due to changes in the manufacturer's service information, revised manual inspection procedures would be listed. This revised service information would be incorporated by reference in the new AD. A copy of the information would be available at the Federal Register. Due to numerous changes proposed, a new AD would be issued to supersede the initial AD rather than revise the AD by spot changes.

Approximately 150 to 180 rotorcraft will be affected by the proposed AD. An estimate of 1,000 flight hours average per year per rotorcraft results in a requirement for two inspections per year with the 500-hour interval inspection rather than three inspections with the previous 300-hour interval. Each inspection requires approximately 4.5 man-hours. With incidental expenses, the estimated cost of each inspection is approximately $175. The two versus the three inspections per year should result in an annual savings of $175 per rotorcraft for a total savings of between $26,250 and $31,500 for the fleet. This savings does not warrant preparation of a regulatory evaluation and does not substantially affect small entities.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by superseding Amendment 39–4019 (46 FR 3498), AD 80–23–51, with the following proposed airworthiness directive:

Sikorsky Aircraft: Applies to Model S–76A series helicopters certificated in all categories.

To prevent operation with a cracked main rotor spar, accomplish the following:

Applies to main rotor blades, P/N 76150–09000 or 76150–09100, with more than 600 hours' time in service. Compliance required within the next 25 hours' time in service after the effective date of this AD, unless previously accomplished and thereafter at intervals not to exceed 500 hours' time in service.

(a) Inspect the main rotor blade spar for cracks in accordance with the Sikorsky S–76 Composite Materials Manual, SA–4047–76–5, paragraph 2–7 or 2–7A.

(b) If a spar crack is found, replace the main rotor blade with a new or serviceable component before further flight.

(c) Paragraphs 2–7 and 2–7A of the Sikorsky S–76 Composite Materials Manual, that are specified in paragraph (a) of this AD, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Sikorsky Aircraft, Division of United Technologies Corporation, North Main Street, Stratford, Connecticut 06602. These documents may also be examined at the FAA, New England Region, 12 New England Executive Part, Burlington, Massachusetts 01803, and at the Office of Regional Counsel, FAA, Southwest Region, Fort Worth, Texas.

(d) Upon request from the operator, an FAA maintenance inspector may adjust the repetitive inspection interval in this AD if the request contains data to justify the increase and provided the Manager, Boston Aircraft Certification Branch, FAA, New England Region, approves the increase.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97–449, January 12, 1983]; 14 CFR 11.85)

Note.—The FAA has determined that this proposed regulation does not contain a major proposal requiring an economic impact statement since the proposed AD would affect less than 180 aircraft and should result in an annual savings of $31,500. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), (3) does not warrant preparation of a regulatory evaluation as the anticipated impact of the change is so minimal, and (4) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since this action extends the inspection interval lists another inspection procedure and for the reasons previously discussed.

Issued in Fort Worth, Tex., on February 23, 1984.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 84–6178 Filed 3–7–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 84–ANM–2]

Proposed Alteration of Jet Route J–7; Dillon, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Jet Route J–7 between Oakland, CA, and Swift Current, Saskatchewan, Canada. Jet route J–7 between Boise, ID, and great Falls, MT, was initially routed and described via Dillon, MT, to conform with navigational aid use limitations. In recent years, a new high altitude very high frequency omni-directional radio range distance measuring equipment (VOR DME) navigational aid has been established at Salmon, ID. This action would aid flight planning and improve the flow of traffic between Oakland, CA, and Saskatchewan, Canada.

DATE: Comments must be received on or before April 23, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 84–ANM–2, Federal Aviation Administration, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Burton Chandler, Airspace and Air Traffic Rules Branch (AAT–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:

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–ANM–2." 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 for examination 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, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons intersted 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 § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route J–7 between Oakland, CA, and Saskatchewan, Canada. Jet Route J–7 between Boise, ID, and Great Falls, MT, was initially routed and described via Dillon, MT, to conform with navigational aid use limitations. In recent years, a new high altitude VOR DME navigational aid has been established at Salmon, ID. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

Jet Route No. 7 [Amended]

By deleting the words "Boise, ID; Dillon, MT; Great Falls, MT;" and substituting the words "Boise, ID; Salmon, ID; Great Falls, MT;"

(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 11.65)

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. 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, 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 Washington, D.C., on February 29, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-6179 Filed 3-7-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 31

The Regulation of Certain Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: At the request of certain commentors on prior rulemaking proposals, the Commission is proposing and soliciting comments concerning whether, and how, interim final rules governing the offer and sale to the public of certain leverage transaction could be amended to encompass certain "short sales" of leverage transactions. These interim rules were adopted by the Commission on January 16, 1984 and generally will become effective on April 13, 1984. 49 FR 5498 (February 13, 1984). The amendments under consideration would modify the definition of leverage contract contained in Section 31.4(w) of the interim rules, 49 FR at 5528, to include the sale of leverage contracts for the delivery of commodities by customers to leverage transaction merchants ("short sales"), and would include modifications of other regulatory provisions contained in the interim rules. Detailed and specific public comment is being solicited concerning whether short sales of leverage transactions are contemplated under the Commodity Exchange Act and, if so, what additional customer protections or other amendments to the interim rules would be necessary, if such transactions were to be permitted, to accomodate the regulation of the offer and sale of these transactions consistent with the public interest and the anti-fraud, anti-manipulation and financial solvency standards of Section 19 of the Commodity Exchange Act.[1]

DATE: Written comments on the proposed rule must be received by the Commission on or before March 28, 1984.

ADDRESS: Written comments should be sent to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Office of the Secretariat.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading

[1] The Commission has exclusive regulatory jurisdiction over leverage transactions under Sections 2(a)(1) and 19 of the Act, 7 U.S.C. 2, 23 (1982). Section 19(b) generally empowers the Commission to regulate leverage transactions so as to ensure the financial solvency of the transactions, and to prevent manipulation or fraud.

The Commission will exercise its exclusive regulatory authority over transactions that fall within the scope of Section 19, as delineated by the definition of a leverage contract adopted by the Commission. Those transactions that do not meet the Commission's definition of a leverage contract are not within the Commission's exclusive regulatory jurisdiction under Section 19 of the Act and will not be subject to regulation pursuant to the Commission's rules applicable to leverage transactions. Those transactions not subject to exclusive Commission jurisdiction are open to the application of state law. *See* Section 12(e)(2)(C) of the Act, 7 U.S.C. 16(e)(2)(c) (1982).

Commission, 2033, K Street, NW., Washington, D.C. 20581, telephone (202) 254–9880; Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–8955; or Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–6990.

SUPPLEMENTARY INFORMATION: On January 16, 1984, the Commission adopted interim final rules which establish a comprehensive regulatory scheme applicable to specified leverage transactions. *See* 49 FR 5498 (February 13, 1984) for the complete text of the rules. Section 31.4(w) of those rules defines the term "leverage contract" to mean a standardized contract for the long-term (ten years or longer) purchase by a customer of a commodity which provides for (1) participation by the leverage transactions merchant ("LTM") as a principal in each leverage transaction , (2) initial and maintenance margin payments by the leverage customers, (3) periodic payment by the leverage customer or accrual by the LTM of a carrying charge or a fee on the unpaid balance, (4) delivery resold in normal commercial or retail channels, (5) delivery of the leverage commodity after satisfaction of the balance due on the contract by the leverage customer, and (6) determination of the contract purchase and repurchase prices by the LTM.

The definition of a leverage contract in § 31.4(w) as adopted by the Commission includes only contracts for the purchase of commodities by customers from LTMs and, therefore, excludes contracts for the sale of commodities by customers to LTMs (except in the context of resales of leverage contracts to LTMs by customers to offset original leverage contract purchases). The Commission, in proposing § 31.4(w) (also with this exclusion), specifically solicited comments on the proposed definition. 48 FR 28669 (June 23, 1983). In response, several commentors raised the issue of whether "short sales" should be included in the definition. These commentors generally suggested that excluding such sales from the definition would contradict both a long-standing industry practice of entering into such transactions with customers and Congress' understanding of these transactions as leverage contracts.

The Commission, however, as it noted in adopting § 31.4(w),[2] is unaware of any evidence that such short sales of leverage contracts were in fact engaged in during any relevant time period. Indeed, the Commission believes that, as the legislative history and other evidence indicate, leverage contracts have been intended as long-term purchases of commodities by customers. *See, e.g., Hearings on H.R. 13113 Before the Senate Comm. on Agriculture and Forestry*, 93rd Cong., 2d Sess. 749, 751 (1974) (statement of M. Martin Rom, Chairman of the Board, International Precious Metals Corp.); *Hearings on H.R. 10285 Before the Subcomm. on Agriculture Research and General Legislation of the Senate Comm. on Agriculture, Nutrition and Forestry*, 95th Cong., 2d Sess. 625 (1978) (statement of International Precious Metals Corp.). Furthermore, from an economic point of view, short sales by the public to LTMs may be contrary to one of the principal purported purposes of leverage contracts, namely as a hedge against inflation.

As a result, although the Commission remained unconvinced that leverage contracts were contemplated by Congress as instruments pursuant to which commodities could be sold by customers, in light of the comments it received, it derermined when it adopted the interim final rules to leave this issue open until it could solicit further specific public comment on whether the rules should be amended to encompass the offer and sale of short sales of leverage contracts by customers. 49 FR at 5500 (February 13, 1984).

The Commission is now seeking such specific comment on the nature and characteristics of short sales, how such instruments compare with leverage contracts as defined in § 31.4(w) and whether or not the Commission should regulate such instruments as leverage contracts. Comment is also requested on the history of "short sales" to the public and whether and when such instruments were contemplated by Congress to come within the scope of Section 19 of the Act. It is of particular importance that commentors submit specific, authenticated and, where appropriate, dated documentation which explains and substantiates their comments, both with respect to past and current business practices, about any aspect of the marketing of short sales of leverage contracts and the characteristics of these instruments. For example, testimony before or written submissions to Congress, offering statements, signed customer agreements, risk disclosure statements, or other materials provided customers or otherwise used in marketing short leverage contracts, as well as the leverage contracts themselves, should be submitted along with and in support of any written comments. Should commentors believe that the Commission should regulate short sales, the Commission requests that commentors set forth with particularity the form of regulatory safeguards under which the offer and sale of such transactions should be permitted, including specific and detailed suggested modifications in and additions to the interim final regulations governing leverage transactions recently adopted by the Commission. In addition to the comments requested above, the Commission is particularly interested in receiving detailed comments on the following issues, supported by verifiable documentation:

(1) Were "short" leverage contracts in existence in 1974? If so, how and when was Congress informed of that fact? If not, when were they first offered and when and how was Congress informed of that fact? Explain the characteristics, such as underlying commodities, duration, margining schemes, fees and charges, provisions for delivery, etc. of short leverage contracts as they were first offered for sale, as they were subsequently offered for sale, and/or as they are currently offered for sale? What has been the volume of sales of these contracts since they were first offered for sale?

(2) What are the economic functions of these instruments and can they be considered "hedges against inflation"?

(3) What commodities might be appropriate subjects of "short" leverage contracts: all commodities offered as the subjects of "long" leverage contracts under the Commission's moratoria, 17 CFR 31.1, 31.2, or some subset of these? If a subset, describe the commodities encompassed by the subset.

(4) What additional requirements regarding the "short" leverage contracts' terms and conditions would contribute effectively to customer protection? For example:

(a) Should the Commission require the ask price of a "short" leverage contract to be greater than or equal to the bid price of a "long" leverage contract for the same leverage commodity?

(b) Should the carrying charges for "long" and "short" leverage contracts be required to be identical?

(c) What requirements, if any, should the Commission make regarding the payments to "short" leverage customers of accrued carrying charges?

(5) Pursuant to the Commission's interim final rules, LTMs will be subject to regulations designed to ensure the financial solvency of leverage transactions and prevent manipulation or fraud, such as registration of leverage commodities, minimum financial, cover and segregation requirements, and recordkeeping rules. In a "short" leverage transaction, the LTM would

[2] 49 FR 5499 (February 13, 1984).

be the purchaser of the leverage contract but the leverage customer would presumably not be subject to all of the regulations referred to above. In light of that, what assurance, if any, does the LTM in a "short" leverage transaction have that the leverage customer wil perform? What protections now contained in the interim rules should be amended or supplemented to assure the leverage customer's performance? For example, should the customer in a "short" leverage transaction be obligated to cover its obligations to the LTM with the physical commodity, a corresponding futures contract or otherwise, or should other requirements be imposed?

(6) An LTM's purchase of a leverage contract in a "short" leerage transaction does not constitute cover for an LTM's obligations to leverage customers under "long" leverage transactions. If losses accrue to an LTM on a "short" leverage transaction (with gains accruing to the customer due to customer due to a fall in price for the leverage commodity), how would these be accounted for on the books of the LTM? Would there be a mark-to-market system so that such losses result in dollar for dollar reductions in the LTM's adjusted net capital? Should there be any different financial requirements for an LTM which also engages in "short" leverage transaction such as a higher minimum dollar amount of adjusted net capital, or additional capital charges applciable to "short" leverage transactions? Presumably, the gain in value in a customer's short position should be required to be segregated on behalf of the customer. Should LTMs be required to make an initial payment to, or segregate such a payment on behalf of, customer when a short leverage contract is entered into, and margin payments thereafter?

(7) The Commission has determined to continue in effect for a time its temporary moratoria rules on the entry of new firms into a leverage business, which are set forth in §§ 31.1 and 31.2. Therefore, assuming the Commission determines that any firm wishing to engage in "short" leverage transactions would have to demonstrate separately its compliance with those moratoria with respect to "short" leverage transactions before it could engage in such trnsactions, should there be any different requirements for demonstration of such compliance than those set forth in §31.5(e) for demonstrating compliance for "long" leverage transactions?

(8) If the leverage transaction merchant is permitted to cover its "short" purchase obligations with futures transactions, are corresponding changes in Commission rule 1.46 necessary?

(9) What changes need to be made in the disclosure document to address the mechanics of "short" leverage transactions or other matters necessary to fully inform the customer concerning any different or additional risks from "long" transactions? How would the illustrative example of a leverage transaction required by the interim rules to be contained in the Disclosure Document furnished to customers and the break-even price calculation required in the Confirmation Statement furnished to customers be affected by short leverage transactions?

(10) What recordkeeping requirements and reporting to customer requirements should be altered and in what manner to deal with "short" leverage transactions?

(11) What additional requirements not addressed by these questions are recommended to assure the financial integrity of LTMs which engage in such transactions and to prevent manipulation and fraud?

List of Subjects in 17 CFR Part 31

Definitions, Commodity futures.

Issued in Washington, D.C., on March 5, 1984 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-6262 Filed 3-7-84; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release No. 33-6516; IC-13800; S7-1007]

Registration Forms for Insurance Company Separate Accounts That Offer Variable Annuity Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission today announced that it has extended from April 1, 1984 until May 15, 1984 the date by which comments on Investment Company Act Release No. 13689 (Dec. 22, 1983) [49 FR 614 (January 5, 1984)] must be submitted. The Commission has received a request that the comment period be extended and believes that an extension of time until May 15, 1984 will be beneficial since it will result in the receipt of additional useful comments.

DATE: Comments must be received on or before May 15, 1984.

ADDRESS: Comments should be submitted in triplicate to George a. Fitzsimmons, Secretary, Securities and Exchange commission, 450 Fifth Street, N.W., Washington, D.C. 20549 (Reference to File No. S7-1007). All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Larry L. Greene, Attorney (202) 272-7320, Office of Disclosure Legal Services, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Wasington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In Investment Company Act Release No. 13689, the Commission requested written comments on propsed new registration Forms N-3 and N-4 for use by insurance company separate accounts organized as either management or trust accounts, respectively, that offer variable annuit contracts. The releae also proposed certain related form and rule amendments and published staff guidelines relating to Forms N-3 and N-4. Proposed Forms N-3 and N-4 may be used for registration under both the Securities Act of 1933 ("Securities Act") and the Investment Company Act of 1940, ("1940 Act"). Proposed Form N-3 would be the required form for registration under both the Securities Act and the 1940 Act for insurance company separate accounts that offer variable annuity contracts and are organized as amanagement investment companies ("management accounts"). Proposed Form N-4 would be the required form for registration under both Acts for separate accounts that offer variable annuity contracts and are organized as unit investment trust ("trust accounts"). Both forms would contain a two-part format for disclosure to prospective investors. Form N-3 would replace Form N-1 for both Securities act and 1940 Act registration purposes for management accounts. Form N-4 would replace Form S-6 (for registering securities under the Securities Act) and Form N-8B-2 (for registering separate account under the 1940 Act) for trust accounts. The Commission is proposing the forms in order to eliminate certain items of disclosure required in registration statements for management and trust accounts and to integrate the Securities act and 1940 Act registration statements required for trust accounts. The Commission expects that shortening and integrating the registration statements in this manner will result in substantial cost savings for separate accounts and their sponsors.

The Commission has received a request that the comment period be extended. In view of such request and in order to receive the benefit of comments form the greatest number of interested persons, the Commission has extended the comment period for Investment Company Act Release No. 13689 from April 1, 1984 until May 15, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 29, 1984.

[FR Doc. 84-6227 Filed 3-7-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 161

[Docket No. 84N-0023]

Quick-Frozen Shrimps or Prawns; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the "Recommended International Standard for Quick-Frozen Shrimps or Prawns" (Codex Standard No. CAC/RS 92-1976) and to comment on the desirability of and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission. If the comments received do not support the need for a U.S. standard for this food, FDA will not propose a standard.

DATE: Comments by May 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0101.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. Under the FAO/WHO program, a large number of food standards have been developed and submitted to governments for acceptance, including a Codex standard for quick-frozen shrimps or prawns.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a U.S. standard under authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there are no U.S. standards for quick-frozen shrimps or prawns.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for a U.S. standard for quick-frozen shrimps or prawns; (2) the specific provisions of the Codex standard; (3) additional or different requirements that should be in the U.S. standard, if established; and (4) any other pertinent points.

FDA advises that if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, the Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer, and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather they are dealt with under the authority of other sections of the act.

The Codex standard for quick-frozen shrimps or prawns specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA's policy is to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 161

Fish, Food standards, Seafood.

The Codex standard under consideration is as follows:

CAC/RS 92-1976—Recommended International Standard for Quick Frozen Shrimps or Prawns

1. *Scope*

This standard applies to quick frozen raw shrimps or prawns and those which have been steamed, parboiled or fully boiled during processing, which are offered for direct consumption. It does not apply to products indicated as intended for further processing or speciality products where shrimps or prawns only constitute a portion of the edible contents.

2. *Description*

2.1 *Product Definition*

2.1.1 Quick frozen shrimps or prawns are obtained from species of the families:

(a) Penaeidae
(b) Pandalidae
(c) Crangonidae
(d) Palaemonidae

2.1.2 Shrimps or prawns of comparable size and colour may be packed together. Shrimps or prawns of obvious visual differences shall not be packed together.

2.2 *Process Definition*

2.2.1 The shrimps or prawns can be:

(i) "Raw"—not exposed to temperatures sufficiently high to coagulate the protein at the surface:

(ii) "Parboiled"—heated for a period of time such that the surface of the product reaches a temperature adequate

to coagulate the protein at the surface but inadequate to coagulate the protein at the thermal centre;

(iii) "Cooked"—heated for a period of time such that the thermal centre of the product reaches a temperature adequate to coagulate the protein.

2.2.2 The product, after any suitable preparation, shall be subjected to a freezing process and shall comply with the conditions laid down hereafter. The freezing process shall be carried out in appropriate equipment in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18°C (0°F) at the thermal centre after thermal stabilization. The product shall be maintained under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale.

The recognized practice of repacking quick frozen products under controlled conditions followed by the reapplication of the quick freezing process as defined is permitted.

2.2.3 Shrimps or prawns shall be either individually quick frozen or quick frozen in mass.

2.3 *Presentation*

Shrimps or prawns shall be presented as:

2.3.1 Whole—Cephalothorax (head), shell and tail fans on.

2.3.2 Headless—Cephalothorax (head) removed, shell and tail fans on.

2.3.3 Peeled (tail fans on)—Cephalothorax (head) removed and shell removed down to the last segment. The shell on the last segment and the tail fans to be present.

(i) Round—Prepared as described in 2.3.3.

(ii) Round and deveined—In addition to the preparation as described in 2.3.3, the back of the peeled segments of the shrimps or prawns have been cut open and the vein removed.

(iii) Fantail (split or cutlet)—In addition to the preparation described in 2.3.3, the peeled segments of the shrimps or prawns have been split longitudinally through the dorsal axis, laid open and the vein removed.

(iv) Western style—In addition to the preparation of the shrimps or prawns have been split completely and longitudinally through the dorsal axis of the first four segments, laid apart and the vein removed.

2.3.4 Peeled (tail fans removed)—Cephalothorax (head) and all shell including tail fans removed.

(i) Peeled—Prepared as described in 2.3.4.

(ii) Peeled and deveined—In addition to the preparation as described in 2.3.4, the back has been cut open and the vein removed.

2.3.5 Pieces—Where the count of unglazed shrimps or prawns is greater than 150 per kg (> 70 per lb) a shrimp or prawn consisting of less that four segments is regarded as a piece; where the count of unglazed shrimps or prawns is 150 or less per kg (< 70 per lb) a shrimp or prawn consisting of less than five segments is regarded as a piece. Such pieces may be present in the products defined in subsections 2.3.1, 2.3.2, 2.3.3 and 2.3.4, subject to the tolerances provided for in 3.3.6. When pieces are packed and sold as such, they shall be designated in accordance with sub-section 6.1.2.

2.3.6 Other Presentation

Any other presentation of the product shall be permitted provided that it:

(i) is sufficiently distinctive from other forms of presentation laid down in this standard;

(ii) meets all the other requirements of this standard;

(iii) is adequately described on the label to avoid confusing or misleading the consumer.

3. *Essential Composition and Quality Factors*

3.1 *Raw Material*

Quick frozen shrimps or prawns shall be prepared from clean and sound fresh or prefrozen shrimps or prawns of the species of the families listed under sub-section 2.1.1 and of a quality suitable for human consumption.

3.2 *Optional Ingredients*

Water utilized either for glazing, cooking or for freezing may contain:

—Salt
—Lemon juice
—Sugars (sucrose, invert sugar, dextrose, fructose, glucose syrup, lactose)
—Seasonings, spices, flavourings (hydrolized vegetable protein).

3.3 *Final Product*

3.3.1 Appearance

—Generally uniform is size within any count category or container where appropriate.
—Easily separated when labelled as individually frozen.
—Colour characteristic of the species and habitat or areas from which harvested and practically free from: dehydration, black spot, blackening or other abnormal colouration.
—Clean; free from foreign matter and practically free from: legs, loose shell, antennae, heads; shrimps or prawns with parts of heads, veins, or improperly peeled as appropriate for the form of presentation; torn, damaged shrimps or prawns; and free from otherwise unacceptable shrimps or prawns.
—Free from pieces in any form of presentation except as provided for in subsection 2.3.5 and subject to the tolerances provided for in subsection 3.3.6.

3.3.2 Odour and Flavour

After thawing and where applicable cooking by steaming or boiling as set out in subsection 7.3, shrimps or prawns shall have a good characteristic odour and flavour and shall be free from objectionable odours and flavours of any kind. A natural odour or flavour reminiscent of iodoform is not a defect unless excessive.

3.3.3 Texture

After thawing and where applicable cooking by streaming or boiling as set out in subsection 7.3, shrimps or prawns shall be relatively firm and not mushy.

3.3.4 Glazing

Shrimps or prawns may be glazed either individually or in bulk. When glazed the coating of ice shall cover the shrimps or prawns so as to minimize dehydration and oxidation. The water used in glazing shall be of potable quality. Standards for potability shall be not less than those contained in the "International Standards for Drinking Water", World Health Organization (3rd Edition). Any ingredient or additive as listed in 3.2. and 4, respectively, used for glazing shall fulfill the hygiene requirements of section 5.

3.3.5 Size Classification

Quick frozen shrimps or prawns in any form of presentation may be sized or unsized. If they are sized they may be packed by count, i.e. the average number of shrimps or prawns of comparable size per unit weight (or mass) expressed as a range or the average number of shrimps or prawns, either in the metric system ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold, and may be declared as described in Annex D.

3.3.6 Defects and Tolerances

The quick frozen shrimps and prawns in the various forms of presentation shall comply with the definition and essential quality factors as set forth in this standard, subject to tolerance allowances as defined in Annex B and set out in Annex C.

4. *Food Additives*

Additive	Maximum level in the final product
pH Regulating Agents:	
Citric acid	Good manufacturing practice.

Additive	Maximum level in the final product
Diphosphate, tetrasodium or tetrapotassium (Na or K pyrophosphate.	5 g/kg expressed as P_2O_5, singly or in combination.
Triphosphate, pentasodium or pentapotassium (Na or K tripolyphosphates.	Do.
Antioxidant: L-Ascorbic acid	Good manufacturing practices.
Colours:	
Canthaxanthine, CI 75135	30 mg/kg singly or in combination, in heat treated products only.
Erythrosine, CI 45430	Do.
Ponceau 4R, CI 16255	Do.
Preservatives:	
Metabisulphite, sodium or potassium [1].	100 mg/kg in the edible part of the raw product; 30 mg/kg in the edible part of the cooked product, expressed as SO_2; singly or in combination
Sulphite, hydrogen, sodium [1].	Do.
Sulphite, sodium [1]	Do.

[1] For use in raw product only.

5. *Hygiene and Handling*

5.1 It is recommended that the products coverd by the provisions of this standard be prepared and handled in accordance with the following Codes:

(i) the appropriate sections of the *Recommended International Code of Practice—General Principles of Food Hygiene* (CAC/RCP 1–1969)

(ii) the *Code of Practice for Frozen fish* (CX/FFP 77/8)

(iii) the *Code of Pracice for Shrimps or Prawns* (under elaboration).

5.2 To the extent possible in good manufacturing practice, the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the *raw* product:

a. shall be free from micro-organisms in amounts harmful to man;

b. shall be free from parasites harmful to man; and

c. shall not contain any toxic substances originating from micro-organisms in amounts which may represent a hazard to health.

5.4 When tested by appropriate methods of sampling and examination, the *heat treated* product:

a. shall not contain any pathogenic micro-organisms; and

b. shall not contain any substances originating from micro-organisms in amounts which may represent a hazard to health.

6. *Labelling*

In addition to Sections 1, 2, 4 and 6 of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1–1969) the following specific provisions apply.

6.1 *Name of the Food*

6.1.1 The name of the product as declared on the label shall be "shrimp" or "shrimps" or "prawns" provided that such labelling is customarily used in the country where the products are to be sold and provided the product is identified to the consumer so that he will not be misled.

6.1.2 In addition, there shall appear on the label in conjunction with the name of the product, the form of presentation as indicated below:

Form of presentation	Labelling designation
(a) Whole	Whole shrimp, shrimps or prawns.
(b) Headless	Headless shrimp, shrimps, or prawns.
(c) Peeled (tail fans on)	Peeled (tail fans on), shrimp, shrimps, or prawns. In addition, one of the words "round", "deveined", "fantail", "split", "cutlet", or "butterfly" may be used as appropriate.
(d) Peeled (tail fans removed)	Peeled shrimp, shrimps, or prawns. In addition, the word "deveined" may be used as appropriate.
(e) Pieces	Pieces of shrimp, shrimps, or prawns—shell on.
(f) Peeled pieces or broken shrimp meat	Peeled pieces of shrimp, shrimps, or prawns. In addition, the word "deveined" may be used if appropriate.
(g) Other presentations	If the product is produced in accordance with subsection 2.3.6 the label shall contain in close proximity to the word "shrimps, or "prawns" such additional words or phrases that will avoid misleading or confusing the consumer.

6.1.3 The nature of the product shall appear on the label: raw, parboiled, or cooked. In the case of heated products an indication of the degree of cooking shall conform to the provisions of subsection 2.2.1.

6.1.4 (i) The term "quick frozen" shall also appear on the label, except that the term "frozen" [1] may be applied in countries where this term is customarily used for describing the product processed in accordance with subsection 2.2.2 of this standard.

(ii) Shrimps or prawns in any form of presentation may be individually quick frozen, and in such cases the labelling may be "individually quick frozen" or "individually frozen".[2]

6.1.5 In addition to the specified labelling designations above, the usual or common trade names of the variety may be added so long as it is not misleading to the consumer in the country in which the product will be distributed.

6.2 *Size Classification*

If quick frozen shrimps or prawns are labelled as to count, the classification must comply with the provisions of subsection 3.3.5.

[1] "Frozen"—This term is used as an alternative to "quick frozen" in some English speaking countries.

[2] "Frozen"—This term is used as an alternative to "quick frozen" in some English speaking countries.

6.3 *List of Ingredients*

6.3.1 A complete list of ingredients shall be declared on the label in descending order of proportion; subsections 3.2 (b) and (c) of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1–1969) are applicable.

6.3.2 When the shrimps or prawns are glazed and the cooking and/or glazing water contains additives these shall be declared.

6.4 *Net Contents*

6.4.1 The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4.2 Where products have been glazed the declaration of net contents of the product shall be exclusive of the glaze.

6.5 *Name and Address*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.6 *Country of Origin*

6.6.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.6.2 When the product undergoes further processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

6.7 *Lot Identification*

Each container shall be permanently marked in code or in clear to identify the producing factory and the lot.

7. *Sampling, Examination and Analysis*

The methods of analysis and sampling described or referred to hereunder are international referee methods.

7.1 *Sampling*

Sampling of lots for examination of the product shall be in accordance with the FAO/WHO Codex Alimentarius *Sampling Plans for Prepackaged Foods* (AQL–6.5) (CAC/RM 42–1969).

7.2 *Thawing Procedure* (CAC/RM 40–1971) (to be used prior to examination, as appropriate)

The sample is thawed by enclosing it in a film type bag and immersing in an agitated water bath held at approximately 20°C (68°F). The complete thawing of the product is determined by gently squeezing the bag occasionally so as not to damage the texture of the shrimps or prawns, until no hard core or ice crystals are felt.

7.3 *Cooking Procedure* (to be used prior to examination, as appropriate)

7.3.1 Steaming—Steam the sample in a closed dish of 18 cm (7 inches) diameter over boiling water for about 15–20 minutes if frozen, or for about 7–10 minutes after thawing the product. The dish should be covered and should be kept in a water bath at 60°C (140°F) during testing.

7.3.2 Boiling in Bag—Place the sample into a boilable film type pouch and seal. Immerse the pouch and its contents into boiling water and cook until the internal temperature of the product reaches 70°C (160°F). Remove the boiled product from the pouch and drain.

Note.—See also subsections 7.2 and 7.5

7.4 *Examination of Physical Defects*

The sample shall be examined for defects set out in Annex B according to Annex C.

7.5 *Organoleptic Assessment*

Organoleptic assessment of the product shall be made only by persons trained in such assessment and shall take place after the sample has been thawed in accordance with the procedure as set forth in sub-section 7.2. When applicable, the sample shall be cooked prior to organoleptic assessment by a method set out in sub-section 7.3.

7.6 *Determination of Net Contents of Products covered by Glaze*

Procedure

(1) Open the package with quick frozen shrimps or prawns immediately after removal from low temperature storage.

(i) For the *raw* product, place the contents in a container into which fresh water at room temperature is introduced from the bottom at a flow of approximately 25 litres per minute.

(ii) For the *cooked* product place the product in a container containing an amount of fresh potable water of 27°C (80°F) equal to 8 times the declared weight of the product. Leave the product in the water until all ice is melted. If the product is block frozen, turn block over several times during thawing. The point at which thawing is complete can be determined by gently probing the block apart.

(2) Weigh a dry clean sieve with woven wire cloth with nominal size of the square aperture 2.8 mm(ISO Recommendation R565) or alternatively 2.38 mm (U.S. No. 8 Standard Screen).

(i) If the quantity of the total contents of the package is 500 g (1.1 lbs) or less, use a sieve with a diameter of 20 cm (8 inches).

(ii) If the quantity of the total contents of the package is more than 500 g (1.1 lbs) use a sieve with a diameter of 30 cm (12 inches).

(3) After all glaze that can be seen or felt has been removed and the shrimps or prawns separate easily, empty the contents of the container on the previously weighed sieve. Incline the sieve at an angle of about 20° and drain for two minutes.

(4) Weigh the sieve containing the drained product. Subtract the mass of the sieve; the resultant figure shall be considered to be the net content of the package.

8. *Classification of Defectives*

A sample shall be considered a "defective" when it fails to meet one or more of the quality requirements for the final product:

a. appearance (sub-section 3.3.1) subject to the tolerance for physical defects per sample unit of 500 g as shown in Annex C;

b. odour and flavour (sub-section 3.3.2);

c. texture (sub-section 3.3.3).

9. *Lot Acceptance*

A lot will be considered as meeting the final product requirements of this standard when:

a. the total number of "defective" does not exceed the acceptance number (c) of the appropriate sampling plan in the *Sampling Plans for Prepackaged Foods* (AQL–6.5) (CAC/RM 42–1969); and

b. the average net contents of all sample units examined is not less than the declared net contents; and

c. the size of the shrimps or prawns complies with the declared count (Annex D); and

d. there are no obvious visual differences as described in 2.1.2.

Annex A

The traditional practice followed in several countries of including "prawn", with some qualifying designation, in the common name of species which are not true prawns such as "Dublin Bay Prawn" for *Nephrops norvegicus*, is recognized and nothing in the standard shall prevent this practice continuing provided due precautions are taken in the labelling of the product to ensure that the consumer in those countries will not be misled.

Annex B—Definitions of Defects in Quick Frozen Shrimps or Prawns (to be Examined in the Thawed State)

(a) Dehydration—the shrimps or prawns shell or meat contains whitish areas which seriously affect its appearance, texture or palatability.

(b) Discoloration—the shrimps or prawns possess an obvious yellow appearance which seriously affects their appearance, texture and/or palatability.

(c) Blackening—the shrimps or prawns show an obvious dark appearance which seriously affects their appearance or palatability.

(d) Black spot—the shrimps or prawns shell or meat contains darkened areas which seriously affect its appearance.

(e) Headless—a shrimp or prawn with the cephalothorax (head) entirely detached.

(f) Partially headless—a shrimp or prawn having an incompletely detached cephalothorax (head).

(g) Cut or torn, damaged, piece:

(i) Cut or torn—a shrimp or prawn having a break in the meat greater than one third of the thickness of the shrimp or prawn at the location of the cut or tear.

(ii) Damaged—a shrimp or prawn which is crushed or multilated so as to seriusly affect its appearance.

(iii) Piece—a portion of a shrimp or prawn that contains less than five segments for counts $< 150/kg$ (70/lb) and less than four segments for counts $> 150/kg$ (70/lb).

(h) Improperly peeled—shrimps or prawns which have shell or pieces of shell on the meat in excess of that warranted by the form of presentation.

(i) Incompletely deveined—any black or dark vein that has not been removed if warranted by the form of presentation.

(j) Legs, loose shells, antennae:

(i) Legs—walking legs either loose or attached to the shrimps or prawns.

(ii) Loose shell—any piece of shell which is completely detached from the shrimps or prawns.

(iii) Antennae.

(k) Extraneous materials—any material in a container which is not shrimp material and is not harmful when eaten.

ANNEX C—DEFECT TABLE

[C.1 This table and the maximum allowable number of instances of defects are based on an AQL of 6.5. The defect table is not applied to individual packs but to consignments in association with the FAO-WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (CAC/RM 42-1969). Instances of defects are awarded for the indicated occurrances per 500 grammes sample of product]

Type of Defect	Applicable to forms of presentation 2.3.1-6						One instance	Additional instance
	1	2	3	4	5	6		
Count: Not more than 440/kg (200/lb)								
Dehydration/desiccation	x	x	x	x	x	x	5 percent by count	+3 percent.
Discoloration (indludes blackening and other abnormal coloration).	x	x	x	x	x	x	5 percent by count	+3 percent.
Black spot:								
Meat	x	x	x	x	x	x	8 percent by count	+4 percent.
Shell	x	x			x	x	12 percent by count	+6 percent.
Headless	x						5 percent by weight	+3 percent.
Partially headless	x						8 percent by weight	+4 percent.
Cut, torn or damaged	x	x	x	x		x	9 percent by weight	+5 percent.
Pieces	x	x	x	x		x	9 percent by weight	+5 percent.
Improperly peeled in relation to form of presentation.			x	x			5 percent by weight	+3 percent.
Incompletely deveined (when specified)			x	x	x	x	5 percent by count	+3 percent.
Heads, parts of heads and soft shell shrimp		x					3 percent by weight	+2 percent.
Legs, loose shell and antennae			x	x	x	x	5 by number	+3.
Extraneous material (not harmful)	x	x	x	x	x	x	2 by number	+1.
Count: Over 440/kg (200/lb)								
Dehydration/desiccation	x	x	x	x	x	x	5 percent by count	+3 percent.
Black spot:								
Meat	x	x	x	x	x	x	8 percent by count	+4 percent.
Shell	x	x			x	x	12 percent by count	+6 percent.
Cut, torn or damaged	x	x	x	x		x	9 percent by weight	+5 percent.
Pieces	x	x	x	x		x	25 percent by weight	+10 percent.
Improperly peeled in relation to form of presentation.			x	x			5 percent by weight	+3 percent.
Incompletely deveined (when specified)			x	x	x	x	5 percent by count	+3 percent.
Heads, parts of heads and soft shell shrimp		x					3 percent by weight	+2 percent.
Legs and loose shell			x	x	x	x	20 by number	+5.
Extraneous material (not harmful)	x	x	x	x	x	x	2 by number	+1.

Maximum allowable tolerances for defects: A sample of 500 grammes will be considered defective if it contains more than 4 instances of defects.

C.2 *Tolerance for uniformity* (as set forth in Annex D) Uniformity of size is determined by computing the actual count per kilogramme or pound of the shrimps or prawns in the sample unit, then allowing a tolerance as follows:

1. 60% of the shrimp must fall into the stated count bracket, except that:

2. Only 20% of the remaining shrimp by number may fall into the next two larger count brackets, and the remaining 20% must fall into any lower count bracket.

ANNEX D.—SIZE CLASSIFICATION (RANGES) FOR UNGLAZED SHRIMPS OR PRAWNS [1] (OPTIONAL)

D.1 Whole shrimps or prawns, number of whole shrimps or prawns per kilogramme	All styles except whole	
	Number of shrimps or prawns per kilogramme	Number of shrimps or prawns per pound
<9	<21	<9
10-15	22-33	10-15
16-23	34-44	16-20
24-32	45-55	21-25
33-42	56-66	26-30
43-53	67-77	31-35
54-65	78-88	36-40
66-78	89-110	41-50
79-99	111-132	51-60
100-120	133-154	61-70
	155-176	71-80
	177-198	81-90
	199-220	91-100
	221-286	101-130
	287-440	131-200
	441-660	201-300
	661-1100	301-500
	≤ 1100	≤ 501

[1] The count designation of quick frozen shrimps or prawns shall apply to the unglazed shrimps or prawns in the form of presentation designated on the label.

D.2 The following is an alternative method for size classification:

The size classification shall refer to the unglazed shrimps or prawns contained in the final product and may be expressed by indicating the average number of shrimps or prawns per unit of weight. The weight of the largest shrimp or prawn in the package shall not exceed the average weight (calculated by dividing the unit of weight by the average number declared) of the shrimp or prawn by more than 10 percent of such average weight, and the weight of the smallest shrimp or prawn shall not be more than 10 percent below such average weight.

Interested persons may, on or before May 7, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of establishing a U.S. standard for quick-frozen shrimps or prawns should be supported by appropriate information and data regarding impact on small business consistent with the provisions of the Regulatory Flexibility Act (Pub. L. 96-354). (Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371 (e) fall under this exemption.)

Dated: February 17, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-6184 Filed 3-7-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[Docket No. CGD13 84-03]

Regatta, Seattle SEAFAIR 7-11 Freedom Cup Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish an area of controlled navigation upon the waters of Lake Washington, Washington, from August 2 until August

5, 1984. This is necessary due to the unlimited hydroplane races scheduled for this time period as part of Seattle's SEAFAIR 7–11 Freedom Cup Race. The Coast Guard through this action intends to insure the safety of spectators and participants in this event.

DATES: Comments must be received on or before 21 May 1984.

ADDRESSES: Comments should be mailed to Commander (osr), Thirteenth Coast Guard District, 915 Second Ave., Seattle, WA 98174. The comments will be available for inspection and copying at the Thirteenth Coast Guard District Office, Room 3542, 915 Second Ave., Seattle, WA 98174. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: CAPT P. D. Russell, Chief, Search and Rescue Branch, (206) 442–5880.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 84–03) and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are CDR D. H. Hagen, USCGR, Project Officer, Thirteenth Coast Guard District Search and Rescue Branch, and LT A. W. Bogle, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

Each year, SEAFAIR, Inc., a non-profit corporation, sponsors an unlimited hydroplane regatta on the waters of Lake Washington. This year, that organization is sponsoring the SEAFAIR 7–11 Freedom Cup Race. This four (4) day event draws several hundred thousand spectators to the beaches and waters surrounding the Lake Washington race course. A large number of these spectators view the event from over eight hundred (800) pleasure craft which anchor around the race course. To insure the safety of both the spectators and the participants, special navigational rules are required.

By the authority contained in Title 46, U.S.C. 454, as implemented by Title 33, Part 100, Code of Federal Regulations, a special local regulation controlling navigation on the waters described is required. By the same authority, the waters involved will be patrolled by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers will enforce the regulations and cite persons and vessels in violation.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the regulations affect only spectators and participants to the race and applies to a small area of Lake Washington. In addition it will be in effect for only four (04) days, two of those days being Saturday and Sunday. There is no commercial traffic in this area of the lake. On the other side of the economic equation the benefit in saved property damage and personal injury is potentially very considerable. Based upon this assessment it is certified in accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding § 100.35–1314 to read as follows:

§ 100.35–1314 Lake Washington 1984 Seattle Seafair 7–11 Freedom Cup Race.

(a) From August 2 to August 5, 1984, this regulation will be in effect from 0800 until 1700 Pacific Daylight time. On August 5, 1984, this regulation will be in effect from 0800 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is:

(1) The waters of Lake Washington bounded by the Mercer Island (Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

(c) The area described in paragraph (b) of this section has been divided into two zones. The zones are separated by a log boom and a line from the southeast corner of the boom to the northeast tip of Bailey Peninsula. The western zone is designated Zone I, the eastern zone, Zone II. (Refer to NOAA chart 18447.)

(d) The Coast Guard will maintain a patrol consisting of active and auxiliary Coast Guards vessels in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the "Patrol Commander"). The Patrol Commander is empowered to control the movement of vessels on the race course and in the adjoining waters during the periods this regulation is in effect.

(e) Only authorized vessels may be allowed to enter Zone I during the hours this regulation is in effect. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

(f) During the times in which this regulation is in effect, swimming, wading, or otherwise entering the water in Zone I by any person is prohibited.

(g) Vessels proceeding in either Zone I or Zone II during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(h) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(i) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: February 23, 1984.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 84-6295 Filed 3-7-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD13-84-02]

Seattle Opening Day Yacht Parade and Crew Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice establishes a restricted zone in the areas of Union Bay, Portage Bay and Lake Washington on May 5, 1984 from 0800 until 1500. This action is required to permit the conducting of an approved marine event. It is intended to restrict general navigation in the area for the safety of the spectators and participants in the event.

DATE: Comments must be received on or before April 7, 1984.

ADDRESSES: Comments should be mailed to Commander, U.S. Coast Guard Group, 1519 Alaskan Way South (pier 36), Seattle, WA. 98134. Normal office hours are 7:30 a.m. to 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant John M. Holmes, Operations Officer, (206) 442-1874.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13-84-02), and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received on or before April 7 will be considered before final action is taken. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. Notification was not received early enough for a longer comment period.

Drafting Information

The drafters of this notice are Lieutenant John M. Holmes, USCG Project Officer, USCG Group Seattle, Operations Office, and Lieutenant Aubrey Bogle, USCG, project attorney, CCGD13 Legal Office.

Discussion of Proposed Regulation

The annual yachting season Opening Day Yacht Parade, sponsored by the Seattle Yacht Club, is scheduled to be held on May 5, 1984, in the Lake Washington Ship Canal between Portage Bay and Webster Point. The event will begin at 0800 and end at 1500 Pacific Daylight Savings Time. A collegiate crew race will be conducted in the area between 1100 and 1200 PDST. As a result of these events, traffic in Portage Bay, Portage Cut (also known as Montlake Cut) and Bay Reach will be congested. For this reason it is proposed that sailing vessels in the restricted zone maneuver by propelling machinery. Use of spinnakers will be allowed if the vessel's ability to maneuver are not jeopardized.

By the authority contained in Title 46, U.S.C. 454, as implemented by Title 33, Part 100, U.S. Code of Federal Regulations, a Special Local Regulation controlling navigation on the waters described will be promulgated. The waters involved will be patrolled by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers will enforce the regulation and cite persons and vessels in violation.

Economic Assessment and Certification

In accordance with Dot Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5), this proposed regulation is considered to be nonsignificant. Its economic impact is expected to be minimal since no major shipping industry or trade will be interfered with. It in certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. The regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33 Code of Federal Regulations, by adding § 100.35-1306 to read as follows:

§ 100.35-1306 Lake Washington/ Portage Bay/Union Bay/opening day crew race and yacht parade.

(a) This event will take place on May 5, 1984, between the hours of 0800 p.d.s.t. and 1500 p.d.s.t.

(b) Patrol of the described areas will be under the direction of a designated Coast Guard Patrol Commander. This individual is empowered to control the movement of vessels on the parade course and in the adjoining water areas. The Coast Guard Patrol Commander will exercise the authority granted herein prior to, during and after the parade for such time as he finds it necessary for the safe and orderly conduct of the program. Portage Cut will be closed to all traffic except crew shells and vessels in the parade from 1030 p.d.s.t. until the termination of the yacht parade.

(c) All sailing vessels in the restricted zone shall use propelling machinery for maneuvering. Spinnakers may be used, in addition to propelling machinery, to the extent that control of the vessel is not impaired.

(d) Specific areas restricted to general navigation or anchorage from 0800 p.d.s.t. until termination of the yacht parade are:

(1) The waters of Portage Bay Southeast of a line running from the Western corner of the pier (Showboat) 70 yards South of 47°39′ N, 122°18′40″ W, 425 yards South-West across Portage Bay to the North-West corner of the "L" shaped moorage (at the foot of East Shelby ST.) at 47°39′52″ N, 122°18′52″ W.

(2) All waters of Portage Cut (also known as Montlake Cut), to Union Bay Channel Buoy 27 and Union Bay Channel Buoy 28.

(3) All waters between an East and West line connecting Union Bay Channel Buoy 27, Union Bay Channel Buoy 29 and Union Bay Channel Buoy 31 and Webster Point Light 33 and an East/West line connecting Union Bay Channel Buoy 28, Union Bay Channel Buoy 30, 470 yards East of Union Bay Channel Buoy 30 to a point 80 yards South of Webster Point Light 33.

(4) The waters between the judging and reviewing vessels and the Southern edge of the channel described above. This area is South of Union Bay Channel Buoy 28 and North of Foster Island. The judging and reviewing vessels will be identified by appropriate signs.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction

of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

H. W. Parker,

Rear Admiral, Coast Guard, Commander, 13th Coast Guard District.

February 21, 1984.

[FR Doc. 84-6291 Filed 3-7-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. 602MD; A-3-FRL 2540-4]

Proposed Revision of the Maryland State Implementation Plan; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval of the Maryland Inspection and Maintenance (I/M) Program regulations which were submitted to EPA on May 4, 1983 and the subsequently revised I/M regulations submitted on June 13, and 16, 1983. However, this proposed approval of the regulations does not include the revised I/M implementation schedule which is addressed in the August 3, 1983 **Federal Register** (48 FR 35318). The subject regulations, however, appear approvable and meet the requirement of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide, as required under Part D of the Clean Air Act Amendments of 1977.

This notice also proposes to approve a revised schedule for the adoption of additional controls for sources of volatile organic compounds (VOC) that was submitted on December 23, 1983.

DATE: EPA must receive your comments on or before April 9, 1984.

ADDRESSES: Send any comments to: James E. Sydnor, Chief, MD-VA-DC-DE Section (3AW13), U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Region III, Air & Waste Management Division, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: James B. Topsale, P.E. (3AW13).

Maryland Air Management Administration, 201 West Preston Street, Baltimore, MD 21201, Attn: George P. Ferreri

FOR FURTHER INFORMATION CONTACT: Mr. James B. Topsale, P.E. at the address indicated above or by phone at (215) 597-9377. Please reference the ERA document number in all correspondence.

SUPPLEMENTARY INFORMATION: On February 3, 1983, EPA published **Federal Register** Notices (48 FR 5048 and 5067) with preliminary determinations that both the Maryland portion of the National Capital Interstate and Metropolitan Baltimore Intrastate Air Quality Control Regions (AQCRS) had not met the Part D requirements of the Clean Air Act (CAA) for ozone (O_3) and carbon monoxide (CO) standards. At that time, EPA proposed approval of all portions of the 1982 State Implementation Plan (SIP) revisions for the subject AQCRS with the exception of the incomplete Inspection and Maintenance (I/M) program. This Notice today will discuss the previous I/M determinations appearing in both February 3, 1983 Notices. According to the currently approved 1979 Maryland SIP, the State was to begin implementation of its centralized I/M program by January 1, 1983. The February 3, 1983 EPA proposed disapproval of the State's I/M program was due to the fact that it contained no revised implementation schedule and it lacked most of the required major program elements. The public comment period on the subject February 3, 1983 **Federal Register** Notices was extended by EPA to May 5, 1983 (48 FR 11725). On May 4, 1983 the State of Maryland provided EPA with additional information and comments relating to the subject **Federal Register** Notices. EPA reviewed the State's May 4, 1983 submittal which included the proposed I/M regulations of both the Department of Health and Mental Hygiene (DHMH) and the Motor Vehicle Administration (MVA). Subsequently, an EPA letter dated June 9, 1983 provided the State with detailed comments on the submitted regulations. The State provided a prompt response to EPA's letter by providing a revised set of proposed DHMA and MVA regulations. As a result, several of EPA's initial concerns were satisfactorily addressed. Additional information has been submitted to EPA from the State clarifying its I/M enforcement mechanism.

In an August 23, 1983, letter from the Mayland Department of Transportation, the State committed to adopt enforcement procedures that would prohibit registration or re-registration of non-complying vehicles. In addition, the State will issue a notice within 8 days after a vehicle becomes in non-compliance suspending its registration, and will institute administrative sanctions 15 days thereafter if the vehicle is not brought into compliance. Maryland has committed resources necessary to enforce the program effectively, including manpower necessary to implement such registration suspensions by the physical confiscation of license plates. Non-complying vehicles operated on the public roads are subject to a fine of up to $500. In addition, it is expected that the fee schedule established by the State, which adds $5. to the fee for every month a vehicle is late in complying, will help to limit non-compliance. As a result of these commitments, EPA believes that an effective enforcement mechanism has been developed and the Agency proposes to approve this mechanism on the condition that the final enforcement regulations and procedures reflect these commitments. More specific information on the State's proposed enforcement program, and EPA's review thereof, can be found in the Technical Support Document in the Docket.

Also today, EPA is proposing to process the DHMH and MVA regulations concurrently, through a procedure called "parallel processing". If the State substantially changes the regulations, EPA will have to evaluate those changes, and publish a revised Notice of the Proposed Rulemaking. Otherwise, when the regulations are adopted EPA will publish a notice of Final Rulemaking on the I/M regulations discussed in today's Notice. Also at that time, all relevent public comments received by EPA on the proposed Maryland I/M program regulations will be addressed in the Final Rulemaking.

A. The Ozone (O_3) SIP

Both February 3, 1983 **Federal Register** Notices (FRNS) for the Maryland National Capital Interstate and Metropolitan Baltimore Intrastate AQCRS proposed approval of all sections of the 1982 O_3/CO SIP, except for the I/M section. The I/M sections at 48 FR 5051 and 5070 were not considered approvable because the then defined program lacked the required elements and implementation schedule.

As noted above, in response to EPA's February 3, 1983 **Federal Register** Notices, Maryland has now submitted to EPA what appears to be complete I/M program and revised implementation schedule. Accordingly, EPA is now revising the entire I/M sections of each FRN, (Item A.6 of each February 3, 1983 **Federal Register** Notice) Fed. Reg. 5051 and 5070 as follows:

Inspection and Maintenance (I/M)—EPA has determined that all the required elements of an approvable I/M program are included in the proposed State I/M regulations. The MVA regulations establish the overall structure of the I/M program while DHMH regulations establish the emission standards, test procedures and quality assurance procedures.

Proposed Action: EPA proposes approval of the State I/M regulations. However, the revised State I/M implementation schedule is not approvable for the reasons discussed in the August 3, 1983 **Federal Register** Notice (48 Fed. Reg. 35318).

B. Carbon Monoxide (CO) SIP

While acknowledging the adequacy of the control measures identified in the SIP to assure attainment of the National Ambient Air Quality Standard (NAAQS) for CO by July 1, 1984 for the Metropolitan Baltimore Intrastate AQCR and December 31, 1987 for the National Capital Interstate AQCR, the February 3, 1983 **Federal Register** Notices excluded the I/M program from the proposed approval of the CO SIP. As discussed in the ozone portion of this Notice, the State of Maryland has now submitted to EPA the major elements of an approvable I/M program.

Proposed Action: EPA proposes approval of the State I/M regulations, excluding the revised I/M implementation schedule.

C. Other I/M Issues

1. Schedule for DHMH (COMAR) Rulemaking.

a. The DHMH regulation (COMAR 10.18.22) (draft), including the technical memoranda to be incorporated into that regulation will proceed through the State rulemaking process on approximately the following schedule:

October 1983: Adopt final Regulation
December 1983: Regulation Effective

b. The MVA schedule for revising its regulation (COMAR 11.14.06) is October 1983.

2. *Public Participation in the I/M Program*—The public has had an opportunity to attend hearings on all elements of the I/M progam. The most recent hearings were held on July 26, and July 27, 1983 in the Washington, D.C. and Baltimore areas, respectively.

D. Revised schedule for VOC control

The 1982 SIP submittals for both the National Capitol Interstate and the Metropolitan Baltimore Intrastate AQCR's contained schedules for the adoption of additional VOC control measures needed to insure attainment by 1987. Both schedules called for submittal of adopted control measures by March 1984.

On December 23, 1981, the Director of the Air Management Administration submitted a revised schedule providing for adoption of final regulations by December 31, 1985. Because this additional time will not postpone attainment of interfere with reasonable further progress toward attainment, EPA is proposing to approve the revised schedule for both areas.

Summary of Proposed Action—EPA is proposing approval of the Maryland 1982 State Implementation Plan regulations for the implementation of an I/M program in the Maryland National Capital Interstate and Metropolitan Baltimore Intrastate AQCRS. This proposed approval action will follow the parallel processing procedure discussed above in the Supplementary Information Section. EPA is also proposing approval of the revised VOC schedule discussed above. EPA is soliciting public comments on issues discussed in this Notice. Comments will be reviewed by EPA and addressed in the Notice of Final Rulemaking. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA at the address above. If the proposed I/M regulations are substantially changed by the State of Maryland, EPA will evaluate those changes and may publish a revised Notice of Proposed Rulemaking. If no substantial changes are made and the I/M regulations are adopted and submitted to EPA for incorporation into the SIP, EPA will issue a Notice of Final Rulemaking on the regulations.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under Executive Order 12291, today's action is not "major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the EPA Region III office listed above.

Under 5 U.S.C. 605(b), the Administrator has determined action will not have a significant impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Section 110(a), 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a)).

Dated: October 4, 1983.

Stanley L. Laskowski,

Regional Administrator.

[FR Doc. 84-6251 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-181; RM-4587]

TV Broadcast Stations in Junction City, Dodge City, and Ensign, Kansas; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign VHF Television Channel 6 to Junction City, Kansas, as that community's first television service, in response to a petition filed by James Patrick Young. Additionally, this action proposes to reassign Channel 6 from Dodge City to Ensign, Kansas, to reflect its actual usage there. The station on that occupied channel is directed to show cause why its license should not be modified to alter its present offset in order to accommodate the Junction City proposal.

DATES: Comments and reply comments must be filed by April 23, 1984, and May 8, 1984, respectively.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Junction City, Dodge City, and Ensign, Kansas) MM Docket No. 84-181, RM-4587.

Notice of Proposed Rule Making and Order to Show Cause

Adopted: February 21, 1984.
Released: March 1, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by James Patrick Young ("petitioner"), proposing the assignment of VHF television Channel 6 to Junction City, Kansas, as that community's first television service. Petitioner indicates that he will apply for the channel, if assigned as proposed.

2. Junction City (population 19,305),[1] the seat of Geary County (population 29,852), is located in northeastern Kansas, approximately 190 kilometers (118 miles) west of Kansas City. Currently, it is devoid of any local television broadcast service.

3. A staff engineering study reveals that VHF television Channel 6 can be assigned to Junction City, Kansas, in conformity with the minimum distance separation requirements of § 73.610 of the Commission's Rules, provided certain conditions are met. The transmitter must be restricted to a site 26.8 miles southwest of the community to avoid short spacing on the co-channel to Station WOWT (TV) (Channel 6+), in Omaha, Nebraska. Moreover, the assignment is contingent upon the relocation of Station KOTV (TV) (Channel 6+), Tulsa, Oklahoma, to the site specified in its construction permit. Finally, the proposed assignment of Channel 6 at Junction City will require an offset change to avoid short spacing on the co-channel to Station KTVC (TV), Ensign, Kansas.[2] Additionally, Station KTVC will be required to alter its present offset from "minus" to "plus" to accommodate the proposal. However, this latter change also hinges on the relocation of Station KOTV, as described above.

4. Due to the substantial site restriction involved in this proposal, petitioner must demonstrate in his comments that he could provide the required 80 dBu city grade signal over Junction City, Kansas.

5. As a final matter, in view of the required offset change affecting Station KTVC(TV), at Ensign, petitioner, or any other interested party will be required to indicate in its comments a willingness to reimburse that licensee for the reasonable expenses incurred in the offset change.

§ 73.606 [Amended]

6. Since the proposed assignment could provide a first local television broadcast service to Junction City, Kansas, we believe the proposal merits consideration. Therefore, IT IS PROPOSED to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rule, with respect to the communities listed below, as follows:

City	Channel No.	
	Present	Proposed
Dodge City, Kans.	6−, *21−	*21−
Ensign, Kans.		6+
Junction City, Kans.		6−

7. It is ordered, that, pursuant to § 316 of the Communications Act of 1934, as amended, Southwest Kansas TV Co., Inc., licensee of Station KTVC(TV), Ensign, Kansas, shall show cause why its license should not be modified to specify operation on Channel 6+, as proposed herein, in lieu of its present operation on channel 6−.

8. Pursuant to the provisions of § 1.87 of the Commission's Rules, the licensee, not later than April 23, 1984, may request that a hearing he held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, the licensee may, not later than April 23, 1984, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on the licensee to furnish additional information, designate the matter for hearing, or issue without further proceeding on Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, the licensee is deemed to consent to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission if the channel changes referred to in paragraph 6 above are found to be in the public interest.

9. It is further ordered, that the Secretary of the Commission SHALL SEND a copy of this Order by certified mail, return receipt requested, to Southwest Kansas TV Co., Inc., Television Station KTVC(TV), P.O. Box 157, Dodge City, Kansas 67801, the party to whom the *Order to Show Cause* is directed.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before April 23, 1984, and reply comments on or before May 8, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: James Patrick Young, P.O. Box 2525, Crossville, TN 38555.

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend 73.202(b), and 73.504 and 73.606(b) of the Commission's Rule*, 46 FR 11549, published February 9, 1981.

13. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(See. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as

[1] Population figures were extracted from the 1980 U.S. Census.

[2] Although Channel 6 is assigned to Dodge City, it is utilized at Ensign, Kansas, under the former "15 mile" rule (§ 73.607(b)). Since the provisions of that former rule have been eliminated, we shall propose here to reassign the channel to Ensign to reflect its actual usage there.

set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-6033 Filed 3-7-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. FE 84-01; Notice 1]

Light Truck Average Fuel Economy Standards Model Years 1986 and 1987

AGENCY: National Highway Traffic Safety Administration (NHISA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the establishment of average fuel economy standards for light trucks manufactured in model years 1986 and 1987. The issuance of the standards is required by the Motor Vehicle Information and Cost Savings Act ("the Act"). The agency is proposing ranges of standards instead of specific standards due to a number of uncertainties regarding key factors. For model year 1986, the proposed range for the combined standard is 20.0 to 21.5 mpg, and, for model year 1987, it is 20.0 to 22.5 mpg. As a compliance alternative to the combined standard, the agency also proposes separate standards for 2- and 4-wheel drive vehicles. In view of the factual uncertainties that exist and the agency's continuing review of the statutory criteria, the setting of standards outside the proposed ranges is possible depending on the comments that may be submitted. Among the issues being considered are the future demand for different sizes of engines and trucks, and the appropriateness of continued annual increases in the stringency of these standards, in light of the circumstances reasonably anticipated for model years 1986–87. Public comment is requested on those issues as well as a number of others including the desirability of use of NHTSA's classification authority to establish separate standards for smaller and larger light trucks.

DATE: Comments must be received by April 9, 1984. The standards is proposed to be effective for model years 1986 and 1987.

ADDRESSES: Comments should refer to the docket and notice numbers in the heading above and must be submitted (preferably in ten copies) in writing to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. Submissions containing information for which confidential treatment is requested should be submitted (preferably in three copies) to Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Market Incentives, National Highway Traffic Safety Adinistration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION:

Role of Statutory Criteria in Setting Fuel Economy Standards

Section 502(b) of the Act requires the Secretary of Transportation to issue light truck fuel economy standards for each model year.[1] The Act provides that the fuel economy standards for cars and light trucks are to be set at the maximum feasible level. The term "maximum feasible" is not defined in the Act. However, section 502(e) provides that in determining maximum feasible fuel economy, the agency must consider four factors: Technological feasibility; economic practicability; the need of the nation to conserve energy; and the effects of other Federal motor vehicle standards on fuel economy. In selecting the level of standards established over the last eight years, the agency focused on issues regarding the meaning of "maximum feasible," "technological feasibility," and "economic practicability." Both "feasibility" and "practicability" have been regarded, based on dictionary definitions and judicial interpretations [2] of similar language in other statutes, as referring to whether something was capable of being done. Thus, "maximum feasible" has been interpreted to mean the highest standard which reflects consideration of the four factors and with which the industry is capable of complying. The use of a particular type of technology has been said to be "technologically feasible" for a given model year if the agency can reasonably project that the technology will be ready for commercial production for that model year. Finally, "economically practicable" has been interpreted in the past as referring to whether a manufacturer has the economic capability of achieving a particular level of fuel economy, without being subject to the likelihood of substantial economic hardship. (For a full discussion of these interpretations and their origins, see the preamble to the final rule establishing the passenger car fuel economy

[1] Authority to issue the fuel economy standards has been delegated to the Administrator of the National Highway Traffic Safety Administration. 49 CFR 1.50.

[2] See, e.g., *American Textile Mfrs. Institute Inc.* v. *Donovan*, 452 U.S. 290 (1981).

standards for model years 1981–84, 42 FR 33534, at 33536–33537; June 30, 1977.)

The agency followed these interpretations in setting light truck standards for model years 1979 through 1985. Those standards (expressed in miles per gallon) are as follows:

Model year	Combined standard	2-wheel drive standard	4-wheel drive standard
1979	—	17.2	15.8
1980	—	[1] 16.0	[1] 14.0
1981	—	[1] 16.7	[1] 15.0
1982	[2] 17.5	18.0	16.0
1983	[2] 19.0	19.5	17.5
1984 [3]	[2] 20.0	20.3	18.5
1985 [3]	[2] 21.0	21.6	19.0

[1] The apparent drop in the standards for these years actually reflects the expansion of the regulated fleet of light trucks to include heavier vehicles. The fleet, which was limited in model year 1979 to light trucks whose gross vehicle weight rating (GVWR) was in the range of 0–6,000 pounds, was changed to include those whose GVWR was in the range of 0–8,500 pounds.

[2] In these model years, the manufacturers have the choice of complying with a single, combined standard for their entire fleet of light trucks or with separate standards for their 2-wheel drive and 4-wheel drive light trucks.

[3] Ford Motor Company has petitioned the agency to reduce the 1984 and 1985 standards. See discussion *infra*.

Simply stated, the approach used in establishing these progressively higher standards was to determine which technology could be feasibly applied and then determine how much of that technology it was economically practicable to use for a particular model year. To maximize the return from the standards, the agency focused on technology which would produce fuel economy benefits whose value exceeded the cost of that technology. Consideration was given to the extent that the sales mix of vehicles and technological changes would affect public acceptance of the vehicles and thus sales. Less weight was given to the fact that consumer choices about options and truck sizes were also being affected in ways that did not affect the overall sales of light trucks, i.e., in situations in which consumers were being induced to substitute one option for another or one truck size for another instead of staying out of the market.

As part of this rulemaking, the agency is reexamining the interpretations and approach previously used to set the fuel economy standard for light trucks to determine whether they continue to be appropriate. Adoption of new interpretations or approaches, together with projections concerning model and option mix shifts, could result in standards that break the pattern of annual increases in the standards, or lead to actual reductions in the standards, because of changing conditions in the light truck and petroleum markets in recent years.

The existing interpretations were made in the early years of the fuel economy program when concerns about the national energy supply were similar to those at the time that the program was authorized by Congress. Conditions have changed. Instead of steadily increasing oil prices, there has been a decline in oil prices; these prices are expected to remain fairly stable in the near term. Our oil supplies are also more secure. With the abolition of petroleum price controls, what consumers pay is more likely to reflect the market price of oil. Price is now more likely to operate as a conservation mechanism, whereas before, at the beginning of the CAFE program, artificially low fixed prices provided less incentive to conserve. The economic benefits of increased efficiency must be evaluated in the context of the new expectations regarding future energy prices. Furthermore, since the inception of the CAFE program, great gains have been made in average fuel economy for light trucks. The 1984 standards are approximately 30 percent more stringent than those applicable to 1980 model year light trucks.

At some time in the future there may be or should be periods of several years or more in which there may be little if any annual fuel economy improvement. That possibility is based on several factors. First, there is a pool of technology available for improving fuel economy but some of the technology may be so expensive or may have such an unfavorable cost-benefit ratio that the manufacturers' capital might be better spent for other purposes, for example, new product developments or safety improvements. Second, there are only limited changes that can be made to vehicle design and performance without "distorting" [3] consumer choices regarding options and vehicles and reducing public acceptance and in turn possibly lowering new vehicle sales or eliminating from the range of choices the ones consumers would prefer. The standards may also have the effect of encouraging the production of heavier, less fuel-efficient trucks, because the fuel efficiency of trucks over 8,500 pounds is not regulated, and weight may be added to some vehicles to exclude them from the regulated class. If consumers were so displeased by available choices that they choose to stay out of the market and retain their older, less fuel-efficient light trucks, then less fuel savings than were anticipated could result. Indeed, some persons have suggested that the standards already established by the agency may be significantly distorting consumer preference and that these distortions must be considered by the agency in carrying out its statutory mandate.

The agency solicits comments on the extent to which these types of distortion have occurred or are likely to occur in the future. Commenters are requested to indicate the consumer purchasing choices and the manufacturer investment and product decisions that would have been made in the absence of the fuel economy standards. What, in other words, are the opportunity costs for consumers and light truck manufacturers of mandating compliance with the fuel ecomony standards?

The possibility of reaching limits on the levels of standards which can or should be set for light trucks raises the issue of the suitability of the existing interpretations and methodology for identifying when the agency is approaching or has reached those limits. Under the current approach, the agency focuses primarily on the economic health of the industry. Are other approaches possible within the constraints of the statute and applicable judicial constructions of identical or similar statutory language? Should more emphasis be given to possible or projected distortions of consumer perferences by the standards? To the economic appropriateness for the national economy of particular levels of standards?

The agency is confronted with other methodological issues apart from the ones relating to reasonable levels of fuel economy sandards. In asessing the technological feasibility and economic practicability of various levels of future fuel economy standards, the agency necessarily must rely on projections of overall sales volumes, sales mixes of options and vehicles, fuel economy benefits from applying technology to particular vehicle models, and economic conditions. There is always a difficulty in relying on such projections to pick particular values for future standards regardless of whether the projections are made by the agency or by the manufacturers. Those projections are are often made on the basis of information about current conditions, such as the apparent current preferences of consumers. The nature of those preferences may be a very imperfect guide to future preferences. Projecting the course of future events is even riskier when the data underlying the projection are not current.

This proposal relies heavily on data collected by the agency over a year ago. Those data were submitted to the

[3] "Distortion" is a word commonly used by economists to describe any marketplace result that would not have occurred but for intervention in the marketplace.

agency in response to an October 1982 questionnaire sent by the agency to light truck manufacturers. Accordingly, the agency is concerned that projections or proposed standards based strictly on those data might not be fully consistent with the changes in the light truck market that have occurred in the past year. In that time, gasoline prices have dropped slightly, economic recovery has occurred, and consumer demand for larger trucks and engines has risen. These market changes may have lowered the maximum feasible fuel economy levels for model years 1986 and 1987. A January 1984 submission from Ford projects a combined fuel economy level of 20.6 mpg for Model Years 1986 and 1987. This is considerably below Ford's earlier projections. If detailed supporting data are received in response to this notice, the agency may set final standards closer to the lower ends of the ranges.

Even manufacturers, whose data concerning their own operations are more up-to-date than that of the agency, have typically had difficulty in making projections relating to achievable levels of fuel economy. These errors have occurred with respect to both cars and light trucks, but have been most dramatic in the case of cars. For example, in early 1979, GM and Ford submitted material to the agency indicating they faced difficulty in complying with model year 1981 through 1985 passenger car fuel economy standards in a cost-effective manner.[4] Although both companies indicated they would meet the standards, each company's compliance "cushion" was reportedly very small. One year later, the "cushion" had enlarged dramatically. By mid-1980, both companies stated they would easily exceed model year 1981–85 passenger car fuel economy standards. Both companies projected 1985 fuel economy levels of 30–31 mpg, well above the 27.5 mpg standard. This turnabout was due primarily to the rapid escalation of oil prices during 1979 and early 1980.

However, by mid-1983, the situation had reversed again. The combination of falling oil prices, lower consumer demand for fuel efficiency, and the decision of the car companies to defer or cancel plans for new fuel efficient vehicles during the recession, led to substantial reductions in the projected levels of fuel economy. Both GM and Ford will have to rely on previously-earned credits to comply with the model year 1983 passenger cars fuel economy standards. On July 21, both companies testified before a congressional committee that they would achieve only 25–26.5 mpg in 1985 instead of the 27.5 mpg specified in the standard for that year. Both firms indicated that they would need to rely on carry back credits from later model years to achieve compliance.

The history of previous projections by the manufacturers makes the agency reluctant to set standards that rely too heavily on the manufacturers' projections of future fuel economy levels in connection with this rulemaking. Those projections may be too low or too high. The uncertainty surrounding the manufacturers' projections argues in the context of this rulemaking for substantial caution by the agency in making assumptions and projections and then setting standards.

Proposal

In view of the uncertainties about model and option mix and of the issues concerning the proper application of the statutory criteria, the agency is proposing a range of standards [5] for public comment. The detailed data currently before the agency supports standards at the high ends of the proposed ranges. However, these data do not fully reflect the shifts toward less fuel-efficient vehicles in the light truck market which apparently occurred during 1983, and which may be continuing in 1984. A recent submission from Ford projects a combined fuel economy level of 20.6 mpg for the company in Model Years 1986 and 1987. If detailed supporting data are received in response to this notice, the agency may set final standards closer to the lower ends of the ranges. The agency is particularly interested in comments on the appropriateness of the agency's adopting standards for model years 1986 and 1987 that would break the pattern of annual increases in the light truck fuel economy standards in light of the statutory criteria.

Model year	Combined standard	2-Wheel drive standard	4-Wheel drive standard
1986	20.0–21.5	20.3–22.3	18.5–19.5
1987	20.0–22.5	20.3–22.9	18.5–21.5

The relatively large difference between the upper ends of the ranges for the 4-wheel drive standards compared with the difference for the other two standards results from plans of the manufacturers to discontinue some low fuel economy models and increase the fuel economy of other models.

Information obtained in response to this notice may indicate that standards higher or lower than the proposed ranges should be established. The possibility of higher or lower standards reflects the uncertainty over sales levels for certain new light truck models (the recently introduced domestic small pick-up and utility trucks and the soon-to-be introduced compact vans) and over the impact of these new models on the sales levels of the existing, larger models. Higher standards may be established if, for example, that information indicates sales of large light trucks will not grow simultaneously with the growth of compact ones. Lower standards might be justified by a number of factors. One would be significant markets shifts toward less fuel efficient vehicles. Some shift has already occurred since NHTSA's analysis was completed. Under these circumstances, some have argued that manufacturers have already upgraded fuel economy performance sufficiently and should not be forced to incur penalties due to consumer choices. Another factor would be the adoption of a revised interpretation of "economic practicability" placing greater weight on considerations other than the light truck industry's technological and economic capability of making fuel economy improvements.

Basis for Proposal

The standards being proposed herein are based upon information derived from a variety of sources. One major source of information is the responses to the October 1982 questionnaire mentioned above. That questionnaire sought information on future product plans, technology development programs, and various economic and marketing factors. The agency also relied on its own analyses and on information available in the trade press. To minimize the possibility of errors in projecting fuel economy levels for model years 1986–87, the agency requests interested persons to supplement this information by submitting the most current data available.

[4] See Report on Requests by General Motors and Ford to Reduce Fuel Economy Sandards for MY 1981–85 Passenger Automobiles, DOT HS–804 731, June 1979.

[5] Under a regulatory provision that became effective at the beginning of the 1980 model year, a domestic manufacturer would be required for purposes of determining compliance to place his captive import light trucks in a separate fleet from the one including his domestically manufactured light trucks. This requirement parallels a similar express statutory requirement for passenger automobiles and was intended to encourage domestic high fuel economy vehicles as a means of meeting the fuel economy standards.

NHTSA's analysis of the industry's maximum feasible average fuel economy level for model years 1986 and 1987 has focused on the capabilities of Ford Motor Company and, to a lesser extent, General Motors Corporation. These two companies account for approximately two-thirds of light truck sales in the U.S. market. The other domestic manufacturers and all the foreign manufacturers are expected to have fuel economy levels substantially higher than Ford and GM.

The agency tentatively concludes that it is appropriate to establish the 1986–87 standards at levels attainable by all the manufacturers, meaning in this case that the standards are proposed to be set consistent with our current projection of Ford's average fuel economy capability. The Act does not require that standards be set at a level achievable by all manufacturers, but rather requires that industrywide considerations be taken into account. See Sen. Rep. No. 94–516, 94th Cong., 1st Sess. (1975) at 154–5. The agency must balance the difficulties individual manufacturers might have in complying with a given standard against the energy conservation benefits of that standard. *Id.* The agency tentatively concludes that the standards could not and should not be set at levels above those achievable by Ford.

The next "least capable" manufacturer (in terms of fuel economy improvement potential) is GM. Together, GM and Ford account for the majority of U.S. light truck sales. GM's capability is only slightly higher than Ford's.

In the past, the agency has generally set light truck fuel economy standards at levels attainable by all manufacturers. In those instances where the agency has set a fuel economy standard above the level attainable by one or more companies, e.g., the 1982 light truck standards, it has not set the standards at levels which are unattainable by a major portion of the market. Ford's share of the U.S. light truck market is approximately 30 percent and is therefore deemed by the agency to constitute a major portion of the market.

Since, as noted above, GM's potential fuel economy capability is not projected to be dramatically higher than Ford's setting standards at GM's level would achieve little, if any, additional fuel savings. Moreover, the potential adverse impacts of placing Ford in a noncompliance situation are great, given that company's recent losses and its debt position. For example, setting standards above Ford's level might induce that company to adopt product restrictions, thereby undercutting Ford's economic and competitive position. It is not likely that other manufacturers would reduce their planned fuel economy levels to that planned by Ford if standards are set at Ford's level. The fuel economy improvements planned by GM, for example, are built-in and therefore not readily removable. Thus, the benefits of setting standards above Ford's level appear relatively small and speculative, but the potential adverse impacts of such an action on Ford could be severe. The agency requests comments on whether setting standards at Ford's level would have any adverse impacts on manufacturers who plan to achieve higher levels of fuel economy in 1986–87, or be likely to affect the fuel economy performance of vehicles they manufacture.

These considerations have led the agency to propose setting standards at levels achievable by all the manufacturers. Because of the agency's estimate of Ford's economic condition, the product actions to improve fuel economy which are projected by the agency are generally consistent in fuel economy impact with those already planned by Ford.

I. 1985 Fuel Economy Baseline

The first step in determining 1986 and 1987 fuel economy levels for Ford and GM was to determine a 1985 fuel economy baseline. The agency originally derived a range of 1985 fuel economy values in the final rule setting the 1983–85 light truck standards. See 45 FR 81593, December 11, 1980. There is still considerable uncertainty, about the fuel economy levels achievable in 1985, much less 1986 and 1987. The highest levels actually achieved to date by the largest domestic manufacturers, GM and Ford, are approximately 19 mpg. The agency lacks empirical evidence for the achievability of higher fuel economy levels by the large manufacturers of light trucks. Although higher levels have been projected for 1985, the agency is mindful that some earlier projections have been too high. As noted above, a manufacturer's fuel economy is sensitive to changes in vehicle and option mix and to changes in a manufacturer's plans for introducing new fuel efficient vehicles. All of those highly changeable factors are in turn sensitive to the price of oil and to the condition of the national economy.

Nevertheless, using the traditional approach of making a series of assumptions and projections, NHISA has developed 1985 values for Ford and GM. The agency wishes to emphasize the tentativeness of those values. In the case of Ford, the agency believes at this time that 1985 fuel economy levels approximately equal to the 1985 standard (21.0 mpg) are the maximum feasible levels. However, Ford petitioned NHTSA on November 21, 1983, to reduce the 1984–85 light truck standards by approximately one mpg each. The petition was based principally on changes in market mix which may affect maximum feasible 1986–87 fuel economy levels. The agency's analysis and response to this petition may affect the 1985 baseline assessment.

In the case of GM, a slightly higher value (21.8 mpg) is projected for 1985. The basis for the agency's original 1985 projections is discussed in the rulemaking support paper accompanying the December 1980 final rule. In general, these projections were based upon the introduction of new, lighter, more fuel efficient truck models and the use of available fuel economy-improving technology such as automatic overdrive transmissions with lock-up torque converters and overdrive manual transmissions, improved engine drive accessories, lower friction engine and axle lubricants, low rolling resistance radial tires, and reductions in average engine displacement and axle ratio. Current projections are slightly lower than those made in 1980, due primarily to changes in consumer demand reflecting reduced gasoline prices and some program deferral due to the difficult financial condition of the domestic industry during the early 1980's.

II. Average Fuel Economy, Technology and Market Mix Projection

Under the agency's most favorable assumptions about technology and model mix, it is possible that Ford and GM can achieve light truck fuel economy levels (on a combined fleet basis) of 21.5 mpg in 1986 and 22.5 mph in 1987.

It is considered possible that GM could make additional fuel economy gains on the order of 1.0 mpg by 1987. However, due to the agency's concerns about Ford's economic condition and doubts as to its ability to either make further fuel economy improvements beyond those already projected or to pay civil penalities for noncompliance, NHTSA considers these potential improvements for GM to be beyond the maximum feasible fuel economy level for the industry as a whole.

Fuel economy gains over the level of the 1985 standards are possible through three principal means: Mix changes; the introduction of a major new truck model; and engine efficiency improvements.

In view of the limited remaining leadtime and of the substantial number of new models that have been or will be

introduced in the model years preceding model year 1986, few new models will be introduced in model years 1986 and 1987. The principal isued regarding new models in this rulemaking is the market shares which they will achieve.

COMPARISON OF 1982 MARKET SHARES (EXPRESSED AS PERCENTAGES) WITH MARKET SCENARIO FOR MODEL YEARS 1986–1987

	1982	Market scenario	
		1986	1987
Large pickup	45	26	27
Compact pickup	30	40	39
Cargo vans-large	13	6	6
Cargo vans—compact	–	8	8
Large passenger van	4	2	2
Compact passenger van	1	8	8
Large utility	6	2	1
Compact utility	1	8	9

In the market scenario for this rulemaking, dramatic shifts in the light truck market are projected. What were once considered "standard" sized pickup trucks, vans, and utility vehicles, are projected to be reduced to minority market shares as new, compact truck models are offered. The market scenario is based principally upon the vehicle manufacturers' projections of sales and upon the projections and estimates by private analysts. However, due to recent sales trends, the scenario uses lower figures for the sales of 4 cylinder engines than were projected by the industry in 1982. The agency is projecting an overall growth in the sales of light trucks between 1983 and 1987 of about 40 percent, with most of the growth being in the compact segments. In the pickup truck segment (accounting for about two-thirds of light truck sales), the sales of standard pickup trucks are expected to increase by about 20 percent over 1982 levels, to levels not reached since the introduction of domestic compact trucks.

Even with the adjustments mentioned above, the proportion of high fuel economy models in the scenario may still be optimistic. Commenters on this rulemaking are requested to provide their views on the appropriateness of this scenario or some other scenario which they believe to be more accurate.

The efficiency improvements that can be made for model years 1986–1987 are a collection of changes, which can be grouped together under the "lean burn/fast burn" engine concept. Based on the current usage of these improvements, manufacturers' plans for increased usage and competitive pressures, the agency expects that they will be nearly universally applied in the non-diesel segment of the passenger automobile and light truck fleets by the end of the 1980's. This engine technology involves redesign of combustion chambers and other engine design changes, permitting the use of leaner air-to-fuel ratios and higher compression ratios. The system would likely also involve the implementation of electronic fuel injection, electronic engine controls, and reduced engine friction. Collectively, these improvements can increase fuel economy 10 percent or more. The agency currently estimates that those improvements should not significantly affect vehicle maintenance costs. Comment is invited on that estimate.

The agency projects that Ford can apply this technology to most of its light trucks by 1987, and indeed Ford may find it necessary to do so to remain competitive in fuel economy. The engine improvements could increase Ford's average fuel economy by approximately 0.9 mpg in 1986 and an additional 0.4 mpg in 1987. The agency also believes that GM may be able to incorporate this technology in its spark ignition engines given sufficient lead time, i.e., in the period beyond model year 1987. In the near term, GM will be able to implement a weight reduction program and use alternative technologies to achieve fuel economy improvements. Therefore, the agency has not included the lean burn/fast burn technology in the GM projection. A fleet CAFE benefit of approximately 0.8 mpg is possible by 1987 from these changes.

The agency is also projecting that GM and Ford will eliminate their large utility vehicle offerings by the 1987 model year. This action, which has been predicted in the trade press, would reflect the declining market shares of these vehicles and the increased sales of compact versions by both companies. This could produce a small fuel economy improvement in the range of 0.1–0.4 mpg for the GM and Ford light truck fleets. A small (0.1 mpg) benefit for Ford is possible in 1987 through transmission improvements.

If these possible improvements are applied to the 1985 baseline values mentioned previously (and certain minor projected mix changes), and the possible optimistic market scenario for this rulemaking is assumed, CAFE values as high as 21.5 mpg could be achievable by 1986 and 22.5 mpg by 1987, for both companies. Corresponding values were separately developed for the 2-wheel drive and 4-wheel drive portions of the light truck fleet by segregating the individual truck models projected to be sold during those two years into 4 x 2 and 4 x 4 categories, and recalculating average fuel economy values. The reasons for the agency's proposal to continue the past practice of issuing alternate standard (either composite fleet or separate 4 x 2 and 4 x 4) are the same as those discussed in detail in the final rule issuing the 1983–85 standards. 45 FR 81593, at 81593–81594; December 11, 1980. Briefly, the composite standard permits manufacturers greater flexibility in making improvements to various portions of their fleet, while the separate standards reflect differences among the manufacturers in market share of the generally less fuel efficient 4 x 4's.

III. Economic Practicability

NHTSA believes that the range of combined fuel economy standards proposed in this notice could increase retail prices for light trucks by as much as $155 per vehicle, compared to the 1985 baseline. The price increase would be more than offset by gasoline savings of as much as $439 per vehicle. The preliminary regulatory impact analysis discusses these estimates in more detail.

The profitability outlook for the major domestic light truck manufacturers has improved dramatically during the past 15 months. If the agency's and the manufacturers' projections for automotive sales increase through the 1987 model year prove to be accurate, the economic health of the U.S. motor vehicle industry should be greatly improved over that period. The agency projects that the industry should return to a position of positive cash flow and profitability.

Nevertheless, the agency has made cautious projections for the magnitude of future capital investment for fuel economy improvements for two reasons. First, the projected period of profitability and positive cash flow follows an extended period of operating deficits and negative cash flows for the domestic manufacturers. Long term debt grew to approximately double the levels existing in 1977. The 1982 high level of debt would adversely affect future profitability due to the associated high interest burden, unless much of the debt can be retired. During the first six months of 1983, the major domestic manufacturers retired substantial amounts of that debt. However, a considerably longer period of profitability will be necessary for the manufacturers to reduce this debt burden to levels traditionally viewed as prudent.

Second, there is a measure of uncertainty associated with the agency's economic projections. These are highly sensitive to estimates of future sales. The agency has projected steady growth in sales, with no significant reversal in the current economic recovery through

1987. If this projection proves to be erroneous, the manufacturers could return to positions of negative cash flow rather quickly. A rise in interest rates could slow vehicle sales, producing a similar result. Based on the condition of the industry and on these serious risks, the agency tentatively concludes that it would in all likelihood not be economically practicable to set standards which would commit the manufacturers to a heavy investment program beyond planned levels, i.e., levels consistent with the upper ends of the proposed ranges. Such a commitment could produce serious losses if economic conditions change.

In addition to soliciting general comments on economic issues, the agency also requests comments on several particular matters. Would the increase in per capita income occurring as a result of an expansion of the national economy lead to increased demand for larger engines and larger light trucks? What is the effect of fuel economy standards for light trucks on the sales volume of and profit margins for larger light trucks? On the revenue from the sales of light trucks? How do the incremental costs of increased fuel economy compare with the savings from reduced fuel consumption?

The agency is also inviting comment on the possibility of setting vehicle-size based light truck standards. Such standards would reduce the impact of mix shifts on compliance with standard, since such shifts would tend merely to increase the number of vehicles includeed in the various size classes, without affecting to a large degree the average fuel economy of those classes. Under the current system which places all sizes in the same class, increases in sales of large trucks would reduce the average fuel economy of all trucks included in the current classes. A possible method for establishing size-based classes would be to set a separate standard for light trucks in the 6001–8500 pound gross vehicle range. Vehicles in this class are more likely to be used for commercial purposes that are the lighter duty models. The agency requests comments on the desirability of this or other size-based classes.

To the extent that light trucks in the 6001–8500 pound gross vehicle weight range are used for different purposes than lighter models, and to the extent that including the heavier duty models within the scope of the fuel economy standards does not result in significant energy conservations, it might be argued that the heavier models should not be subject to standards at all. Based on the agency's judgment regarding those considerations in 1978, those vehicles were subjected to fuel economy requirements in accordance with section 501(1) of the Act, beginning with the 1980 model year. See 43 FR 11995, March 23, 1978. Comment is invited on the appropriateness of the agency reconsidering that 1978 decision.

IV. Effects of Other Federal Standards on Fuel Economy

The agency projects that there will be no changes in Federal standards which need adversely affect light truck fuel economy in model years 1986 and 1987. The only change in safety standards which conceivably could add a noticeable amount of weight to light trucks is the seat belt comfort and convenience amendment scheduled to go into effect in the 1986 model year. However, the maximum weight effect of this amendment (less than five pounds) is so small that the agency projects no impact on average fuel economy.

In the emission control area, the Environmental Protection Agency is considering amendments to nitrogen oxide emission standards for light duty trucks which could become effective as early as 1987. Based on discussions with EPA, NHTSA's current estimate is that if such amendments should be promulgated, no loss in fuel economy need result. Fuel economy levels would be maintained and even enhanced through the use of three-way catalyst and electronic engine controls (including control of air-to-fuel ratio, spark timing, and exhaust gas recirculation rate). Once EPA establishes final standards in this area, this agency will consider whether this conclusion must be revised and invites comments at this time on our tentative conclusion.

The agency is aware of no other rules which would adversely impact fuel economy levels for 1986–87 light trucks.

V. Impacts on Petroleum Consumption—Need of the Nation To Conserve Energy

The need of the nation to conserve energy and the potential impacts of these proposed standards on the national energy situation are discussed in the agency's regulatory impact analysis. The agency believes that national security could still be threatened in some circumstances by our reliance on foreign sources of petroleum. Although both petroleum prices and the level of imports have fallen in recent years, the United States still imported approximately $67 billion of petroleum in 1982. The rapid transition from apparent world-wide surplus in 1978, to shortage in 1979, to surplus again today points out the instability of the world oil market.

Our potential vulnerability due to this reliance on imported petroleum can be mitigated through increased domestic production of petroleum and through limiting demand. If the average fuel economy of the 1986–1987 light truck fleet were equal to the standards at the high ends of the proposed ranges as opposed to a standard which was equal to the 1985 standards, gasoline consumption would be reduced by a total of 1.43 billion gallons (or 34 million barrels) over the life of those light trucks. This figure is more fully discussed in the preliminary regulatory impact analysis.

Impact Analyses

I. Economic Impacts

The agency considered the economic implications of the proposed fuel economy standards and determined that the proposals are major within the meaning of the Executive Order 12291, and significant within the meaning of the Department's regulatory procedures. The agency's detailed analysis of the economic effects is set forth in a preliminary regulatory impact analysis, copies of which are available free from the Docket Section. The contents of that analysis are generally described above, particularly in the section on economic practicability.

II. Environmental Impacts

The Agency has analyzed the environmental impacts of a range of light truck fuel economy standards in accordance with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* Copies of that analysis are available from the Docket Section. The agency's analysis concludes that no significant adverse environmental impact would result from the execution of this rulemaking action. The total impact on the environment is not expected to be large. The largest impact of the standards on the environment would be reduced by energy consumption. Virtually all the environmental impacts, if any, of the standards are expected to be positive.

III. Impacts on Small Businesses

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking action would have on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis will not be required for this action. No light truck manufacturer would be classified as a "small business" under the Regulatory Flexibility Act. In the case of small

entities which purchase light trucks, those organizations might face a price increase of less than one percent, which would be more than offset by fuel savings resulting from the standards.

The Department of Energy has provided comments on this notice, in accordance with 15 U.S.C. 2002(i). Those comments have generally been incorporated herein.

NHTSA is providing a 30-ay comment period for interested parties to present data, views, and arguments on the proposed range of standards. A longer comment period is not being provided due to the imminence of the statutory deadline for issuance of the 1986 standards. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidently inormation, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested prsons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 533

Energy conservation, Gasoline, Imports, Motor vehicles.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 49 CFR 1.50)

Issued on March 5, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84–6260 Filed 3–7–81 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 49, No. 47
Thursday, March 8, 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

Soil Conservation Service

Boxley Bridge Critical Area Treatment RC&D Measure, Indiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317–248–4350.

SUPPLEMENTARY INFORMATION: 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 Boxley Bridge Critical Area Treatment RC&D Measure, Hamilton County, Indiana.

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, Robert L. Eddleman, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns streambank and gully erosion control. The planned works of improvement include the installation of two grade stabilization structures, 150 feet of channel realignment with stone rip-rap and seeding of the streambanks and disturbed areas in the amount of one acre.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert L. Eddleman. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

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 if applicable)

Dated: February 27, 1984.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 84–6209 Filed 3–7–84; 8:45 am]

BILLING CODE 3410–16–M

Jimmy Nash City Park Critical Area Treatment RC&D Measure, Indiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317–248–4350.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Evironmental Policy Act of 1969; the Council of 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 Jimmy Nash City Park Critical Area Treatment RC&D Measure, Morgan County, Indiana.

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, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns controlling soil erosion on three critical areas within the Jimmy Nash City Park and enhancing the use of a pond area and hiking trails. The planned works of improvement include critical area planting and the installation of woodchips and steps along trails in three heavy use areas. Approximately one and one half acres will be seeded to grass.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert L. Eddleman. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

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: February 27, 1984.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 84–6210 Filed 3–7–84; 8:45 am]

BILLING CODE 3410–16–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

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 (the last portion of this meeting will be closed to non-Federal employees due to discretionary fund discussion) on Tuesday, March 13, 1984, to take place at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Rooms 303 A-337A, Washington, D.C. Items to be discussed: election of a Vice Chairperson, and possible election of an Executive Committee member; draft Uniform Federal Accessibility Standard (UFAS); proposed 504 Regulation for ATBCB; options to address barriers to air travel by handicapped persons (closed session).

The meeting will be closed to the public during discussion of the last agenda item due to the sensitivity of Federal funds discussion.

DATE: March 13, 1984—1:00 PM–5:00 PM.

ADDRESS: 200 Independence Avenue, SW., Rooms 303A–337A, 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, March 12, and Tuesday morning, March 13, in the Hubert Humphrey Building. Contact Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD), for further information.

Robert M. Johnson,

Executive Director.

[FR Doc. 84-6207 Filed 3-7-84; 8:45 am]

BILLING CODE 6820-BP-M

CIVIL RIGHTS COMMISSION

Delaware Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission will convene at 2:45 p.m. and will end at 5:00 p.m., on March 28, 1984, at Wilmington, Delaware (FR Doc. 84–5781 on page 8053, appeared without a date).

All other details remain the same.

Dated at Washington, D.C., March 5, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-6259 Filed 3-7-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-402]

Certain Carbon Steel Products From Spain; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether certain carbon steel products from Spain are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of these actions so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before March 26, 1984, and we will make ours on or before July 19, 1984.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Lim, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377–1776.

SUPPLEMENTARY INFORMATION:

The Petition

On February 10, 1984, we received a petition from counsel for the United States Steel Corporation on behalf of the U.S. industry producing certain carbon steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of certain carbon steel products from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring a United States industry. The allegation of sales at less than fair value of this merchandise from Spain is supported by comparisons of the estimated Spanish home market prices derived from published price lists, with the various average f.a.s. Spain port value of these products imported into the United States (as provided by U.S. Department of Commerce statistics). Petitioner also alleges that these products are also being sold in their European home market at prices which are less that the cost of production.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain carbon steel products and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether certain carbon steel products from Spain are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by July 19, 1984.

Scope of Investigations

The products covered by these investigations are: carbon steel structural shapes, carbon steel plate, cold-rolled carbon steel sheet, hot-rolled carbon steel sheet (plate in coils) and galvanized carbon steel sheet. For a further description of these products, see the Appendix of this notice.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all non-privileged and non-confidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by March 26, 1984, whether there is a reasonable indication that imports of certain carbon steel products from Spain are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise,

they will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 29, 1984.

Appendix—Description of Products

For purposes of these investigations:

1. The term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2, Subpart B of the *Tariff Schedules of the United States Annotated ("TSUSA")*, for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the *TSUSA*, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes.

2. The term *"carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620 and 607.6625 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

3. The term *"hot-rolled carbon steel sheet"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; in coils; as currently provided for in item 607.6610 of the *TSUSA*.

4. The term *"cold-rolled carbon steel flat rolled products"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel flat-rolled products are flat-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 or more in thickness; as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness whether or not in coils; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA*.

5. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which have been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320, or 608.1330, of the *TSUSA*. Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc not included.

[FR Doc. 84-6294 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

Harvard University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-350. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Patch Clamp System, Model "L/M-EPC-7". Manufacturer: List Electonics, West Germany. Intended use: See notice at 48 FR 53589.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (June 10, 1982).

Reasons: The foreign instrument provides a minimal guaranteed electrical noise level (0.05 picoamperes, RMS, at 100 hertz). The National Institutes of Health advises in its memorandum dated January 12, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-6214 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

Harvard University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket No. 83-210. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Diamond Testing Apparatus (identified as Hydrauldische Pomp plus Vijzel). Manufacturer: University of Amsterdam, The Netherlands. Intended use: See notice at 48 FR 28119.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can apply and measure stress to diamonds up to the point of rupture. The National Bureau of Standards advises in its memorandum dated February 14, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-6215 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket No.: 83–352. Applicant: The National Bureau of Standards, Washington, D.C. 20234. Instrument: Superconducting Magnet System and accessories. Manufacturer: Thor Cryogenic Ltd., United Kingdom. Intended use: See notice at 48 FR 56094.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a homogeneous and stable magnetic field (15 tesla) in persistent current mode with minimal electrical and mechanical noise and flux changes. The National Institutes of Health advises in its memorandum dated January 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-6213 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-010]

Certain Stainless Steel Sheet and Strip Products From France; Early Determination of Antidumping Duty

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of early determination of antidumping duty.

SUMMARY: The Department of Commerce has conducted an early determination of the antidumping duty to be assessed upon imports of certain stainless steel sheet and strip products manufactured by Union Siderurgique du Nord et de l'Est de la France ("Usinor") and entered, or withdrawn from warehouse, for consumption from December 9, 1982 through June 13, 1983. The determination will also be the basis for the cash deposit of estimated antidumping duties on future entries of such merchandise from Usinor.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Gallas, Maureen Flannery, or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On June 22, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28520) an antidumping duty order on certain stainless steel sheet and strip products ("sheet and strip") from France. In accordance with the order, the Department directed Customs officers to require a cash deposit of estimated antidumping duties on entries of the merchandise pending liquidation.

On June 21, 1983, Usinor requested that the Department waive the cash deposit requirement and make an early determination of antidumping duty. On July 11, 1983, we announced in the **Federal Register** (48 FR 31687–8) that, in accordance with section 736(c) of the Tariff Act of 1930 ("the Tariff Act"), we would determine the foreign market values and United States prices for shipments of certain French stainless steel sheet and strip products manufactured by Usinor and entered from the date of our preliminary affirmative determination of sales at less than fair value to the date of the International Trade Commission's final affirmative injury determination. We waived the cash deposit of estimated antidumping duties pending the early determination of duty. Effective September 20, 1983, the waiver has terminated. We have now completed the section 736(c) determination.

Scope of the Determination

Imports covered by the determination are shipments of certain stainless steel sheet and strip products manufactured by Usinor and currently classifiable under items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated. Usinor made no sales of hot-rolled sheet and strip during the period of the fair value investigation or during the period of the section 736(c) review. We are applying the weighted-average margin determined for cold-rolled sheet to both hot- and cold-rolled sheet, and the weighted-average margin determined for cold-rolled strip to both hot- and cold-rolled strip.

Wer investigated all imports of such stainless steel sheet and strip products manufactured by Usinor and entered, or withdrawn from warehouse, for consumption during the period December 9, 1982 through June 13, 1983.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. packed price to an unrelated purchaser in the United States. Where applicable, we made deductions for foreign inland freight. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the home market price, in accordance with section 773 of the Tariff Act. Our determination of similar merchandise under section 771(16) of the Tariff Act was based upon a comparison of grades, surface finishes, gauges, and widths. The petitioner alleged that sales in the home market were below the cost of production. We therefore examined production costs, and found sufficient sales of sheet and strip made at or above the cost of production to enable us to make price-to-price comparisons in all cases.

Home market price was based on the delievered, packed price to unrelated purchasers. We made deductions, where applicable, for inland freight. We also made adjustments for differences in credit costs, direct selling expenses, commissions paid to unrelated parties, packing costs, rebates, and warranty expenses. We corrected data pertaining to credit cost differences in accordance with information obtained during our on-site verification. In addition, we made adjustments for differences in the physical characteristics of the merchandise.

We disallowed claimed adjustments for sales division administrative expenses, technical services expenses, interest expenses on the value added tax on home market sales, higher administrative expenses for smaller quantity sales (including a sales tax of one percent and dues to IRSID), and quality control/testing because these claimed adjustments were either inadequately quantified, unsupported at the on-site verification, or not directly related to the sales used for comparison

purposes. No other deductions or adjustments were claimed or allowed.

Analysis of Comments Received

We gave interested parties an opportunity to submit written comments or request a hearing on the preliminary results. At the request of the petitioners, 11 United States specialty steel producers and the United Steelworkers of America, the Department held a public hearing on August 31, 1983.

Comment 1: The petitioners contend that a footnote to the sample calculations provided at disclosure, indicating that packing for the U.S. market was less expensive than that for the French market, contradicted the Department's treatment of the packing ajustment in those calculations. They also argue that packing costs should be adjusted to reflect actual packing used on an order-by-order basis.

Department's Position: There is no such contradiction. The sample calculations to which the petitioners refer are for strip, while the footnote applies to cut-to-length sheets and blanks. For sheets in coil and for strip, packing costs for the U.S. market are greater than those for the French market; for cut-to-length sheets and blanks, packing for the French market is more expensive. We verified actual packing costs and determined that the allocation method was reasonable.

Comment 2: The petitioners contend that the coefficients of correction used by Usinor to bring estimated inland foreign expenses for U.S. and home maket sales into line with actual expenses are implausible. The smaller coefficient for U.S. sales implies that Usinor was less accurate in estimating shipping costs for sales to the U.S., which involved a constant distance, than in estimating shipping costs for home market sales, which involved a variety of distances.

Department's Position: During verification we checked acutal costs shown on freight invoices against budgeted freight costs shown on sales invoices, and examined home market freight charges shown in Usinor's ledgers. We are satisfied that the coefficients of correction skew to Usinor's disfavor the amounts claimed as deductions for inland freight in the two markets.

Comment 3: The petitioners contend that Usinor justifies its higher warranty expenses in the home market by alleging that lesser quality material is accepted by U.S. purchasers, contradicting Usinor's recent argument before the International Trade Commission ("ITC") that French products were of higher quality than products manufactured in the U.S. They also contend that it is implausible that higher warranty expenses should be incurred in the home market if products sold in that market are of higher quality and more thoroughly inspected than those sold to the U.S.

Department's Position: We find no statement in Usinor's response that links higher warrantly expenses in the home market with an assertion that Usinor goods sold in the home market are of higher quality than those sold to the U.S.; furthermore, even if Usinor had made such an assertion, it would not be inconsistent with the cited remarks before the ITC.

We did examine samples of credit issuances to customers to verify warranty expenses.

Comment 4: The petitioners point out that, with regard to Usinor's claimed credit adjustment for 1982 and 1983 U.S. sales, the terms of payment are not the same as those specified in a 1977 contract between Usinor and its agent for sales to the U.S. The Department discovered during verification that the longer terms of payment specified in the 1977 contract were in effect for sales made in 1983, and accordingly changed the adjustment allowed for the differential between credit expenses in the home and U.S. markets; the petitioners argue that it appears from the contract that these longer terms of credit were also in effect during 1982.

The respondent claims that the 1977 contract was amended shortly after its signing to provide for the shorter payment terms upon which Usinor's claimed 1982 credit adjustment is based, but that this amendment was an informal one made by telephone and probably could not be documented. Usinor contends that a later amendment changed payment terms for 1983 sales so that they were in agreement with the longer terms specified in the original contract.

Department's Position: Upon reexamination of materials obtained during verification, we have concluded that there is no reason to believe that the claimed shorter terms of sale were in fact given for the majority of 1982 sales to the U.S. Therefore, we have changed the allowed adjustment for the credit expenses differential for 1982 sales.

Comment 5: The petitioners contend that pricing regulations of the European Community ("EC") define the ordinary course of trade in the French market, and that adjustments for rebates or other price adjustments not authorized by the EC regulations should not be allowed.

The respondent contends that all rebates and discounts given were authorized under special provisions of the EC guidelines.

Department's Position: EC pricing regulations and price lists do not define the ordinary course of trade. In its review the Department considered the actual prices and adjustments to prices for individual home market transactions, and is not concerned with adherence to EC pricing regulations. We have verified adjustments for rebates and discounts and are satisfied that they are in the ordinary course of trade.

Comment 6: The petitioners contend that the commission paid by Usinor to its agent for home market sales should not be allowd as an adjustment because both Usinor and the company which owns that agent are owned by the Government of France. The petitioners further argue that, since Usinor and that company engage in joint venture production, they cannot be considered arms-length enterprises.

Department's Position: Usinor and the company which owns its agent for home market sales appear to be separate operating entities, and without direct government intervention in company management. Absent evidence to the contrary, we consider transactions between Usinor and its agent to be arms-length transactions.

Comment 7: The petitioners contend that Usinor erred in allocating on the basis of tonnage the sales tax portion of the adjustment for higher administrative expenses stemming from smaller quantity home market sales. They also argue that apparently Usinor provided no documentation beyond the questionnaire response in support of the claimed adjustment.

Department's Position: Usinor improperly allocated the sales tax to each individual sale on the basis of total number of sales rather than on the basis of sales value. We did not allow this adjustment.

Comment 8: The petitioners contend that dues paid to IRSID, the French institute for steel research, constitute a general expense unrelated to the sales in question, and even if so related, should not be allowed because they contain an element of countervailable subsidy. They also argue that the dues would probably affect exports as well as home market sales.

Department's Position: Dues to IRSID, although claimed as an adjustment to U.S. as well as home market sales, were improperly allocated to each individual sale on the basis of total number of sales. If properly allocated, there would be no difference between sales to the U.S. and to the home market because

the dues are charged on a per ton basis. We disallowed the adjustment.

Comment 9: The petitioners contend that Usinor's dues to the French association of specialty steel producers, SPAS, should not be considered an "indirect" selling expense on home market sales because Usinor's response indicates that SPAS performs a function that is primarily statistical, and therefore not classifiable as a selling function. They allege that SPAS also functions as a legal defense fund for unfair trade cases involving French producers, and thus dues to SPAS should not be allowed as a selling expense at all.

Department's Position: Statistical functions are generally not related to specific sales, and thus not allowable as a circumstance-of-sale adjustment. In this case, however, there is a direct link between individual sales and dues paid to SPAS, since such dues are based upon tonnage sold. Furthermore, Usinor was charged SPAS dues on both home market and U.S. sales, at the same per ton rate, and thus the differential between home market and U.S. sales for these dues was zero. We therefore made no adjustment to foreign market value.

Comment 10: The petitioners argue that Usinor provided no information on actual changes in selling prices resulting from further processing beyond that for the standard stainless steel forming the basis of the price lists, and hence no adjustment for the additional costs of such processing should be allowed. They similarly contend that, without a documented link between price and cost savings for a steel that underwent less costly processing than did standard steel, no adjustment based upon cost savings should be allowed.

Department's Position: The U.S. Court of Appeals for the Federal Circuit has determined that, within limited constraints, the Department may be guided by differences in costs of production in determining differences in physical characteristics. (See Smith Corona Group, Consumer Products Division, SCM Corporation v. United States, 1 CAFC —, (Appeal No. 82–24, August 9, 1983).) For the claimed differences in physical characteristics, we verified that Usinor did incur the claimed costs for those differences. Further, for special coating claimed for adjustment, we verified that there were not only costs to Usinor but also additional charges to the customer.

Comment 11: The petitioners contend that the component of the claimed adjustment for customer inspection before delivery (one of the "majorations") that corresponds to the entertainment of customer representatives at Usinor facilities should not be granted. In addition, they argue that customer inspection is not enumerated as an extra in Usinor's price list.

Department's Position: The expense for inspection before delivery, including the customer entertainment component, is directly related to specific sales and thus is allowable as a circumstance-of-sale adjustment. The Department in allowing the claim is not constrained by the presence or absence of a claimed adjustment on a company price list.

Comment 12: The petitioners argue that adjustments for "cost savings" ("minorations") in producing for U.S. sales of "less expensive" widths and thicknesses than in the home market should not be allowed because it is doubtful that U.S. standard width and thickness would be less expensive for Usinor to produce than would French standard material.

Department's Position: We allowed the claimed minoration for certain widths and thicknesses sold in the U.S., as an adjustment to foreign market value, because we verified the existence of the cost savings and that it was directly related to those sales in the U.S. We also learned during the verification that, in the narrative portion of its questionnaire response, Usinor mistakenly classified the adjustment for special thickness as a minoration rather than a majoration; such special thickness resulted in additional costs on both U.S. and home market sales, and the Department took the differential between those costs as an adjustment to foreign market value.

Comment 13: The petitioners contend that when computing cost of production and constructed value, the Department should include an amount for the subsidies on sheet and strip received by Usinor from the French government. Usinor believes that such an action by the Department would be improper.

Department's Position: The issue is moot because we did not find an effect on cost during our review. Accordingly, we need not address the issue.

Comment 14: In the petitioner's pre-hearing brief and at the hearing, they contended that raw material (scrap and alloying elements) costs were understated, having been based on the market value of the weight of the individual alloying elements contained in a finished metric ton of product without accounting for waste from the manufacturing process. They also contended that we double-counted scrap credits. In the petitioners' post-hearing brief, they concluded that we did take account of certain yield factors, but that the factors, particularly the yield at the slab stage, are overstated, resulting in an understatement of raw material costs.

Department's Position: The petitioners' submitted information on optimal yields, supported by an independent engineering firm study, presents a strong argument against Usinor's claimed figures. Nonetheless, at verification we reviewed Usinor's standard cost specification sheets for particular ferritic and austenitic grades which contained a detailed bill of materials listing the metallic and mineral inputs. We also examined the general ledger, monthly purchase journal, material budgets, company worksheets and vendor invoices supporting the major standard and actual cost of inputs.

The company's final overall yield of approximately 65 percent (not the 70 percent alleged by the petitioners) is comparable to the 60 percent figure cited by the domestic industry for their operations.

We considered all relevant yield factors in determining cost. Hence, contrary to the petitioners' assertion in the pre-hearing brief that we looked at a finished metric ton of product without accounting for waste from the manufacturing process, we actually priced the total waste of the individual alloying elements necessary to yield a finished metric ton of product at the end of the manufacturing process. Further, the value of scrap is counted as a reduction of cost because scrap can be added back into the furnace as raw material.

Comment 15: The petitioners contend that processing charges to Usinor by related facilities, such as the Solmer hot-rolling mill, may be understated, which Usinor denies.

Department's Position: We were unable to verify the processing charges performed at the Solmer and Carlam hot-rolling mills. As a result, we used the best information available to determine the costs associated with these processing charges.

Comment 16: The petitioners contend that power costs are understated in the Department's calculation of cost of production, which the respondent denies.

Department's Position: At the on-site verification we examined actual monthly utility bills and calculated a per-ton power charge, and used that figure in our cost of production calculations.

Comment 17: The petitioners contend that the costs of direct labor are understated in the calculated cost of production.

Department's Position: At the on-site verification we did determine that the standard rates used in preparing Usinor's response were understated by 15 percent. For each transformation (manufacturing) process where a labor component was involved, we adjusted the reported cost upward to reflect actual rates.

Comment 18: The petitioners contend that the Department should not grant a "cost adjustment" based on differences in yields on home market versus export sales.

Department's Position: We made no such adjustment.

Comment 19: The petitioners contend that financing costs are understated because of government subsidization of interest rates, which the respondent denies.

Department's Position: Usinor's reported interest expense for the stainless steel division reflected only long-term debt. We therefore allocated to stainless steel a portion of overall short-term debt in determining the cost of financing for our calculation of the cost of production. See Comment 31. With regard to government subsidies, see Comment 13.

Comment 20: The petitioners contend that the Department correctly added back in factory overhead costs omitted by the company, and properly increased general and administrative expenses by those expenses for the headquarters and divisions, but improperly allocated on the basis of tonnage in both instances.

Department's Position: After disclosure, we found that factory overhead costs thought to be omitted by the company were already included in our cost calculations in the category of factory overhead. We therefore removed them in the final analysis to prevent double counting. As for the allocation methodology of the originally claimed factory overhead and the general and administrative expenses, the allocation was not based on tonnage but on value. After allocating to stainless steel sheet and strip on the basis of value, we divided by tonnage of stainless steel sheet and strip to derive a per ton figure.

Comment 21: The petitioners contend that depreciation may be understated and misallocated, stressing the vagueness of Usinor's questionnaire response with regard to depreciation.

Department's Position: At verification, we reconciled fixed assets and depreciation expenses detailed in the submission with the company's audited financial statements (the G.I.E. and Chatillon statements). We verified the reported useful life of machinery and equipment from Usinor's accounting policy and procedures manual.

Comment 22: The petitioners contend that the company's profit information in its questionnaire response if contradictory and casts doubt on the cost of production calculations.

Department's Position: Where certain elements of the cost of production questionnaire response were inaccurate, we made appropriate correcting adjustments to the cost of production calculations, based on data substantiated during our on-site verification.

Comment 23: The petitioners contend that, in calculating cost of production, the Department erred in allocating "indirect selling expenses" on the basis of forecast production tonnage or on tonnage at all. The expenses include commissions, brokerage charges, credit insurance, and freight. None were included in the company's reported standard cost.

Department's Position: To allocate these expenses, more properly termed "direct selling expenses," we used sales value to allocate commissions, brokerage charges, and credit insurance. For freight however, we used for allocation forecast production tonnage. Weight or space, not value, are the appropriate allocation factors for freight. We first looked at 1982 actual production tonnage which was very close to the production forecast for 1982. We then looked at production reports for the first five months of 1983, in which the actual tons produced approximated the forecasts. Since complete 1983 tonnage figures were unavailable, we felt it appropriate to use forecast 1983 tonnage as best information available for freight.

Comment 24: Usinor argues that freight figures for home market sales were submitted on a per ton basis, and that the Department therefore erred when, in its preliminary analysis, it divided the figures submitted by tonnage to arrive at the deduction allowed for home market freight.

Department's Position: The respondent is correct. We have amended our analysis accordingly.

Comment 25: Usinor argues that the adjustment claimed during the fair value investigation for the value added tax was based on the interest on the VAT paid by Usinor on the company's raw material purchases, from the date of purchase of those raw materials to the date of payment by Usinor's customers of the VAT on the finished product; on the other hand, the adjustment now claimed is for the interest on the VAT from the date Usinor remits to the French government the tax on the finished product attributable to a particular sale to the date of reimbursement by the customer. The respondent contends that, unlike the claim during the fair value investigation, the amounts now claimed are associated with specific sales and should be allowed as an adjustment for credit expense.

Department's Position: Without further elaboration of the mechanics of the payments and the need to pay the VAT in advance of the customer's payment to Usinor for the merchandise, we continue to disallow this claim.

Comment 26: The respondent argues that the claimed adjustment for higher administrative costs due to smaller quantity sales in the home market should be allowed because these expenses were directly related and specifically attributable to sales of stainless steel sheet and strip. Usinor further argues that the transaction-by-transaction allocation of these expenses results in a more precise calculation of the adjustment than would an allocation based on averages. Third, the respondent charges that the Department erred during the fair value investigation when it concluded that tonnages sold in the home market and in the U.S. were similar; Usinor asserts that tonnages are generally much lower for home market sales.

Department's Position: Usinor has claimed three types of adjustments under the rubric of "higher administrative costs due to smaller quantity sales": (1) Overhead expenses for invoicing, accounting and booking, order processing, control of customer credit, and computer processing: (2) a one percent tax on sales; and (3) dues to IRSID (assessed on the basis of tonnage sold). With regard to the overhead expenses, these are indirect selling expenses not directly relatable to sales of the covered merchandise, for which the Department does not allow adjustments. With regard to those that are relatable (i.e., the sales tax and the dues to IRSID), Usinor first allocated those expenses to each individual sale on the basis of total number of sales for the year (allocating actual aggregate figures for 1982, and budgeted amounts for 1983) and then calculated a per-ton figure for each sale. This method of allocation is improper for a sales tax, which should have been allocated on the basis of value, and for dues assessed on a per ton basis, since neither of these expenses were affected by number of sales.

The Department agrees and has verified that tonnages are generally much lower for home market sales than they are for U.S. sales; nonetheless the figures which Usinor would have us

divide by the tonnages of individual sales were themselves improperly derived, and thus this difference in tonnages is irrelevant.

Comment 27: The respondent argues that, for differences in grades of merchandise sold in the home market and in the U.S., the Department may have mistakenly calculated adjustments for similar merchandise in addition to, rather than as substitutions for, the submitted category 99 majoration and category 98 minoration adjustments. As a result, these adjustments may have been double-counted.

Department's Position: One type of majoration (category 99) and one type of minoration (category 98) submitted by Usinor accounted for the differences in grade, gauge, and width between merchandise sold in the U.S. and that sold in the home market. The Department did not follow Usinor's choices for similar merchandise, but rather made selections based on grade, gauge, width, and surface finish and then made physical differences adjustments. In our preliminary analysis we neglected, however, to eliminate the submitted categories 99 and 98 majorations and minorations and the surface finish majorations and minorations. We have amended our analysis to eliminate the double-counting of these adjustments.

Comment 28: The respondent contends that the Department's selection of similar home market merchandise for comparison with U.S. sales of stainless steel strip of Grade 3170 was not a selection of "most similar" merchandise.

It argues that in choosing similar merchandise, differences in coating should be considered. The Department's failure to consider such differences resulted in a comparison between seven sales of non-coated strip, totalling twenty tons, in the U.S. market, with one 3-ton sale of coated strip in the home market.

The respondent further contends that if the foreign market value can legally be based on the home market sales selected by the Department, then the Department should make an adjustment for differences in the physical characteristics of the merchandise based on differences in market value rather than on differences in cost.

Department's Position: In the respondent's questionnaire response, it originaly asked us to select similar merchandise based only on grade and dimensions. We made a more refined selection based on grade, gauge, width, and surface finish. Usinor now is asking us modify our choice of similar merchandise by considering coating when selecting matches. We are unable to consider this suggestion because of the lateness of its submission.

Comment 29: Subsequent to the Department's verification, Usinor alleged that we double-counted rent, telephone, and telex expenses in the calculation of cost of production.

Department's Position: The respondent's questionnaire response does not clarify this matter. We are disallowing this claim, because of its lateness.

Comment 30: The respondent alleges that freight and transportation charges should have been allocated based on tonnage, rather than on sales value.

Department's Position: We agree and have made the appropriate adjustment.

Comment 31: The respondent states that, when computing financing costs, the Department added to Usinor's long-term expenses the short-term financing expenses as well. However, part of the short-term financing expenses comes from the expense of the credit terms granted to customers and accounted for in the circumstance-of-sale adjustments. The Department therefore should make an appropriate reduction in the short-term financing expenses added to the cost of production.

Department's Position: When we make a comparison for purposes of sales below cost, we compare a fully absorbed cost of production that includes all long and short-term financing expenses. Therefore, it is inappropriate for comparison purposes to remove short-term expenses.

Comment 32: The respondent contends that, in our preliminary analysis of cost of production, we double-counted the preferential category discount.

Department's Position: Usinor provided in its submission a total figure for "customer category discount", which was a total of the "preferential category discount" and the "steel service center discount." The Department inadvertently used both the total and component figures in calculating the cost of production. We have now corrected this error.

Early Determination

As a result of our comparison of United States price to foreign market value, we determine that the weighted-average margins for certain French stainless steel sheet and strip products manufactured by Usinor and entered during the period December 9, 1982 through June 13, 1983 are as follows:

	Percent
Hot-rolled stainless steel sheet	1.11
Hot-rolled stainless steel strip	9.95
Cold-rolled stainless steel sheet	1.11
Cold-rolled stainless steel strip	9.95

The Department shall determine, and the Customs Service shall assess, antidumping duties on shipments of certain French stainless steel sheet and strip products manufactured by Usinor and entered, or withdrawn from warehouse, for consumption on or after December 9, 1982 through June 13, 1983. Individual differences between United States price and foreign market value may vary from the above percentages. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 1.11 percent for hot- and cold-rolled stainless steel sheet and 9.95 percent for hot- and cold-rolled stainless steel strip shall be required on shipments of certain French stainless steel sheet and strip products manufactured by Usinor and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this early determination. This deposit requirement shall remain in effect until publication of the final results of the next administrative review of Usinor. The Department intends to conduct the next administrative review of Usinor by the end of June 1985.

This early determination and notice are published pursusnt to section 736(c) of the Tariff Act (19 U.S.C. 1673e(c)) and § 353.49 of the Commerce Regulations (19 CFR 353.49).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-6188 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-070]

Kraft Condenser Paper From France; Preliminary Results of Administrative Review of Antidumping Finding and Intent To Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and intent to revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on kraft condenser

paper from France. The review covers the one known manufacturer and exporter of this merchandise to the United States, Paperteries Bollore, S.A., and the period September 1, 1982 through May 6, 1983. The review indicates the existence of no dumping margins during the period.

As a result of the review, the Department has preliminarily determined not to assess dumping duties on sales during the period.

The Department intends to revoke the finding. Interested parties are invited to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or John R. Kugelman, Office of Compliance, International Trade Administration. U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 45585–86) the final results of its last administrative review of the antidumping finding on kraft condenser paper from France (44 FR 54696, September 21, 1979) and announced its intent to conduct immediately the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80 percent or more by weight chemical sulphate or soda wood pulp based on total fiber content. This merchandise is currently classifiable under items 252.4000, 252.4200, and 252.3080 of the Tariff Schedules of the United States Annotated.

The review covers the one known manufacturer and exporter of French Kraft condenser paper to the United States, Papeteries Bollore, S.A., and the period September 1, 1982 through May 6, 1983.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as appropriate, as defined in section 772 of the Tariff Act. Purchase price and exporter's sales price were based on the delivered, duty paid, packed price to the first unrelated U.S. purchaser with deductions, where applicable, for ocean freight, insurance, foreign and U.S. inland freight, customs duties, clearance charges, and the U.S. subsidiary's selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered, packed price to unrelated purchasers with adjustments, where applicable, for foreign inland freight, differences in credit costs, packing costs, and in the physical characteristics of the merchandise. We also made an adjustment for indirect selling expenses to offset U.S. selling expenses for ESP calculations. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Intent To Revoke

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for Papeteries Bollore, S.A. for the period September 1, 1982 through May 6, 1983.

As a result of our review, we intend to revoke the finding on kraft condenser paper from France. Papeteries Bollore, S.A. made sales at not less than fair value or had only *de minimis* margins for at least a two-year period. In addition, this firm made no sales at less than fair value during the period September 1, 1982 through May 6, 1983, the date of our tentative determination to revoke.

As provided for in § 353.54(e) of the Commerce Regulations, Papeteries Bollore, S.A. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop which indicate that kraft condenser paper manufactured by Papeteries Bollore, S.A. and thereafter imported into the United States is being sold by Papeteries Bollore, S.A. at less than fair value. If this revocation is made final it will apply to all unliquidated entries of French kraft condenser paper entered, or withdrawn from warehouse, for consumption on or after May 6, 1983.

Interested parties may submit written comments on these preliminary results and intent to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess dumping duties on all appropriate entries.

This administrative review, intent to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

February 29, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–6186 Filed 3–7–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–003]

Stainless Clad Steel Plate From Japan; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping duty order.

SUMMARY: On August 19, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on stainless clad steel plate from Japan. The review covers the one known exporter of this merchandise to the United States and the period March 22, 1982 through July 31, 1982.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. At the request of the exporter, we held a public hearing on October 3, 1983.

As a result of our analysis of the comments received, and correction of certain mathematical errors, we have changed the weighted average margin for the exporter from that presented in the preliminary results.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Hampel or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923/1130.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 37682) the preliminary results of its administrative review of the antidumping duty order on stainless clad steel plate from Japan (47 FR 34718, August 6, 1982). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless clad steel plate, currently classifiable under item 607.94 of the Tariff Schedules of the United States. The product is a rectangular finished steel bonded to a substrata of carbon or low alloy steel. Depending on its intended use, stainless clad steel plate can be produced in various combinations of stainless and base materials, and in various other dimensions and qualities as specified by the customer. Stainless clad steel plate has many applications where the corrosive resistance of stainless steel and the higher design strength of carbon or alloy steel are required.

The review covers the one known exporter of Japanese stainless clad steel plate to the United States, Japan Steel Works, Ltd. ("JSW"), and the period March 22, 1982 through July 31, 1982.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of JSW, the Department held a public hearing on October 3, 1983.

Comment 1: JSW contends the Department's use of the term "best information available" in its notice of preliminary results is misleading in that it connotes use of data obtained from sources other than JSW and implies that JSW refused to supply certain information.

Department's Position: We used the term "best information available" with regard to Japanese inland freight and loading charges, credit expenses and cladding ratio adjustments to indicate that we had not used JSW's information as submitted in its questionnaire response. We found JSW's submitted information unverifiable and/or inaccurate. We rejected that information in favor of more reliable data obtained during verification. In our preliminary results, we specifically described the data as "gathered on-site." The only information used by the Department not emanating from JSW source documents was that relied upon "to develop a cost adjustment for differing thickness of plate." We plainly attributed the latter data to the petitioner in our preliminary results. In each instance, we find the term "best information available" to be appropriate.

Comment 2: JSW takes exception to our use of information provided by the petitioner to quantify differences in the physical characteristics of similar merchandise. JSW argues that such an adjustment is inappropriate because JSW does not consider it in setting prices, and, if necessary at all, the adjustment should be made on the basis of JSW's own costs rather than the petitioner's. JSW claimed no cost difference between the rolling of thicker or thinner plates.

Department's Position: JSW explained that it experienced no cost difference in producing one thickness of plate over another. We accept this statement in a per plate context. However, if rolling time (and cost) per plate is constant, it requires a greater number of thinner plates to equal a metric ton, and therefore rolling time (and cost) per metric ton varies with the thickness of the plate. Because we asked and were unable to obtain from JSW the company's own rolling costs, we relied upon the petitioner's information to reflect the impact of the differences in thickness of the merchandise.

Comment 3: JSW contends the Department erred in its selection of two home market sales as the most appropriate for comparison to sales to the United States because the Department selected transactions that occurred after the sales to the U.S. rather than prior to the U.S. sales.

Department's Position: The Department ordinarily examines home market sales in the 90 days preceding the sale to the United States, and if no acceptable transaction is found, we then look to sales during the 45 days following the transaction.

We rejected two home market sales occurring approximately two months prior to the U.S. sales for comparison purposes in favor of two home market sales that occurred approximately two weeks subsequent to the U.S. sales. We examined all factors surrounding the four home market sales and determined that the two home market sales made subsequent to the U.S. sales were more representative of "the foreign market value . . . as of the date of such purchase" (of the merchandise exported to the United States).

Comment 4: JSW also argues that for one of the two instances the subsequent home market sale is of merchandise less similar to the U.S. product than the prior home market sale.

Department's Position: We do consider quantifiable differences in the physical characteristics of merchandise in selecting an appropriate comparison transaction. When originally informed of our selection, however, JSW did not provide any data regarding differences in merchandise; rather, the firm stated that the difference in costs for the two products is minimal and no price adjustment is required.

Comment 5: JSW requests that certain mathematical errors in the preliminary results, disclosed to interested parties subsequent to publication of those results, be corrected.

Department's Position: We have corrected the weighted average margin for the double deduction of a loading charge from U.S. price and for an error in the averaging of individual transaction margins.

Comment 6: JSW contends that, for certain home market sales which occurred on the same date, the Department failed to account for all attributable freight and transportation charges when combining them to arrive at a single foreign market value for comparison purposes. In addition, JSW claims the Department applied certain freight charges to the wrong U.S. transactions when calculating U.S. price.

Department's Position: We have reviewed our calculations of freight and transportation charges and have, where appropriate, corrected them.

Comment 7: JSW contends that the denominator used in calculating a weighted average margin should not be the Department's calculated U.S. price, but rather, the gross selling price including all charges such as foreign inland freight.

Department's Position: We base the weighted average margin on the ratio of dumping liability to total U.S. price net of all adjustments provided for in section 772 of the Tariff Act of 1930 ("the Tariff Act"). To rely on gross selling price would inject distortions attributable solely to varying terms of sale, which have no bearing on the underlying dumping liability.

Comment 8: JSW proposes that the rate of cash deposit of estimated antidumping duties be based upon the ratio of dumping liability to the total entered value of the merchandise imported during the period of review. JSW argues that such an approach would better approximate the actual antidumping duties likely to be due on subsequent importations.

Department's Position: The entered value of merchandise is not necessarily determined by the manufacturer or seller of the merchandise, and not

always available from that respondent. Because the entered value does not affect our calculation of U.S. price or our determination of antidumping duties, we do not compile that information. We base the rate of cash deposit upon a company's weighted average margin (described above) because the information is available and may be applied consistently in every case. We find use of the weighted average margin to be adequate for purposes of setting cash deposits, because those deposits are meant to be no more than estimates.

Comment 9: JSW argues that the Department should make an adjustment to foreign market value for differences in credit terms, accounting not only for interest actually paid by JSW on the prepaid portion of a sale to the U.S., but also for the difference in costs the company would incur if it financed its U.S. and home market accounts receivable for the respective periods each is outstanding.

Department's Position: We agree. An adjustment to foreign market value for differences in credit terms, when a manufacturer experiences a shorter payment period in one market than in the other, is an appropriate allowance for a difference in the circumstances of sale. We have quantified the cost to the seller of extending such credit by applying the manufacturer's actual loan rate of interest for short-term borrowing to the sales amount for the period credit is extended. In this case, this represents the best indication of a seller's credit costs. To the extent that Policy Paper No. 46, "Credit Expense Adjustments" (July 27, 1982), takes a contrary position it is specifically overturned. The Department intends to revise that Policy Paper to reflect this decision.

Comment 10: JSW contends the Department's adjustment for direct selling expenses for the United States sales is improper, in that there were no such direct selling expenses.

Department's Position: With regard to selling expenses incurred directly upon sales of the merchandise to the United States, the Department received conflicting information from JSW. Our information indicates that some expense is incurred for technical assistance provided to the U.S. purchasers, but we have been unable to quantify this expense. As best information we relied upon an amount calculated by JSW for each U.S. transaction of stainless clad steel plate and transferred by JSW to its U.S. subsidiary "for services it renders in connection with the sale."

Final Results of the Review

Based on our analysis of the comments received and the correction of certain mathematical errors, we have changed the margin for JSW from that presented in our preliminary results of review. As a result of our review we determine the weighted average margin for JSW for the period March 22, 1982 through July 31, 1982 is 2.08 percent.

The Department intends to instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above.

Further, as provided for by § 353.48(b) of the Commerce Regulations, the Department intends to instruct the Customs Service to collect a cash deposit of estimated antidumping duties, based on the above margin, on all shipments of Japanese stainless clad steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publicaiton of this notice.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to immediately begin the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: February 29, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-6187 Filed 3-7-84; 8:45 am]
BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) North American Quilting Corporation, 241 Taaffe Place, Brooklyn, New York 11205, producer of quilted fabrics (accepted January 26, 1984); (2) Pohlman Foundry Company, Inc., 205 Baitz Avenue, Buffalo, New York 14206, producer of iron castings (accepted January 27, 1984); (3) Ajax Associated Companies, Inc., 36500 Van Born Road, Wayne, Michigan 48144, producer of steel gears, bearings and flanges (accepted January 27, 1984); Peter's Bag Corporation, Empire State Building, Suite 1111, New York, New York 10118, producer of luggage, tote bags, attaché cases and garment bags (accepted January 27, 1984); (5) San Juan Cement Company, Inc., GPO Box 2888, San Juan, Puerto Rico 00936, producer of cement (accepted January 30, 1984); (6) Marathon Steel Company, P.O. Box 6598, Phoenix, Arizona 85005, producer of reinforcing bar, structural steel and other steel products (accepted January 30, 1984); (7) Salisbury Manufacturing, Inc., P.O. Box 2275, Salisbury, Maryland 21801, producer of men's and women's shirts (accepted January 30, 1984); (8) Harthorn Enterprises, Inc., 409 E. Washington Boulevard, Los Angeles, California 90015, producer of men's and women's pants (accepted January 31, 1984); (9) Mercer Rubber Company, Inc., 115 Walnut Street, Philadelphia, Pennsylvania 19106, producer of rubber hose and sheet (accepted January 31, 1984); (10) Chein Industries, Inc., William Street, Burlington, New Jersey 08016, producer of metal containers and plastic toy drums (accepted January 31, 1984); (11) Sandy Mac Food Company, Inc., 9105 Burrough Dover Lane, Pennsauken, New Jersey 08110, processor of meat (accepted January 31, 1984); (12) Amusement Technology, Inc., 1200 Memorial Drive, Asbury Park, New Jersey 07712, producer of amusement rides (accepted January 31, 1984); (13) Garlock Bearings, Inc., 705 Mid-Atlantic Parkway, Thorofare, New Jersey 08086, producer of bearings (accepted January 31, 1984); (14) Radial Casting Corporation, 70 Pennsylvania Avenue, Kearny, New Jersey 07032, producer of aluminum and bronze castings (accepted January 31, 1984); (15) Alco Power, Inc., 100 Orchard Street, Auburn, New York 13021, producer of diesel engines and parts (accepted January 31, 1984); (16) Byrd Foods, Inc., P.O. Box 318, Parksley, Virginia 23421, producer of vegetables and peaches (accepted February 1, 1984); (17) U.S. Wire Rope Supply, Inc., 32295 Stephenson Highway, Madison Heights, Michigan 48071, producer of wire rope and steel chain (accepted February 1, 1984); (18) Warwood Tool Company, P.O. Box 6357, Wheeling, West Virginia 26003, producer of hand tools (accepted February 2, 1984); (19) Kohler and Campbell, Inc., P.O. Box 448, Granite Falls, North Carolina 28630, producer of pianos (accepted February 2, 1984); (20) Jolarn Textile Printing, Inc., 49 Junius Street, Brooklyn, New York 11212, producer of printed fabrics (accepted February 2, 1984); (21) Widmer's Wine Cellars, Inc., West Avenue, Naples, New York 14512, producer of wine (accepted February 3, 1984); (22) Bakery Equipment Service

Company, Inc., 1623 North San Marcos, San Antonio, Texas 78201, producer of bakery equipment (accepted February 3, 1984);
(23) New York State 1979 Vinifera Partners, South Roberts Road, Dunkirk, New York 14048, producer of wine (accepted February 3, 1984); (24) B–W Footwear Company, Inc., P.O. Box 70, Webster, Massachusetts 01570, producer of men's footwear (accepted February 3, 1984); (25) Middle Atlantic Textile, Inc., Star Route, Box 16C, Emporia, Virginia 23847, producer of children's dresses, skirts and tops (accepted February 3, 1984); (26) W. C. Smith, Inc., 4773 Tolbut Street, Philadelphia, Pennsylvania 19136, producer of candy making equipment (accepted February 6, 1984); (27) Sorting and Inspecting Systems, Inc., 1415 North Clinton Avenue, Rochester, New York 14621, producer of parts sorting, feeding, inspecting and assembly equipment (accepted February 7, 1984); (28) CompuMed, Inc., P.O. Box 750, Culver City, California 90230, producer of electrocardiogram equipment (accepted February 7, 1984); (29) Marquette Bolt and Rivet Company, 8201 South Wallace Street, Chicago, Illinois 60617, producer of industrial fasteners (accepted February 8, 1984); (30) Sherade Products Group, Orchard View Industrial Park, Spragueville Road, Esmond, Rhode Island 02917, producer of jewelry and jewelry findings (accepted February 8, 1984); (31) Lewis Food Processing Equipment, Inc., P.O. Box M, Wellington, Missouri 64097, producer of poultry processing equipment, conveyors and parts (accepted February 8, 1984); (32) Supreme Slipper Manufacturing Company, Inc., Hill Mill Building, Canal Street, Lewiston, Maine 04240, producer of men's, women's and children's footwear (accepted February 8, 1984); (33) City Beef Company of Bridgeport, Inc., P.O. Box 2006, Bridgeport, Connecticut 06608, processor of meat (accepted February 9, 1984); (34) Cushman Industries, Inc., 806 Windsor Street, Hartford, Connecticut 06102, producer of machine tool parts and accessories (accepted February 9, 1984); (35) Coastal Freezing, Inc., P.O. Drawer CC, Aransas Pass, Texas 78336, producer of seafood (accepted February 9, 1984); (36) Hamburg Broom Works, Inc., P.O. Box 27, Hamburg, Pennsylvania 19526, producer of brooms (accepted February 9, 1984); (37) Connors, Ferrelli & Dameshek, Inc., Nine Witcher Street, Lisbon, New Hampshire 03585, producer of women's footwear (accepted February 10, 1984); (38) Wilner Wood Products Company, Alpine Street, Norway, Maine 04268, producer of shoe components, furniture stock, lumber and wood residues (accepted February 10, 1984); (39) American Brush Company, Inc., 300 Manley Street, Brockton, Massachusetts 02401, producer of paint brushes and rollers, and accessories (accepted February 10, 1984); (40) Sterling Multi-Products, Inc., P.O. Box 127, Prophetstown, Illinois 61277, producer of medical instruments and restaurant equipment (accepted February 13, 1984); (41) Native Wood Products, Inc., P.O. Box 287, Ozark, Missouri 65721, producer of woodenware (accepted February 14, 1984); (42) Harbor Manufacturing Company, Inc., P.O. Box 145, Genoa, Ohio 43430, producer of die forgings (accepted February 14, 1984); (43) Brooks Foundry, Inc., 1712 E. Michigan Avenue, Albion, Michigan 49224, producer of iron castings (accepted February 14, 1984); (44) Four Star Corporation, 1800 W. Maple Road, Troy, Michigan 48084, producer of automotive stampings and trim (accepted February 14, 1984); (45) Kodiak Corporation, P.O. Box 137, Bessemer, Michigan 49911, producer of fishing rods (accepted February 15, 1984); (46) Aloha Candle Company, Inc., 46–178 Kahuhipa Street, Kaneohe, Hawaii 96744, producer of candles (accepted February 16, 1984); (47) Creative Decor, Inc., P.O. Box 127, Counce, Tennessee 38326, producer of wrought iron and wood housewares (accepted February 17, 1984); (48) J. E. Lindsay Corporation, 547 West Avenue, Rochester, New York 14611, producer of metal parts for office machines and medical equipment (accepted February 17, 1984); (49) Cee Bee Gee Bee Imports, Ltd., 463 Seventh Avenue, New York, New York 10018, producer of women's dresses, slacks and tops (accepted February 17, 1984); (50) Weldit Corporation, P.O. Box 696, Bellingham, Washington 98227, producer of structural steel and fishing boats (accepted February 17, 1984); and (51) Self-Powered Lighting, Inc., 8 Westchester Plaza, Elmsford, New York 10523, producer of light devices for signs and military equipment (accepted February 21, 1984).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. (93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 84–6218 Filed 3–7–84; 8:45 am]
BILLING CODE 3510–DR–M

Initiation of Antidumping Investigations—Certain Carbon Steel Products From Spain

Subject: Initiation of Antidumping Investigations—Certain Carbon Steel Products From Spain.

Petition

On February 10, 1984, we received a petition, filed in proper form, from counsel for United States Steel Corporation alleging that imports of certain carbon steel products from Spain are being sold in the United States at prices which are less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that imports of these products are materially injuring, or are threatening to materially injure, a United States industry.

Scope of the Investigations.

Based on our review of the petition, we have determined that there is sufficient evidence of sales at less than fair value and of material injury, or threat thereof, to an industry in the United States to warrant initiation of antidumping investigations with respect to all carbon steel products covered by the petition. These products are:

- Carbon Steel structural shapes
- Carbon Steel plate
- Cold-rolled carbon steel sheet
- Hot-rolled carbon steel sheet

• Galvanized carbon steel sheet

These products are fully described in the Appendix to the attached notice. Although the petition had listed one of the carbon steel products as "plate-in-coil," we consider this merchandise to be "hot-rolled carbon steel sheet" for reasons fully explained in the attached memorandum from our antidumping investigation of hot-rolled carbon steel sheet from Brazil.

Volume and Value of Imports

Statistical data from the Department's IM 145 compilations indicate the following trade volumes from Spain:

Year	Volume (NT)	CIF value ($1,000)
Carbon Steel Structural Shapes		
1981	238,075	95,244
1982	173,198	66,368
1983	124,624	30,121
Carbon Steel Plate		
1981	99,407	40,870
1982	75,791	25,848
1983	49,331	10,161
Hot-Rolled Carbon Steel Sheet		
1981	772	201
1982	148	35
1983	19,747	4,078
Cold-Rolled Carbon Steel Sheet		
1981	62,194	26,253
1982	48,057	20,439
1983	66,529	18,840
Galvanized Carbon Steel Sheet		
1981	18,585	9,557
1982	26,797	13,810
1983	68,391	23,366

U.S. Price and Foreign Market Value

Petitioner calculates weighted-average f.a.s. port of exit, monthly U.S. prices for various months during the period December 1982 through November 1983 from import statistics published by Census. These weighted-average prices are compared to home market prices derived from published price lists of Spanish producers. To take into account the time required for ocean transportation and delays in the Census compilation of statistical reports, petitioner has assumed a 60-day lag time between the date of exportation from Spain and the date of importation into the United States. For example the weighted-average f.a.s. port of exit price to the United States for March 1983 is compared to home market prices prevailing in January 1983 as shown in the following sample comparison used by the petitioner with respect to structural shapes:

U.S., price (March 83)	Home market price (January 1983)	Margin (percent)
$252	$325	29.0

Using the above methodology, petitioner calculates the following ranges of dumping margins:

Carbon steel structural shapes	18.5 to 29.0.
Carbon steel plate	42.9 to 63.2.
Hot-rolled carbon steel sheet	50.9 to 73.4.
Cold-rolled carbon steel sheet	26.7 to 46.7.
Galvanized carbon steel sheet	20.6 to 62.7.

We have compared the weighted-average U.S. starting prices calculated by petitioner with actual prices for this merchandise shown on customs entry documents and we have found them to be comparable.

Based on cost figures derived from financial statements filed by various Spanish producers of carbon steel products, petitioner also alleges that Spanish home market prices are below cost of production and must be disregarded in computing dumping margins. Using estimated constructed values as the basis for fair value comparisons, petitioner calculates the following ranges of dumping margins:

Carbon steel structural shapes	14.7 to 178.0.
Carbon steel plate [1]	41.3 to 86.9.
Cold-rolled carbon steel sheet	54.1 to 182.0.
Galvanized carbon steel sheet	39.6 to 199.5.

[1] This includes both carbon steel plate and plate in coils (which we consider to be a hot-rolled sheet product) because petitioner claims data to estimate unit costs of the two separate products is not available to them.

Recommendation

Based on a review of the petition, we recommend determining that there is sufficient evidence of sales at less than fair value and of material injury, or threat thereof, to an industry in the United States to warrant initiation of antidumping investigations of certain carbon steel products from Spain.

If you concur with our recommendation, there is attached for your signature a notice announcing the initiation of these antidumping investigations.

Concurrence:

Berniece A. Brown,

Assistant General Counsel for Import Administration.

Approved: Yes ✔ No

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-6302 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-25-M

[A-602-401]

Galvanized Carbon Steel Sheet From Australia; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether galvanized carbon steel sheet from Australia is being, or is likely to be, sold in the United States at less than fair value. We are notifying the U.S International Trade Commission (ITC) of this action so that it may determine whether imports of the merchandise are materially injuring, or threatening to materially injure, a U.S. industry. If our investigation proceeds normally, the ITC will make its preliminary determination on or before March 26, 1984, and we will make ours on or before July 19, 1984.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, 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) 377-3530.

SUPPLEMENTARY INFORMATION:

Petition

On February 10, 1984, we received a petition from counsel for the United States Steel Corporation on behalf on the U.S. industry producing galvanized carbon steel sheet. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Australia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673)(the Act), and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The allegation of sales at less than fair value of this merchandise from Australia is supported by comparisons of the estimated Australian home market prices derived from a published price list of one Australian producer, with average monthly f.a.s. Australian port values of this merchandise imported into the United States (as provided by U.S. Department of Commerce statistics).

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegation. We have examined the petition on galvanized carbon steel sheet and we have found that the petition meets those requirements. Therefore, we are initiating an antidumping investigation to determine whether galvanized carbon steel sheet from Australia is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, the ITC will make its preliminary determination by March 26, 1984, and we will make ours on or before July 19, 1984.

Scope of the Investigation

The product covered by this investigation is galvanized carbon steel sheet. The term "galvanized carbon steel sheet" covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for items 608.0730, 608.1310, 608.1320 or 608.1330 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc not included.

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-provileged and non-confidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 26, 1984, whether there is a reasonable indication that imports of galvanized carbon steel sheet from Australia are materially injuring, or threatening to materially injure, a U.S. industry. If that determination is negative, the investigation will terminate; otherwise, the investigation will proceed according to the statutory procedures.

Dated: March 1, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-6284 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

[C602-402]

Galvanized Carbon Steel Sheet From Australia; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet, as described in the "Scope of Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of the merchandise are materially injuring, or threatening to materially injure, a U.S. industry. If our investigation proceeds normally, the ITC will make its preliminary determination on or before March 26, 1984, and we will make ours on or before May 7, 1984.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, 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) 377-3530.

SUPPLEMENTARY INFORMATION:

Petition

On February 10, 1984, we received a petition filed on behalf of the U.S. industry producing galvanized carbon steel sheet. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Australia of carbon steel galvanized sheet receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (19 U.S.C. 1617) (the Act), and these imports are materially injuring, or threatening to materially injure, a U.S. industry.

Australia is considered a "country under the Agreement" within the meaning of section 701(b) of the Act, therefore, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel galvanized sheet and we have found that the petition meets those requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet, as described in the "Scope of Investigation" section of this notice, receive subsidies. If our investigation proceeds normally, we will make our preliminary determination by May 7, 1984.

Scope of the Investigation

The product covered by this investigation is galvanized carbon steel sheet. The term "galvanized carbon steel sheet" covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for items 608.0730, 608.1310, 608.1320 or 608.1330 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc not included.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in Australia of galvanized carbon steel sheet receive the following benefits which constitute subsidies:

- Export expansion grants
- Preferential loans
- Preferential taxation schemes
- Grants provided under the Steel Industry Plan
- Assistance from state governments under the:
- Victoria Decentralization Program
  - —Refund of land taxes
  - —Refund of payroll taxes
  - —Reimbursement for the cost of

transporting plant
—And machinery
—Grants for job creation
—Selling of Crown lands
—Reduction of rates from the State railroad
—Assistance to offset freight disabilities
—Uniform tariffs for electricity and refund of
—Capital costs to extend high voltage supply
—Preference scheme which provides grants of up to 5 percent of the contract amounts
—Long-term loans at concessional rates
- The Victorian Development Corporation—loans

The petitioner also alleges that the government of Australia provides subsidies to the steel industry by limiting steel imports, thus artificially raising domestic steel prices. We will not investigate these allegations because we do not view such practices to be subsidies. Many actions which governments may take may directly or indirectly prove beneficial to particular products or industries. As the courts have noted, not every such action properly can be viewed as a subsidy. (*See United States* v. *Zenith Radio Corp.*, 562, F.2d 1209 (C.C.P.A. 1971), *aff'd sub nom, Zenith Radio Corp.* v. *U.S.*, 437 U.S. 443 (1978)). It would, in our view, be an extreme and erroneous position to conclude that governmental action which in any way restricts imports of competing products necessarily subsidizes domestic industries producing such products.

Here, the allegations are not that the government has provided some specific monetary benefit upon the product in question (or something equivalent thereto) but that the product has been susidized by government restrictions, in the importation of competing products in the domestic market. While it may be true that in an abstract economic sense such import restrictions, in lessening competition in the domestic marketplace, do provide some benefits of at least a temporary nature to the domestic producers of the product, that is far from saying that such restrictions properly can be viewed as conferring a subsidy within the meaning of the countervailing duty law. To conclude even that petitioner has made a valid prima facie allegation would be tantamount to concluding that every time any government, including the U.S. government, through duties, quotas, or otherwise acts to restrict imports of a product competing with a domestically produced product, it necesssarily subsidizes. If so, all governments subsidize most products most of the time. Totally apart from the virtually impossible task of attempting to quantify such a benefit for countervailing duty purposes, the absurdity of such a proposition is self-evident and necessarily beyond the intent of the Congress in enacting the countervailing duty law.

Notification to ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information we used to arrive at this determination.

We will notify the ITC and make available to it all non-privileged and non-confidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 26, 1984, whether there is a reasonable indication that imports of galvanized carbon steel sheet from Australia are materially injuring, or threatening to materially injure, a U.S. industry. If that determination is negative, the investigation will terminate; otherwise, the investigation will proceed to conclusion.

Dated: March 1, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-6283 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Intent To Grant Exclusive Patent License; American Cyanamid Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to American Cyanamid Company, having a place of business at 1 Cyanamid Plaza, Wayne, New Jersey 07470 an exclusive right to manufacture, use, and sell products embodied in the invention, "Mild-cure formaldehyde-free durable press finishing of cotton textiles with glyoxal and glycols," U.S. Patent Application 6–526,752. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-6275 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Limit for Certain Man-Made Fiber Apparel From the Dominican Republic

March 5, 1984.

On December 6, 1983 a notice was published in the **Federal Register** (48 FR 54678) requesting public comment on bilateral textile consultations between the Governments of the United States and the Dominican Republic concerning women's, girls' and infants' man-made fiber suits in Category 644, produced or manufactured in the Dominican Republic.

The purpose of this notice is to announce that consultations concerning this category were held in January 1984. Inasmuch as a mutually satisfactory level was not agreed during these consultations, the United States Government has decided to control imports of apparel products in Category 644, produced or manufactured in the Dominican Republic, at the previously announced level of 22,807 dozen during the twelve-month period which began on November 30, 1983 and extends through November 29, 1984. In the event a different solution is agreed in consultations with the Government of the Dominican Republic, which are anticipated but are not yet scheduled, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was

published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

EFFECTIVE DATE: March 9, 1984.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 5, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 9, 1984 entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 644, produced or manufactured in the Dominican Republic and exported during the period which began on November 30, 1983 and extends through November 29, 1984 in excess of 22,807 dozen.[1]

Textile products in Category 644 which have been exported to the United States prior to November 30, 1983 shall not be subject to this directive.

Textile products in Category 644 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Dominican Republic and with respect to imports of man-made fiber textile products from the Dominican Republic has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-6280 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-25-M

[1]The limit has not been adjusted to reflect any imports exported after November 29, 1983.

Establishing a New Export Visa Requirement for Certain Wool Apparel Products Produced or Manufactured in the Hungarian People's Republic

March 5, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 15, 1984. For further information contact Gordana Slijepcevic, International Trade Specialist (202) 377–4212.

Background

Under the terms of the Bilateral Wool Textile Agreement of February 15 and 25, 1983 between the Governments of the United States and the Hungarian People's Republic, the two governments have exchanged letters establishing an export visa arrangement concerning wool textile products in Categories 433 (mens and boys' suit-type coats), 435 (coats), 443 (men's and boys' suits), 444 (women's, girls' and infants' suits), and 448 (women's girls' and infants trouser, slacks and shorts), produced or manufactured in Hungary and exported to the United States on and after April 15, 1984. Merchandise in these categories which has been exported before April 15, 1984, shall not be denied entry for lack of a visa.

A shipment shall be visaed by the placing of an original circular stamped marking (the visa) in blue ink on the front of the Customs invoice. Each visa will include its number and date of issuance and the signature of the issuing official. The visa will also state the correct categories and quantities in the shipment in applicable category units. However, if the quantity indicated on the export visa is more than that of the shipment, entry shall be permitted. A facsimile of the visa stamp is published as an enclosure to the letter to Customs which follows this notice.

The Government of the Hungarian People's Republic has authorized the following officials to issue export visas:

Peter Gador
Laszlo Glatz
Istvan Mohacsi
Ede Skiklai

Merchandise for the personal use of the importer, not for resale, does not require a visa, regardless of value.

Interested persons are advised to take all necessary steps to ensure that wool apparel in Categories 433, 435, 443, 444 and 448, produced or manufactured in Hungary which are to be entered into the United States for consumption, or withdrawn from warehouse for consumption on and after April 15, 1984, will meet the stated visa requirements.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 5, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
T3Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 15, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 433, 435, 443, 444, and 448, produced or manufactured in Hungary, and exported on and after April 15, 1984, for which the Government of the Hungarian People's Republic has not issued an appropriate export visa. Merchandise exported before April 15, 1984 shall not be denied entry for lack of a visa.

Wool apparel in Categories 433, 435, 443, 444 and 448, exported on and after April 15, 1984, shall be visaed with a circular stamped marking (the visa) in blue ink on the front of the Customs invoice. Each visa will include its number and date of issuance and the signature of the issuing official. The visa will also state the correct categories and quantities in the shipment in applicable category units, except that, if the quantity indicated on the visa is more than that of the merchandise, entry shall be permitted. The categories and quantities shall be those determined by the U.S. Customs Service. A facsimile of the visa stamp is enclosed.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments, produced or manufactured in Hungary and exported to the United States, notwithstanding the designated merchandise does not fulfill the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

Merchandise for the personal use of the importer, not for resale, does not require a visa, regardless of value.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Hungarian People's Republic and with respect to imports of wool textile products from Hungary have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Enclosure.



[FR Doc. 84-6282 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 637

March 5, 1984.

ACTION: On February 27, 1984 the Government of the United States requested consultations with the Government of Hong Kong with respect to Category 637 (man-made fiber playsuits). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawl from warehouse for consumption of textile products in Category 637, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984. The Government of the United States also reserves the right to control imports of this category at the established limit.

Any party wishing to comment or provide data or information regarding the treatment of Category 637 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this Category is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Adminstration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written requests.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements consider appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any request of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-6281 Filed 3-7-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Amendments Relating to the Crude Petroleum Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade has submitted a proposal to amend Regulations 3020.01, 3020.02, 3020.03 and 3026.08 for its crude petroleum futures contract. The CBT's proposal would delete two foreign crude streams from the list of foreign crudes deliverable on the contract, establish a 10 cent per barrel discount for delivery of the remaining four foreign crude streams, restrict delivery of foreign crudes to the last two weeks of the delivery month, delete the gravity adjustments for foreign crudes, and amend the payment requirements for futures delivery of both domestic and foreign crude petroleum. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before April 9, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., 20581. Reference should be made to CBT Regulations 3020.01, 3020.02, 3020.03 and 3026.08.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254-7303.

SUPPLEMENTARY INFORMATION: Currently, the Chicago Board of Trade ("CBT" or "Exchange" crude petroleum futures contract specifies six foreign crude oil stream designations as deliverable on the contract: Bonny Light, Brass River, Ekofisk, Qua Iboe, Saharan Blend and Zarzaitine. Under the Exchange's proposal, Saharan Blend and Zarzaitine would be deleted from the list of foreign crudes deliverable on the contract. Domestic production of Light Louisiana Sweet (LLS)would continue to

be deliverable in addition to the remaining four foreign crude oil streams.

The Exchange states that the proposed deletion of Saharan Blend and Zarzaitine is based on interviews with market participants. The Exchange maintains that, based on the available evidence, deleting the two crudes should have no significant effect on the deliverable supply of crude oil available for futures delivery and would remove a source of price bias towards these two discount crudes.

Current CBT crude petroleum regulations require payment for futures delivery of both domestic and foreign crude to be made by 2:00 p.m. on the business day following delivery of the seller's invoice to the buyer. The Exchange is proposing to require that payment for pipeline delivery of domestic crude be made on the twentieth calendar day of the month following the delivery month. For foreign crude oil and nonpipeline delivery of domestic crude oil, payment would be made by the tenth calendar day following the day discharge is completed. The Exchange states that the proposed payment provisions reflect prevailing industry practices.

Under current CBT crude petroleum regulations, each foreign crude stream may be delivered from the first through the last day of the delivery month. In addition, existing regulations establish a premium of twenty-five cents per barrel for delivery of Bonny Light, Brass River, Qua Iboe and Saharan Blend crudes. Ekofisk and Zarzaitine crudes are currently deliverable at par. The Exchange is proposing to restrict foreign crude deliveries to only on or after the sixteenth calendar day of the delivery month, through and including the last calendar day of the delivery month. Further, the Exchange is proposing a ten-cent per barrel discount below the contract price for foreign crude deliveries. No changes are proposed for the existing delivery period for LLS, and LLS would continue to be delivered at par.

Due to industry practices which result in differences in the timing of the issuance of invocies, the Exchange believes that existing regulations have created an incentive for shorts to deliver foreign crudes early against futures contracts, since foreign crude payment occurs earlier than payment for pipeline delivery of domestic crude. According to the Exchange, this has resulted in confusions and uncertainty about which type crude oil the contract is pricing, to the disadvantage of long hedgers. The Exchange maintains that because the futures contract premiums for foreign crude are sometimes larger then actual cash market differentials, the proposed amendments would reduce contract pricing uncertainty by making futures contract pricing practices more consistent with cash market practices. The Exchange further indicates that the proposed revisions are intended to ensure that the crude petroleum contract prices LLS crude oil, and therefore would improve the pricing and hedging functions of the contract.

The CBT crude petroleum contract currently specifies that both domestic and foreign crude petroleum with an API gravity of 35.0° are deliverable at par. For both domestic and foreign crudes, existing regulations provide for discount of 1.5 cents per barrel for each tenth of a degree of gravity from 34.9° to 34.5° API and 2.0 cents per barrel premium for each full degree of gravity, or fraction thereof, up to 40.0 ° API. Under the Exchange's proposal, price adjustments for gravity would continue to be made for delivery of domestic crude oil only. The revised regulations stipulate that no allowance for gravity would be made for delivery of foreign crude oil. The CBT submits that the deletion of the gravity adjustments for foreign crude would be in conformance with cash market practices. The Exchange states that, in the cash market, foreign crude trades are executed on a flat price basis.

The proposed amendments to the crude petroleum futures contract would become effective after Commission approval for all contract months subsequently listed by the Exchange for trading, but would not be applicable to currently listed months.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12((1982), the Commission has determined that the proposal submitted by the CBT concerning its crude petroleum futures contract is of major economic significance. Accordingly, the CBT's proposal will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Request for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by April 9, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on March 5, 1984.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 84-6279 Filed 3-7-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD-University Forum Working Group on Export Controls; Advisory Committee Meeting; Date Change

The following change has occurred for the meeting of the DoD-University Forum Working Group on Export Controls which was originally announced in the **Federal Register** issue of Thursday, March 1, 1984 (49 FR 7643) FR Doc. No. 84–5557: Date of meeting is March 22, 1984, from 10:00 until 4:00 p.m., 1 Dupont Circle, Washington, D.C. 20036 (instead of March 19, 1984, from 10:00 until 4:00 p.m.). Public attendees are requested to call Mr. Frank Sobieszczyk in the DoD Office of Research and Laboratory Management on Area Code 202/694–0205 to be advised of the meeting room number and seating accommodations before COB March 15, 1984 (instead of March 9, 1984).

Dated: March 2, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-6239 Filed 3-7-84; 8:45 am]

BILLING CODE 3810-01-M

Implementation of Sections 801 and 802 of the Fiscal Year 1984 Military Construction Authorizations (MILCON) Act

SUMMARY: The Office of the Deputy Assistant Secretary of Defense (Installations) (ODASD/I), is soliciting comments concerning its draft Requests for Proposals that would be used to implement Sections 801 and 802 of the

FY 1984 Military Construction Authorization Act (Pub. L. 98–115). These sections authorize the Department of Defense to enter into agreements for the leasing and rental guarantee of Military Family Housing units on or near military installations within the United States. This authorization is considered a test and will expire upon execution of contracts no later than 1 October 1985. Three different tests will be considered; leasing on government owned land; leasing on privately owned land; and rental guarantee on privately owned land. Pub. L. 98–115 limits the number of agreements the services may enter under Section 801 and 802 to two agreements per section per branch of service for a total of twelve. The sites presently under consideration are Camp Pendleton, CA; Ft. Ord, CA; San Diego, CA; Ft. Campbell, KY; Ft. Polk, LA; Earle NJ; Ft. Hood, TX; and Norfolk/Tidewater, VA. The other locations will be announced later. At this time a draft request for proposal implementing part of Section 801 is available.

DATE AND ADDRESS: Written comments should be submitted by April 23, 1984. Copies of the draft document may be requested for examination and comments, and information may be submitted to the Office of the Director of Construction, Deputy Assistant Secretary of Defense (Installations), Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Howard L. Metcalf, Office of the Director of Construction, Deputy Assistant Secretary of Defense (Installations), Pentagon, Washington, D.C. 20301. Telephone (AC 202 695–7006).

SUPPLEMENTARY INFORMATION: In accordance with Sections 801 and 802 of Pub. L. 98–115 the Department of Defense intends to enter into agreements to lease or guarantee the rental of privately owned housing units within the United States. These units must be newly constructed units, built to conform to Department of Defense specifications. In the case of Section 801 leasing, a lease agreement between the government and developer/owner not to exceed 20 years may be entered into. In the case of Section 802, an agreement guaranteeing up to 97% occupancy for a maximum period of fifteen years may be entered into with the government. Separate leases will be consummated between individuals and the developer/owner. Government-owned land will be considered, where available, for the leasing proposal only. The RFP for the particular area will specifically identify if government land is to be considered.

The government will select a developer to construct, lease and maintain family housing units at each location through a one step design and price competition. The procedures for submission of a proposal for consideration are contained in a Notice of Request for Proposals (RFP) which will be advertised for each project separately through the Commerce Business Daily (CBD).

The RFP contains the following:

Section	Time
I	Notice of Request for Proposals.
II	Design/Construction Criteria.
III	Technical Evaluation.
IV	Maintenance Standards.
V and VI	Lease Documents.

Following publication in the CBD, the developers will prepare and submit design proposals in accordance with design and construction criteria. Within 90 days of the date proposals are due, the Service will use the technical evaluation to evaluate and select a winning proposal. The winning proposal will be authorized for development of plans and specifications. Following completion of review and approval by the government, construction will be authorized if approved by the Congress and will then proceed to completion. Following acceptance, the Military Service will take possession and assign eligible families. The developer will operate and maintain the facilities for the term of the lease subject to the conditions of the lease documents and maintenance standards.

Pub. L. 98–115 also established a termination date. No agreement may be entered into after 1 October 1985. In order to meet this date the following tentative schedule of events has been established.

- Draft RFPs February/March 1984
- Comments from Private Sector—May/June 1984
- RFPs Available to be Advertised—July 1984
- Projects to Congress—January 1985
- Contracts executed—no later than 30 September 1985

Single copies of the draft document may be obtained by submitting a written request to the contact office listed obove in this notice. Suggested changes should be supported by rationale and background data.

Presently only the draft of the Request For Proposals (RFP) for leasing units on private land is available for review. Notice of the availability of other draft RFPs will be published in the **Federal Register** and copies will be available for examination and comment for the Office of the Director of Construction, Deputy Assistant Secretary of Defense (Installations), Pentagon, Washington, D.C. 20301.

Dated: March 5, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-6242 Filed 3-7-84; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 29 April-3 May 1984 at the Capitol Holiday Inn, Washington, D.C.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Sunday, 29 April 1984—Capitol Holiday Inn

11:00 a.m.–4:00 p.m.—Registration
12:00 noon–1:00 p.m.—Executive Committee Meeting
1:00 p.m.–2:00 p.m.—"Get Acquainted" Luncheon (DACOWITS Members Only)
2:30 p.m.–3:30 p.m.—Chair's Orientation and Procedural Session for DACOWITS Members
3:30 p.m.–5:30 p.m.—Overview of the Military Services for DACOWITS Members and Military Representatives
5:45 p.m.–7:00 p.m.—Subcommittee Meetings
7:00 p.m.–8:30 p.m.—"No-Host" Cocktail Buffet

Monday, 30 April 1984—Pentagon/Capitol Holiday Inn

8:00 a.m.–8:45 a.m.—Official Opening
9:00 a.m.–9:30 a.m.—Department of Defense Official Coffee
9:45 a.m.–11:30 a.m.—OSD/Service Briefings
12:00 noon–1:30 p.m.—Official Department of Defense Luncheon (By invitation only)
1:30 p.m.–3:45 p.m.—OSD/Service Briefings
4:00 p.m.–6:00 p.m.—Subcommittee Meetings

Tuesday, 1 May 1984

8:30 a.m.–3:30 p.m.—Field Trip Aboard the Coast Guard Cutter VIGILANT (By invitation only)
7:00 p.m.–10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Wednesday, 2 May 1984—Capitol Holiday Inn

10:30 a.m.–12:00 noon—OSD/Service Briefings
12:00 noon–1:30 p.m.—"No-Host" Luncheon

1:30 p.m.–3:30 p.m.—OSD/Service Briefings
3:30 p.m.–4:00 p.m.—Presentations by Members of the Public
4:00 p.m.–6:00 p.m.—Subcommittee Meetings

Thursday, 3 May 1984—Capitol Holiday Inn

8:00 a.m.–11:00 a.m.—General Business Session
11:00 a.m.–12:00 noon—Executive Committee Meeting—Adjourn

The following rules and regulations will govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to attend the Official Department of Defense Luncheon or Dinner.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Marilla J. Brown, USA, DACOWITS Executive Secretary, OASD (Manpower, Installations and Logistics), Room 3D769, the Pentagon, Washington, D.C. 20301, (202) 697–2122 by 19 April 1984.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 3:30 p.m. to 4:00 p.m. on Wednesday, 2 May 1984, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with a copy of the presentation or 60 copies of the statement by 19 April 1984.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Executive Secretary to consider, as feasible.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

(12) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee Meetings, or the Business Session on Thursday, 3 May 1984.

Additional information regarding the Committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MI&L), the Pentagon, Room 3D769, Washington, D.C. 20301, (202) 697–2122.

Dated: March 5, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-6241 Filed 3-7-84; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, Defense.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 122. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 122 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: March 1, 1984.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 122

To the Heads of the Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriated and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 121 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
*Anchorage	100.00
Atqasuk	215.00
*Barrow	139.00
*Bethel	136.00
Coldfoot	122.00
*College	100.00
*Cordova	124.00
Deadhorse	131.00
Dillingham	103.00
Dutch Harbor	92.00
*Eielson AFB	100.00
*Elmendorf	100.00
*Fairbanks	100.00
*Ft. Richardson	100.00
*Ft. Wainwright	100.00
*Juneau	109.00
Ketchikan	104.00
*Kodiak	115.00
*Kotzebue	118.00
*Murphy Dome	100.00
*Noatak	118.00
*Nome	103.00
*Noorvik	118.00
Petersburg	104.00
Point Hope	100.00
Prudhoe Bay	131.00
Shemya AFB [1]	12.75
*Shungnak	118.00
Sitka-Mt. Edgecombe	104.00
Skagway	104.00
*Spruce Cape	115.00
*St. Mary's	100.00
*Tanana	103.00
*Valdez	112.00
Wainwright	165.00

Locality	Maximum rate
Wrangell	104.00
*Yakutat	100.00
*All Other Localities	90.00
*American Samoa	91.00
Guam M.I.	74.00
Hawaii:	
Oahu	94.00
*All Other Localities	67.00
Johnston Atoll [2]	21.25
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
Carolina:	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
Fajardo (Including Luquillo):	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
Ft. Buchanan (Including GSA Service Center, Guaynabo):	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
Ponce (Including Ft. Allen NCS:)	72.00
Roosevelt Roads:	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
Sabana Seca:	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
San Juan (Including San Juan Coast Guard Units):	
Dec. 16 to May 15	124.00
May 16 to Dec. 15	99.00
All Other Localities	99.00
Virgin Islands of U.S.:	
Dec. 1 to Apr. 30	120.00
May 1 to Nov. 30	88.00
Wake Island [2]	20.00
All Other Localities	20.00

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Dated: March 2, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-6240 Filed 3-7-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent To Prepare a Joint Federal/State Draft Environmental Impact Statement for the Pacific Coast Molybdenum Company Project, Grays Harbor, Washington

AGENCY: U.S. Army Corps of Engineers, Seattle District (Federal Land), DOD.

ACTION: Preparation of a joint National Environmental Policy Act and State Environmental Policy Act draft Environmental Impact Statement (EIS) for the construction of refinery and transshipment facilities in Gray Harbor at Hoquiam, Washington. The purpose of the work is to provide wharf and barge loading facilities associated with a molybdenum refinery.

1. *Description of Actions:* The Pacific Coast Molybdenum Company has applied for a Section 10/404 permit to dredge approximately 54,000 cubic yards of material to create a barge slip with disposal of the dredged material on uplands. Approximately 4,000 cubic yards of gravel and sand will be placed on the bottom of the barge slip with 3,700 cubic yards of riprap on the side slopes of the slip. A 50- by 300-foot T-shaped wharf will be constructed with a 115- by 50-foot access to the main wharf. Two 19-pile dolphins will be installed near the wharf. An outfall structure will be constructed near the wharf with 60 cubic yards of rubble placed around the outfall structure. These features will be associated with a molybdenum refinery which will be constructed on existing authorized fill. The facilities will initially be used to support the construction of the Quartz Hill Molybdenum Mine in southeastern Alaska. Once the mine is operational, the Hoquiam facilities will be used to receive molybdenum concentrate and large equipment for repair from Quartz Hill, to ship operating supplies back to Quartz Hill, and to ship final molybdenum products to market. In order to assess the potential impacts of this project and the alternatives to this proposal, the Corps of Engineers has determined that preparation of an EIS is necessary. A joint Federal/State EIS will be prepared to reduce duplication between Federal and State requirements.

2. *Alternatives:* a. The Corps of Engineers has three alternative courses of action available:

(1) The Section 10/404 permit could be denied. This option would prohibit all proposed work on the project site as well as prevent environmental impacts associated with the proposed action. The economic and social benefits of the project would also be foregone.

(2) The permit could be issued as described in the public notice.

(3) The permit could be issued with special conditions that would mitigate adverse impacts resulting from the proposed action.

b. Alternatives to the proposed action currently being considered by the Pacific Coast Molybdenum Company include: no action, alternative modes of using the proposed site, and use of a different site.

(1) *No Action.* This alternative would require no further involvement by the Corps of Engineers.

(2) *Alternative Modes of Using the Proposed Site.* Alternative layouts of proposed facilities at the project location will be evaluated.

(3) *Use of a Different Site.* Potential sites for the refinery and transshipment facilities will be examined. The applicant does not own or control land at other sites, but alternatives are being studied to provide a perspective for comparison of impacts. Criteria for site comparison may include size, economic feasibility, public services, access, and environmental and public policy considerations.

3. *Significant Issues:* Significant issues to be addressed in the draft EIS include: the need for the proposed action, water dependency, refinery air emissions and impacts on air quality, liquid effluents and impacts on water quality of Grays Harbor, solid waste (sludge) disposal, project and site alternatives, impacts on the nearby environmentally sensitive Bowerman Basin, Indian treaty fishing rights, socio-economic impacts, and threatened and endangered species impacts.

4. *Other Environmental Review and Coordination Requirements:* Other environmental review and consultation requirements include preparation of a Section 404(b)(1) report by the Corps of Engineers; consultation between the Corps, the Fish and Wildlife Service, and the National Marine Fisheries Service on threatened and endangered species, per Section 7 of the Endangered Species Act; and acquisition by the applicant of a Washington State Water Quality Certification, a National Pollutant Discharge Elimination System (NPDES) permit, an air quality permit for Prevention of Significant Deterioration (PSD) or nonattainment area, and state concurrence with consistency pursuant to the Washington State Coastal Zone Management Program.

5. *Public Involvement:* A joint Federal/State public scoping meeting is scheduled at Hoquiam, Washington, on 22 March 1984. The purpose of the meeting is to clarify issues of major concern and identify studies that might be needed in order to analyze and evaluate project impacts. Announcement of this scoping meeting will be mailed to all persons identified as having interests in this action. Further meetings may be scheduled as needed, although no specific dates for additional public meetings are presently under consideration. It is anticipated that a public meeting or workshop will be held during the draft EIS review period.

6. *Draft EIS Availability:* The draft EIS for this proposed action should be available by late summer 1984.

7. *Address:* Questions and/or comments on this proposed action or the draft EIS should be directed to:

Mr. Stephen Martin, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C-3755, Seattle, Washington 98124, Telephone (206) 764-3624 (FTS 399-3624)

Dated: February 29, 1984.

Norman C. Hintz,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84-6216 Filed 3-7-84; 8:45 am]

BILLING CODE 3710-FR-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements: Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Governments of the United States of America and Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/JA (EU)-28, from the Federal Republic of Germany to Japan, two fuel elements containing 3,010 grams of uranium, enriched to 45.38% in U-235, for irradiation testing in the JMTR test reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amemded, it has been determined that the proposed subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-6189 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/SW(EU)-128, from the United Kingdom to Seden, fuel rods containing 27.059 kilograms of uranium, enriched to 0.96 percent in U-235, and 249 grams of plutonium, for irradiation and post-irradiation examination at Studsuik Energiteknik AB. At the conclusion of the post-irradiation examination in Sweden, it is planned to return the material to the United Kingdom for further post-irradiation examination, and subsequent reprocessing or disposal.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-6194 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/SW (EU)-127, from the Federal Republic of Germany to Sweden, eight fuel assemblies, containing 1,431 kilograms of uranium, enriched to 2.96 percent in U-235, for use as fuel in the Forsmark I power reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-6192 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Governments of the United States of America and Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU(SW)-70, from Sweden to the Federal Republic of Germany, 8,000 kilograms of uranium, containing 280 kilograms of U-235 (3.5% enrichment). The material is unirradiated scrap, which is to be purified for subsequent return to Sweden.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-6191 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Governments of the United States of America and Switzerland Concerining Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU(SD)-50. From Switzerland to the Federal Republic of Germany, two pressurized water reactor fuel rods, containing 3,700 grams of depleted uranium, and 42 grams of plutonium, for dastrictive post-irradiation examination at Kraftwerk Union AG, Karlstein, the Federal Republic of Germany.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-6190 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last notice published Thursday, March 1, 1984 (49 FR 7644).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2308

Vartkes Broussalian, Federal Energy Regulatory Commission, Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503 (202) 395-7313.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., March 5, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
BPA-847	Housing Structure Survey.	New	One-time	Voluntary	Individual residential units located in the BPA Pacific Northwest services territory.	2350	1175	BPA-847 collects data on housing structures for indoor air quality research. Data will be used to identify factors contributing to pollution levels.
BPA-848	Daily Activity Patterns.	New	do	do	do	350	200	BPA-848 collects data on daily activity patterns for indoor air quality research. Data will be used to identify factors contributing to pollution levels.

DOE FORMS UNDER REVIEW BY OMB—Continued

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
CE-189P,C,S	Industrial Energy Conservation Program Reporting Forms.	Extension	Annually	Mandatory	Corporations which consumed at least one trillion Btu's of energy in a calendar year in any of the major energy-consuming industries are required to report.	15504	157760	CE-189P,C, and S report forms collect data on energy efficiency improvement and on recovered materials utilization. Data are aggregated, analyzed and organized into the annual report to Congress and the President.
EIA-854	Uranium Industry Financial Survey.	New	do	do	Every company engaged in uranium commerce.	200	6400	EIA-854 collects financial and operations data from companies engaged in uranium mining and processing in the U.S. Data are used to evaluate industry viability as required under P.L. 97-415 Sec. 23. Company specific data will not be published.

[FR Doc. 84-6292 Filed 3-7-84; 8:45 am]
BILLING CODE 6450-01-M

Presurvey Consultation Program

AGENCY: Energy Information Administration, DOE.

ACTION: Request for Presurvey Consultation Comments on Proposed DOE Monthly Report of Natural Gas Purchases and Deliveries to Consumers, Form EIA-857.

SUMMARY: As part of its continuing effort to minimize paperwork burden, the Department of Energy (DOE), through its Energy Information Administration (EIA), conducts a presurvey consultation program which provides for public comment in the early development stages of new or revised information collection requests. This program is designed to ensure that requested data can be provided in the desired format, the cost of reporting is minimized, reporting forms are designed to be clearly understood, and reporting burden estimates accurately reflect the impact of the collection requirements on respondents.

Previously, these presurvey consultations were conducted primarily by mail or telephone with a sample of potential respondents and with various industry associations, public interest groups, and other government agencies. In order to extend the opportunity for commenting to a larger audience, EIA is now publishing proposed forms and instructions in the **Federal Register.** However, when EIA needs comments quickly, or where the target population is relatively narrow, it may conduct these presurvey consultations by mail, telephone, and/or personal visit.

At this time, EIA is requesting comments on the "Monthly Report of Natural Gas Purchases and Deliveries to Consumers" form. The proposed form is reproduced following this Notice. Interested persons are asked to review the form and instructions and provide comments in the format prescribed below.

DATE: Comments are due on or before April 9, 1984.

FOR FURTHER INFORMATION CONTACT: James W. McCarrick, Jr., Office of Oil and Gas, Energy Information Administration, Room BE-064, 1000 Independence avenue, SW., Washington, D.C. 20585, (202) 252-6198.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures

I. Background

In accordance with provisions of the Department of Energy Organization Act (Pub. L. 95-91), the Energy Information Administration is responsible for carrying out a comprehensive, centralized energy data program including the collection and dissemination of economic and statistical information. The mission of the EIA is to provide meaningful, timely, objective, and accurate energy information to the executive branch, Congress, State governments, industry, and the public so that those who make decisions about energy in all sectors of society have the tools to make those decisions well. In keeping with these mandated responsibilities and mission, the EIA has developed the Form EIA-857, "Monthly Report of Natural Gas Purchases and Deliveries to Consumers."

The Form EIA-857 was designed to obtain information, within as current a timeframe as reasonably practical, on the average delivered or city-gate prices paid by distribution companies for natural gas, and the quantities of natural gas consumed and the average prices paid by consumers in each of the major market sectors and in each of the various States. The data proposed to be collected would enable the EIA to provide information on the geographic, market sector, and seasonal variations in natural gas consumption and average city-gate and consumer prices.

The EIA proposes to select respondents to the Form EIA-857 from a listing of all companies distributing natural gas to consumers in the United States to provide representative samples of distribution companies in each of the various States. Respondents selected would be required to submit completed reports for each month from July 1983 to the first report month with their initial filing. Initial filings, including the reports for prior months, would be due on the 20th day of the second month after mailout of the approved form to respondents. For example, if approved forms were mailed to respondents in May 1984, completed reports for the months of July 1983 through the initial report month of June 1984 would be due on or before July 20, 1984.

II. Comment Procedures

The proposed Form EIA-857 is reproduced following this Notice. EIA invites the public to provide comments on the form within 30 days of the publication of this notice and provides the following general guidelines to assist in the preparation of responses.

As a Potential Data Provider

1. Are the instructions and definitions clear and sufficient?
2. Are the data requested reasonably available from your records?
3. Can the data be submitted using the definitions included in the instructions?
4. Can the data be submitted in accordance with the response time specified in the instructions?
5. How many hours, including time for research, computations, preparation, and administrative review, will it take your firm to complete and submit the form for the first month of reporting—including time to design and implement ADP processing programs?
6. How many hours will it take your firm to complete and submit the report for subsequent months?
7. Estimate the annual cost of completing the twelve monthly forms, including direct and indirect costs associated with the data collection for the first year and for subsequent years of reporting. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP, and other administrative costs.
8. Do you know of other Federal, State, or local agencies that collect similar data? (If yes, please specify.)
9. How can the form be improved?

As a Potential Data User

a. Do you need data at the levels of detail indicated on the form; that is, do the frequency, market sectors, and geography reflect your needs?
b. For what purpose would you use these data? (Please be specific.)
c. What are the "costs" involved in not having these data available?
d. How could the form be improved to better meet your specific data needs?
e. Are there alternative sources of data and do you now use them? What are their strong points? What are their deficiencies?

Comments or summaries of comments on the form will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

Issued in Washington, D.C. February 29, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

Monthly Report of Natural Gas Purchases and Deliveries to Consumers

Instructions

I. Purpose

The purpose of the Form EIA–857, "Monthly Report of Natural Gas Purchases and Deliveries to Consumers," is to provide the Department of Energy, Energy Information Administration (EIA) with information on the delivered cost of natural gas to distribution systems and the quantity and price of natural gas consumed, by market sector, on a current monthly basis by State and Region. Reporting of the data requested on Form EIA–857 is mandatory pursuant to Section 52 (15 U.S.C. 790a) of the Federal Energy Administration Act of 1974 (FEA Act), Pub. L. 93–275. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions, may result in criminal fines, civil penalties, and other sanctions as provided by law.

The data obtained in this survey will be used by EIA to impute monthly average delivered, or city-gate, prices of natural gas purchased by distribution systems and the monthly consumption of, and average prices paid by consumers for, natural gas, by market sector, in the various States and selected regions of the Nation. State and Regional summaries imputed from the data collected will be published in the EIA's *Natural Gas Monthly* and made available to the DOE, the Executive Branch, Congress, State governments, industry, and the public.

II. Who Must Submit

Reports must be completed by all recipients of the Form EIA–857. Companies forwarded copies of the form were selected by the EIA from a listing of all companies distributing natural gas to consumers in the United States to provide a representative sample of distribution companies in each of the various States and the District of Columbia. Respondents with service areas extending into more than one State must submit a separate report for each State in which gas is distributed.

III. When to Submit

Completed Form EIA–857 reports are to be filed with the EIA, i.e., received by the EIA, on or before the 20th day of the month immediately following the report month, except that when the 20th day falls on a weekend or national holiday, the reports are to be filed on the next business day.

One of the primary purposes of the Form EIA–857 survey is to obtain and make the information collected available within a timeframe as current as practical. Timely filing is a critical element in the survey. If necessary to file by the due date, complete the report based upon preliminary compilations or estimates. Actual data may be reported when available in Section II of a subsequent report. If your report is not received on or before the due date, you may be contacted by the EIA by telephone to obtain the information for processing pending receipt of your report.

IV. Where to Submit

Mail completed forms to: Energy Information Administration, Mail Station: BG–094, U.S. Department of Energy, Washington, D.C. 20585, Attn: Form EIA–857.

V. General Description of the Report

The Form EIA–857, "Monthly Report of Natural Gas Purchases and Deliveries to Consumers," is a one page form consisting of identifying information and four Sections. Generally, only Sections I, current period information, and Section IV, contact person and certification, are expected to be completed on a routine basis. Section II need be completed only if required to revise information submitted on an earlier report. Section III is to be used as needed for footnotes, explanatory remarks, or any comments you deem necessary to explain, qualify, clarify, or expand the information provided.

VI. Confidentiality Statement

Information on this form is collected for statistical purposes and will not be published by the DOE in individually identifiable form. However, upon receipt of a request for individually identifiable information, the DOE will follow the procedures listed below:

1. The information contained in this form will be kept confidential to the extent that it satisfies the criteria set forth in the Freedom of Information Act (FOIA) exemption for trade secrets and confidential commercial information and DOE regulations implementing the FOIA, and is prohibited from public release by the Trade Secrets Act, 18 U.S.C. 1905.

Upon receipt of a request for disclosure of this information under the FOIA, the DOE shall, in accordance with the procedures and criteria provided in 10 CFR 1004.11, make a final determination whether the information is exempt from disclosure. To assist us in this determination, respondents should demonstrate to the DOE that their information constitutes trade secrets or commercial or financial information whose release would cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis, if possible) the reasons why the information would cause the respondent substantial competitive harm if released to the public would aid in this

determination. A new justification does not need to be provided each time information is submitted on the form, if the company has previously submitted a justification for that information and the justification has not changed.

2. Requests from other Federal agencies for information from this form shall be evaluated in accordance with the DOE policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA (45 FR 59812 (1980)). Respondents should be aware that the information is also subject to release to State agencies for limited purposes and when the State can assure protection of the information from any further release.

3. Except as otherwise provided by law, the information will also be made available in response to an order of a Court of competent jurisdiction, or upon written request, to the Congress, any Committee of Congress, the General Accounting Office, or other Congressional agencies authorized by law to receive such information.

VII. Specific Instructions

Identification—Enter the 10-digit control number provided by the EIA, your company's name, and the State in which your distribution system is located at the top of the form. Company name changes and/or address changes are to be footnoted in Section III.

Section I—Current Period. Section I is to be completed each month. The current period is the calendar month immediately preceding the month in which the report is due.

Report Period (04)—Enter the month, e.g., 01 for January, and year, e.g., 84 for 1984, in which the purchases and sales reported in Section I were made.

Purchased gas received in service area (05)—Report the total volume and cost of purchased gas received in your distribution service area during the report month. Costs should represent the total cost of the gas delivered to your service area, including any and all demand charges, commodity charges, monthly minimum bill and/or take-or-pay charges, surcharges, refunds in the form of reduced charges, and transportation charges paid or incurred to deliver gas to your service area. Gas purchased for storage in distant or third party storage reservoirs or for delivery in another time period should be excluded. Lump sum refunds received or lump sum minimum take, take-or-pay, or similar charges paid for prior periods receipts should be excluded but described in Section III.

Gas delivered to consumers (06, 07, 08, and 09)—Report the total volume of gas delivered to consumers, by category of consumer, during the report month and the total amount billed, or to be billed, for the gas delivered. Volumes reported should represent actual deliveries during the month to the extent reasonably possible based upon your company's meter reading, recording, and scheduled estimation practices. Revenues reported should be gross revenues, including any and all minimum bill amounts, taxes, surcharges, adjustments or other charges billed, or to be billed, for the gas delivered. For customers on level payment, deferred payment, or similar plans, amounts ultimately to be paid for the volumes delivered should be reported.

Consumers should be classified in accordance with the following definitions.

Residential consumers (06) are consumers using gas for heating, air conditioning, cooking, water heating, and other residential uses in single and multi-family dwellings and apartments.

Commercial consumers (07) are nonmanufacturing establishments or agencies primarily engaged in the sale of goods or services. Included are hotels, restaurants, wholesale and retail stores, and other service enterprises; establishments engaged in agriculture, forestry, and fisheries; and local, State, and Federal agencies engaged in nonmanufacturing activities. In general, commercial establishments are those in Standard Industrial Classification (SIC) major groups 01 through 09 and 40 through 99 with the exceptions of electric utilities (reported separately on this report) and apartments (included in residential on this report).

Industrial Consumers (08) are establishments engaged in a process which creates or changes raw or unfinished materials into another form or product. Generation of electricity, other than by electric utilities, is included. In general, industrial establishments would be those in Standard Industrial Classification major group codes 10 through 39.

Electric Utilities (09) are establishments primarily engaged in the generation, transmission, and/or distribution of electricity for sale or resale. (Firms generating electricity for use within their own industrial or commercial facilities are not to be classified as electric utilities).

Average Btu content of gas delivered to consumers (10)—Report the average Btu content used for computing billing amounts for the month if consumers were billed on a Therm or Decatherm basis. If billing was on a volumetric basis enter "NM" for not measured.

Section II—Past Period Revisions. Section II is to be used only if needed to revise information previously submitted. The primary purpose for including this Section in the form is to encourage respondents to file Section I data by the due date based upon preliminary compilations or estimates, if necessary, instead of delaying the filing in order to submit actual data. The Section is intended as a convenient means for submitting revisions along with your regular filing. In the event revisions of more than one previous report are necessary, data for the additional months may be submitted on separate attachments following the format of this Section.

Section III—Footnotes. Section III is to be used as needed to footnote specfic data elements or to submit any explanatory remarks or comments deemed necessary to explain, clarify, qualify, or expand the information provided. Section III should also be used for reporting company name and/or address changes. Footnotes should be referenced by entering the report period, if other than the current period, and the data element number, e.g., "06" for a footnote concerning data on deliveries to residential consumers.

Section IV—Contact Person and Certification. Contact person—Enter the name (11) and telephone number (12), including area code and extension, of the person to contact concerning information shown on the report. The person listed should be the person most knowledgeable of the specific data reported.

Certification—The report must be certified by a responsible official of the respondent company. Any responsible official and alternates designated by the respondent company may certify the form.

BILLING CODE 6450-01-M

U.S. Department of Energy
Energy Information Administration

Form Approved
OMB No.
Expires:

MONTHLY REPORT OF NATURAL GAS PURCHASES AND DELIVERIES TO CONSUMERS

This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties, and other sanctions as provided by law. See the Instructions for information concerning confidentiality.

01 Control No.	02 Company Name:	03 Location (State)

SECTION I - CURRENT PERIOD

04 Report Period Mo. ___ Yr. ___

		Volume (Mcf at 14.73 psia)	Cost or Revenue (Dollars)
Purchased Gas Received in Service Area	05		
Gas Delivered to Consumers:			
To Residential Consumers	06		
To Commercial Consumers:	07		
To Industrial Consumers:	08		
To Electric Utility Consumers	09		

		(Btu/cu. ft.)
Average Btu Content of Gas Delivered to Consumers	10	

SECTION II - PAST PERIOD REVISIONS (Use only if necessary to correct earlier submittals)

04 Report Period Mo. ___ Yr. ___

		Volume (Mcf at 14.73 psia)	Cost or Revenue (Dollars)
Purchased Gas Received in Service Area	05		
Gas Delivered to Consumers:			
To Residential Consumers	06		
To Commercial Consumers	07		
To Industrial Consumers	08		
To Electric Utility Consumers	09		

		(Btu/cu. ft.)
Average Btu Content of Gas Delivered to Consumers	10	

SECTION III - FOOTNOTES

SECTION IV - CONTACT PERSON AND CERTIFICATION

Contact Person: (Area Code - Number - Ext.)

11 Name: 12 Telephone:

Certification: I certify that the information provided hereon is true and accurate or, where indicated on the form, reasonable estimates to the best of my knowledge.

13 Name:	14 Title:
15 Signature:	16 Date:

EIA-857

[FR Doc. 84-6069 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-C

Economic Regulatory Administration

[Docket No. ERA-FC-84-006; OFP Case No. 61047-9243-20-24]

Acceptance of Petition for Exemption and Availability of Certification by AES Placerita, Inc., for a Proposed Facility in Newhall, California

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by AES Placerita, Inc., for a Proposed Facility in Newhall, California.

On January 31, 1984, AES Placerita, Inc. (AES Placerita) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") for its proposed electric powerplant in Newhall, California. Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant for which the petition was filed is a 77,900 kilowatt (KW) combined cycle cogeneration facility designed to produce electricity and process steam at the petitioner's plant in Newhall, California. Natural gas will be the sole fuel utilized; there will be no emergency standby fuel.

It is expected that more than 50 percent of the net annual electric power generation of the petitioner's turbine generator will be sold to the Southern California Edison Company (SCE), making the cogeneration facility an electric powerplant in accordance with the definition of "electric generating unit" contained in 10 CFR 500.2.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petiton for exemption form the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefore, would be published in the **Federal Register.**

DATES: Written comments are due on or before April 23, 1984. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Docket No. ERA-FC-84-006 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ken Workman, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-033, Washington, D.C. 20585, Phone (202) 252-9624

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-141, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6739

SUPPLEMENTARY INFORMATION: The petitioner proposes to construct and operate a cogenetation facility in Newhall, California, approximately 30 miles northeast of the City of Los Angeles. The facility will include two Brown Boveri Type 9 gas turbine generator units or equivalent, which will generate approximately 50,000 kilowatts (KW) of electrical power. The majority of the waste heat from the gas turbines will be directed to two unfired boilers and through a steam turbine generator to produce and additional 27,900 KW of electricity. The remainder of the waste heat will be directed to two additional unfired boilers to produce 100,000 pounds per hour of process steam. The peocess steam will be sold to the TOSCO Enhanced Oil Recovery Corporation (TEORCO) for use in its oil recovery operations.

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), AES placerita has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the proposed powerplant, for which an exemption under 10 CFR 503.38 would be available, wouild not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), AES Placerita has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An evnvironmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR part 1500 *et seq.;* and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Envorinmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that AES placerita is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during

the public comment period provided for in this notice.

Issued in Washington, D.C. on February 29, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-6195 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

Bigheart Pipe Line Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Bigheart Pipe Line Corporation and its affiliate, Bow Pipe Line Company (Bigheart).

EFFECTIVE DATE: February 24, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 S. Houston, Room 306, Tulsa, OK 74127, (918) 581-7781.

SUPPLEMENTARY INFORMATION: On December 7, 1983, 48 FR 54865, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Bigheart on November 9, 1983 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order resolves Bigheart's potential civil liability arising out of the Federal Petroleum Price and Allocation Regulations in connection with Bigheart's transactions involving the resale of crude oil during the period November 1973 through January 27, 1981. The Consent Order requires Bigheart to remit the sum of $5,750,000 plus installment interest in thirteen semi-annual installments.

Comments were received from eleven states. All of the comments focused on the distribution of the funds and none of the comments contested the validity of the Consent Order. Ten comments advocated that the Consent Order proceeds, after payment to identifiable injured customers, should be distributed on a pro-rata basis to states for use in state-wide energy conservation projects. One commenter advocated that the Consent Order be modified to provide specific procedures to distribute the Consent Order proceeds directly to the states on a pro-rata basis.

Since the comments addressed only the disposition of the funds, the ERA has made the proposed Consent Order final without modification. The ultimate disposition of the funds will depend on several factors, such as the type of alleged violations underlying the Consent Order and the ability of the ERA to identify the persons who ultimately bore the burden of alleged violations. The commenters' suggestions regarding the distribution of funds will be considered in determining the appropriate ultimate disposition. The proposed Consent Order, therefore, was made final and effective on February 24, 1984.

Issued in Tulsa, Oklahoma on the 16th day of February, 1984.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 84-6197 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

Cibro Sales Corporation, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Cibro Sales Corporation, Inc. and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: April 9, 1984.

ADDRESS: Send comments to: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 S. Houston, Room 306, Tulsa, OK 74127.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 South Houston, Room 306, Tulsa, Oklahoma 74127, (918) 581-7781.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On February 15, 1984, the ERA executed a proposed Consent Order with Cibro Sales Corporation, Inc. of Bronx, New York. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Cibro Sales Corporation, Inc., with its home office located in Bronx, New York, is a firm engaged in the resale of crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 6 CFR Parts 130 and 150, 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations and related regulations, 6 CFR Parts 130 and 150, 10 CFR Parts 205, 210, 211, 212, in connection with Cibro's transactions involving crude oil during the period August 1973 through January 27, 1981 ("the period covered by this Consent Order"), the ERA and Cibro entered into a Consent Order, the significant terms of which are as follows:

A. During the period August 1973 through January 27, 1981, Cibro engaged in the resale of crude oil.

B. DOE has alleged that during the period covered by the Consent Order, Cibro improperly priced crude oil in violation of 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts F and L.

C. The execution of this Consent Order constitutes neither an admission by Cibro Sales Corporation, Inc. nor a finding by DOE of any violation by Cibro Sales Corporation, Inc. of any statute or regulation administered by DOE.

II. Refunds

Under this Consent Order, Cibro Sales Corporation, Inc. will pay the sum of $900,000 to DOE for ultimate disposition in six (6) installments plus installment interest. Upon full satisfaction of the terms and conditions of this Consent Order by Cibro Sales Corporation, Inc., the DOE releases Cibro Sales Corporation, Inc. from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above.

Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Cibro Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on April 8, 1984. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Tulsa, Oklahoma on the 16th day of February, 1984.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 84-6198 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

Dorchester Gas Corporation; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Dorchester Gas Corporation (Dorchester) and provides an opportunity for public comments on the terms and conditions of the proposed Consent Order.

DATE: Comments by: April 9, 1984.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247, 214/767-7404. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On February 9, 1984, the ERA executed a proposed Consent Order with Dorchester.

Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Dorchester Gas Corporation, with its home office located in Dallas, Texas, is a firm engaged in the refining of crude oil and the sale of covered petroleum products as well as other petroleum related activities, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with Dorchester's transactions involving specified petroleum products during the period August 19, 1973 through January 31, 1976 ("the period covered by this Consent Order"), the ERA and Dorchester entered into a Consent Order, the significant terms of which are as follows:

A. The Consent Order is intended by the signatories to settle the civil issues between DOE and Dorchester relating to Dorchester's compliance with the Federal refiner pricing and natural gas liquid (NGL) regulations during the period from August 19, 1973 through January 31, 1976, as they pertain to Dorchester's sales of propane, butane, motor gasoline and diesel fuel. The Consent Order specifically excludes other potential issues during the same period.

B. ERA conducted a thorough audit to determine Dorchester's compliance during the period covered by this Consent Order with the Federal refiner pricing and NGL regulations. ERA and Dorchester disagree in several respects concerning the proper application of such regulations to Dorchester's activities during the settlement period. Dorchester and ERA each believes that its respective positions on the legal issues underlying such disagreement are meritorious. Neither Dorchester nor ERA disavows any position it has taken with respect to such legal issues.

C. Notwithstanding the above, Dorchester maintains that it has calculated all of its costs, determined all of its prices, and operated in all other respects in accordance with all applicable statutes, regulations and other requirements. Execution of the Consent Order constitutes neither an admission by Dorchester nor a finding by ERA of any violations by Dorchester of any statute or regulation.

II. Refunds

A. Disposition of Refunds

Under the Consent Order, Dorchester Gas Corporation, will pay the sum of $3,800,000.00 to the Department of Energy (DOE). The DOE will hold the funds in an appropriate account pending a determination of the disposition of the funds in accordance with applicable statutes and regulations. Payment is to be made on or before thirty (30) days after the effective date of the Consent Order. If payment is not made within the specified period of time, Dorchester agrees to pay installment interest on the unpaid balance. Upon full satisfaction of the terms and conditions of this Consent Order by Dorchester, the DOE releases Dorchester from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

The foregoing provisions for payment of the refund amount were concurred in after ERA attempted to determine and identify all injured parties. These attempts were unsuccessful due to the nature of the business transactions in which Dorchester was engaged during the settlement period. Dorchester's activities were of such a nature so as to make it impossible to identify specific parties who or which may have been injured.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Dorchester Gas Corporation Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on 30 days after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 22nd day of February, 1983.

Ben L. Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 84-6199 Filed 3-7-84; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Draft Environmental Impact Statement Availability and Public Hearings; Great Falls-Conrad Proposed 230-kV Transmission Line, Montana

AGENCY: Western Area Power Administration, Energy.

ACTION: Notice of Availability and Public Hearings for Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Western Area Power Administration (Western), U.S. Department of Energy (DOE), has issued for review and comment a draft environmental impact statement (EIS) for the proposed Great Falls-Conrad 230-kV transmission line in Montana, DOE/EIS–0106–D. The draft EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations, 40 CFR Parts 1500–1508; and DOE guidelines for compliance with NEPA, 45 FR 20694, and as amended.

DATES: Written comments on the draft EIS are due no later than 45 days from the Environmental Protection Agency's publication of the "Notice of Availability" in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For copies of the Draft EIS contract:

Mr. James D. Davies, Area Manager, Attn: Mr. Stephen A. Fausett (B2000), Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, (406) 657–6042

Mr. Gary W. Frey, Director of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401 (303) 231–1527

Background Information

Western has developed a draft EIS to address the construction, operation, and maintenance of a 230-kV transmission line about 74 miles in length in Cascade, Teton, and Pondera Counties in the State of Montana. The transmission line would originate at an existing Montana Power Company (MPC) substation in Great Falls, Montana, and proceed in a westerly direction to a site where a new 230-/69-kV substation (Bole) will be constructed north of Fairfield, Montana. From the Bole Substation site the line would proceed in a northerly direction to a site south of Conrad, Montana, where a new 230-/115-kV substation (Conrad) and terminal facilities would be constructed to interconnect with an existing MPC 115-kV transmission line which runs between Great Falls and Cutbank, Montana.

The electrical needs of the Conrad-Shelby-Browning area in North-Central Montana are presently served by means of a single 115-kV transmission loop running from Great Falls to Cutbank to Havre and back to Great Falls. Power system simulation studies indicate, and actual operational experience has demonstrated, an urgent need for improvements to the high voltage transmission system in the area. Under present conditions an outage on the Great Falls-Conrad section of the existing loop would result in low voltage, overload, and loss of load conditions.

Even with the existing system intact, system voltages and facility loadings in the area will be unacceptable, resulting in increasingly severe and frequent low voltage conditions and service interruptions. Subtransmission service between Great Falls and Conrad is supplied by a 69–kV system. Because of the length of the 69–kV subtransmission system between Great Falls and Conrad, high impedance makes the loads at the extremities of the system vulnerable to poor voltage regulation. Routine maintenance of the existing 115–kV loop will become increasingly difficult to accomplish due to the inability to remove sections of the transmission line from service.

The proposed action would provide continued service to area loads, improve system reliability, extend the capability of the underlying subtransmission system, contribute to energy conservation by reducing line losses on the existing high voltage and 69–kV system, and provide flexibility for future expansion of the area electrical transmission system.

The draft EIS addresses alternatives to the proposed project including no action, energy conservation, alternative transmission systems and technologies, and routing and design alternatives. The major impacts of the proposed action would be potential damage to significant cultural resources from construction activities, and the impact of the transmission line itself on visual resources, other land uses, and agricultural resources and practices. Mitigation measures would be incorporated to reduce adverse impacts to the greatest degree considered reasonable.

The draft EIS was prepared in compliance with all applicable regulations. The Montana Department of Natural Resources and Conservation (DNRC) has participated in the preparation of the draft EIS in a review and advisory capacity, and will participate with Western in public hearings to obtain information from the public for their independent review and evaluation of the proposed project.

Copies of the draft EIS have been distributed to appropriate Federal, State, and local agencies; Boards of County Commissioners in Cascade, Teton, Pondera, and Chauteau Counties; public libraries in Great Falls, Choteau, Dutton, Conrad, Fort Benton, and Fairfield, Montana; and other interested groups and individuals. Copies of the draft EIS are also available for public inspection at Western offices in Fort Peck and Billings, Montana, and Golden, Colorado; and at the DOE Reading Room, Forrestal Building, Washington, DC. Copies of the draft EIS will be distributed to the public upon request.

The draft EIS should be retained for possible use as part of the final EIS. If public review requires only minor changes to the draft then the final EIS will comprise the draft, a record of public comments and the responses to the comments, and necessary changes and corrections. Interested agencies, organizations, and individuals are encouraged to review the draft EIS and comment on its adequacy, completeness, and accuracy. Comments received after the comment period may not be considered in the decisionmaking process. Public hearings will be held and written as well as oral statements will be accepted. The public hearings will be held as follows:

Date and location

March 26, 1984—Conrad County Center, 106 South Delaware, Conrad, Montana

March 27, 1984—Choteau Pavillion, Choteau, Montana

March 28, 1984—Meeting Room A, Second Floor, CASCO Building, 1601 Second Avenue, North, Great Falls, Montana.

The public hearings will officially begin at 7:30 p.m. Prior to the opening of the official hearings from 6 p.m. to 7:30 p.m., representatives of Western and DNRC will be available at the hearing locations to describe specific aspects of the project, answer questions and receive informal comments.

Written comments on the draft EIS not presented at the hearings should be sent to Mr. James D. Davies, Area Manager, at the address given above, by the end of the comment period.

Issued at Golden, Colorado, February 27, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84–6196 Filed 3–7–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59141B/144A/145A; TSH-FRL No. 2540-6]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of six applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–84–11, TME–84–12, TME–84–13, TME–84–14, TME–84–24, and TME–84–25. The test marketing conditions are described below.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Joe B. Boyd, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–202, 401 M St. SW., Washington, DC. 20460, (202–382–3739).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA hereby approves TME–84–11, TME–84–12, TME–84–13, TME–84–14, TME–84–24, and TME–84–25. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, number of workers exposed to the new chemicals, and the levels and durations of exposure must not exceed those specified in the applications. All other conditions described in the applications must be met.

TME 84–11

Date of Receipt: November 29, 1983.
Notice of Receipt: December 16, 1983 (48 FR 55915).
Voluntary Suspension of Review Period: December 16, 1983 through January 15, 1984 and January 31, 1984 through February 21, 1984.
Applicant: Confidential.
Chemical: (G) Brominated aryl amine.
Use: (G) Used in plastic systems.
Production Volume: 2,000 lbs.
Number of Customers: Confidential.
Exposure: Manufacture: Dermal, a total of 6 workers. Processing: Dermal and inhalation. Number of workers is confidential.
Test Marketing Period: 2 years.
Commencing on: March 2, 1984.
Risk Assessment: Based on analogy with structurally related substances the Agency identified potential health effect concerns. However, worker exposure is expected to be very low and EPA is granting this TME subject to the conditions outlined above and the restrictions specified below. Although EPA identified ecological effect concerns, no environmental releases are expected. Therefore, the test market substance should not pose any unreasonable environmental risk.
Additional Restrictions: Manufacturing workers are required to wear protective gloves during operations that involve transfer of the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear gloves. Customers, except those who receive the substance already incorporated into pelleted plastic, must also require workers to use full-face respirators and protective gloves.
Public Comments: None.

TME 84–12

Date of Receipt: November 29, 1983.
Notice of Receipt: December 16, 1983 (48 FR 55915).
Voluntary Suspension of Review Period: December 16, 1983 through January 15, 1984 and January 31, 1984 through February 21, 1984.
Applicant: Confidential.
Chemical: (G) Brominated aryl amide.
Use: (G) Used in plastic systems.
Production Volume: 2,000 kg.
Number of Customers: 10.
Exposure Information: Manufacture and processing; inhalation and dermal, up to 26 workers.
Test Marketing Period: 2 years.
Commencing on: March 2, 1984.
Risk Assessment: Based on analogy with structurally related substances the Agency identified potential health effect concerns. However, worker exposure is expected to be very low and EPA is granting this TME subject to the conditions outlined above and the restrictions specified below. Although EPA identified ecological effect concerns, no environmental releases are expected. Therefore, the test market substance should not pose any unreasonable environmental risk.
Additional Restrictions: Workers are required to wear full-face respirators and protective gloves during manufacturing and processing operations that involve transfer of the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear full-face respirators and gloves. Customers, except those who receive the substance already incorporated into pelleted plastic, must also require workers to use full-face respirators and protective gloves.
Public Comments: None.

TME 84–13

Date of Receipt: November 29, 1983.
Notice of Receipt: December 16, 1983 (48 FR 55915).
Voluntary Suspension of Review Period: December 16, 1983 through January 15, 1984 and January 31, 1984 through February 21, 1984.
Applicant: Confidential.
Chemical: (G) Brominated aryl polycarbonate.
Use: (G) Used in plastic systems.
Production Volume: 2,000 lbs.
Number of Customers: 10.
Worker Exposure: Manufacture and processing: Dermal and inhalation, up to 26 workers.
Test Marketing Period: 2 years.
Commencing on: March 2, 1984.
Risk Assessment: Based on analogy with structurally related substances the Agency identified potential health effect concerns. However, worker exposure is expected to be very low and EPA is granting this TME subject to the conditions outlined above and the restrictions specified below. Although EPA identified ecological effect concerns, no environmental releases are expected. Therefore, the test market substance should not pose any unreasonable environmental risk.
Additional Restrictions: Workers are required to wear fullface respirators and protective gloves during manufacturing and processing operations that involve transfer of the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear full-face respirators and gloves. Customers, except those who receive the substance already incorporated into pelleted plastic, must also require workers to use full-face respirators and protective gloves.
Public Comments: None.

TME 84–14

Date of Receipt: November 29, 1983.

Notice of Receipt: December 16, 1983 (48 FR 55915).
Voluntary Suspension of Review Period: December 16, 1983 through January 15, 1984 and January 31, 1984 through February 21, 1984.
Applicant: Confidential.
Chemical: (G) Brominated aryl amine.
Use: (G) Used in plastic systems.
Production Volume: 2,000 lbs.
Number of Customers: 10.
Worker Exposure: Manufacture and processing: Dermal and inhalation, up to 26 workers.
Test Marketing Period: 2 years.
Commencing on: March 2, 1984.
Risk Assessment: Based on analogy with structurally related substances the Agency identified potential health effect concerns. However, worker exposure is expected to be very low and EPA is granting this TME subject to the conditions outlined above and the restrictions specified below. Although EPA identified ecological effect concerns, no environmental releases are expected. Therefore, the test market substance should not pose any unreasonable environmental risk.
Additional Restrictions: Workers are required to wear fullface respirators and protective gloves during manufacturing and processing operations that involve transfer of the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear full-face respirators and golves. Customers, except those who receive the substance already incorporated into pelleted plastic, must also require workers to use full-face respirators and protective gloves.
Public Comments: None.

TME 84-24

Date of receipt: January 18, 1984.
Notice of Receipt: January 27, 1984 (49 FR 3525).
Applicant: Cordova Chemical Company of Michigan.
Chemical: Alkylated polyethylenimine.
Use: Used in applications where it is desirable to disperse hydrocarbons in aqueous medias. *Production Volume:* 1,000 gal.
Number of Customers: Confidential.
Worker Exposure: Manufacture: Dermal and inhalation, a total of 400 workers.
Environmental Release/Disposal: Negligible. Disposal by incineration
Test Marketing Period: 1 year.
Commencing on: March 2, 1984.
Risk Assessment: No significant health concerns were identified. The estimated worker exposure is expected to be low. Although the substance is analogous to substances which exhibit adverse ecological effects, no environmental releases are expected; therefore, the substance should not pose an unreasonable environmental risk.
Public Comments: None

TME 84-25.

Date of Receipt: January 24, 1984.
Notice of Receipt: February 3, 1984 (49 FR 4257).
Applicant: Confidential
Chemical: Modified epoxy preploymer.
Use: Used as an industrial adhesive basestock.
Production Volume: 4,000 lbs.
Number of Customers: Confidential.
Exposure: Confidential.
Test Marketing Period: 1 year.
Commencing on: March 2, 1984.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and releases of the test market substance are expected to be low. The test market substance should not pose an unreasonable environmental risk.
Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: March 2, 1984.

Jospeh J. Merenda,

Acting Director, Office of Toxic Substances.

[FR Doc. 84-6247 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

[WH-X-FRL 2540-1]

Petition Requesting Sole Source Aquifer Designation of the Newberg Area Aquifer, Snohomish County, Washington, and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency, Region 10, invites public comment on a petition requesting designation of the aquifer underlying the Newberg Road-Lake Bosworth Area, in western Snohomish County, as the sole drinking water source for the area. In particular, EPA requests data and references to additional sources of information. If the aquifer is so designated, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the aquifer so as to create a significant hazard to public health. EPA may hold one or more informal public meetings at locations and dates to be announced later.

DATES: Comments must be submitted on or before April 23, 1984.

ADDRESSES: Comments should be addressed to: Wendy Marshall, Environmental Protection Agency, Region 10, Drinking Water Programs Branch, M/S 409, 1200 Sixth Avenue, Seattle, Washington 98101. The petition and related documents can be examined during normal business hours at the following locations:

Environmental Protection Agency, Region 10 Library, 12th Floor, 1200 Sixth Avenue, Seattle, Washington 98101;
Snohmish Public Library, First and Cedar, Snohomish, Washington 98290; and
Granite Falls Public Library, Town Hall, Granite Falls, Washington 98252.

FOR FURTHER INFORMATION CONTACT: Wendy Marshall at (202) 442-1890 or FTS 399-1890.

SUPPLEMENTARY INFORMATION: On January 16, 1984, the Newberg Organization, Inc., submitted a petition requesting that the aquifer underlying the Newberg Road-Lake Bosworth Area be designated as the sole drinking water source for the area. Significant portions of the petition are quoted below in sections a-c.

(a) *Identification of Petitioners and Petitioners' Interest.* The Newberg Organization is an incorporated non-profit association of local concerned citizens who depend upon the availability of clean drinking water for their family needs, livestock, agricultural usage, fish and wildlife habitat, and recreation. One of the purposes of this organization is to protect its aquifer and recharge zone from contamination. Our concern is the Snohomish County Solid Waste Division's proposal to site a sanitary landfill in the Newberg Road-Lake Bosworth area, a sensitive environmental area.

In order to insure the present level of health and water quality for this area, hereafter referred to as the Newberg Area, where the only source of water is well water or lake, spring, and stream water, we present this petition to the U.S. Environmental Protection Agency (EPA). We request that the EPA grant its mutual cooperation and support to safeguard this region's aquifer and surface waters both today and for the future.

(b) *Petitioners' Concerns Regarding Aquifer Contamination.* Contamination

of the ground-water aquifer of the Newberg Area is of great concern as well as the contamination of lakes, rivers, and streams in the immediate and surrounding areas. The major threat at this time is the proposed siting of a large sanitary landfill (8700-acre facility) at the highest point of the region; a recharge area. Escape of leachate from such a landfill will contaminate the area's water supply and constitute a significant public health hazard for approximately 1500 inhabitants of the Newberg Area and pose a further health hazard to a significant number of people using important waterways beyond the boundaries of the Newberg Area for diverse purposes. Residents of this region receive water solely from private wells (most of which are less than 30 feet deep), springs, and from Lake Bosworth, with a few drawing water from streams which originate on the site. There are no plans in the foreseeable future to provide public water from either Granite Falls, which is the nearest community, or from any other public water system.

(c) *Demographic and Hydrologic Information.* The aquifer servicing the Newberg Area provides clean, untreated drinking water via private wells, springs, lake, and streams. The service area is approximately 22 square miles. The geographic limits of the Newberg Aquifer Service Area are defined by the Pilchuck River to the east, to the north, and to the west of Lake Bosworth; by Carpenter Creek to the south of Lake Bosworth; and the southern portion of Dubuque Creek to the southwest of Lake Bosworth. This area is enclosed within the approximate boundaries defined by the following roads and highways: Highway 92 going southwest from Granite Falls; Robe-Menzel Road going southeast from Granite Falls; Carpenter Road and O.K. Road to the south, and the Russell road on the west. The entire area is located within the Granite Falls Area Comprehensive Plan.

The present estimated population of the aquifer service area is approximately 1500 people and is growing continuously. If the population increase in the Newberg Area follows the forecast in the Granite Falls Area Comprehensive Plan, it will increase by about 50 percent by the year 2000. There are no public domestic water purveyors or sanitary sewers serving the Newberg Area.

As indicated in the Granite Falls Area Comprehensive Plan, the small town of Granite Falls has a water supply adequate only for its own needs, and has no plans to provide water outside of its service area. Other municipalities having adequate water supplies are too far away from the Newberg Area to be considered as practical or economical water sources. This area is served exclusively by private wells or water drawn from lake, springs, or streams.

Water resources of the Newberg Area consist of the following surface waters: the Pilchuck River, Lake Bosworth, Carpenter Creek, Dubuque Creek, and other small unnamed streams which originate in the area. The Pilchuck River and Lake Bosworth are the most important surface water features.

The Pilchuck River, an important fishery resource which surrounds the area on three sides, originates on the western slopes of the Cascades. It flows northwesterly to Granite Falls, then southwesterly to join the Snohomish River near the City of Snohomish. The river's quality is generally rated as excellent. The State classifies the water upstream from the City of Snohomish's diversion dam as "AA"—extraordinary. Waters in the main river and its tributaries downstream of this point hae an "A" classification.

Lake Bosworth, a 105 surface-acre lake, is noted for its clean waters, and is a prime residential and recreational lake. It is managed as a "trout-only" lake by the Washington State Department of Game. Snohomish County several years ago banned gasoline-powered motors from the lake in order to preserve its water quality. The lake is fed by springs and small streams originating from the high ground immediately to the south of the lake. The lake outlet at the north end empties into the Pilchuck River. The lake water is of such good quality that approximately 40 residences draw water from the lake for household use.

There are developed springs along Carpenter Creek, and several residences take drinking water directly from Dubuque Creek. Both are salmon-spawning streams.

The Phase I–3 Report on the Snohomish County Landfill Site Selection Study indicates that the Newberg Area "has fine grained soils less than 30 feet thick ranging to fine and coarse grained soils over 30 feet thick. The depth to perched ground water in the till is less than 30 feet. The ground-water flow direction in the sub-till glacial sediments" * * * has not yet been determined. (However, it is probable that all but possibly very deep aquifers follow the general topography of the area.)

The highest point of land in the Newberg aquifer service area is at the approximate geometric center of the area; due south and immediately above Lake Bosworth. The elevation above sea level at this point is slightly over 800 feet; the land slopes downward in all directions from this point—north, east, south, and west. Carpenter and Dubuque Creeks originate in the vicinity of this high ground. The Pilchuck River almost encircles the area dropping from an elevation of about 400 feet on the east side to about 200 feet on the west side.

The high point of the Newberg Area and its downward slopes, covering several square miles, is the recharge zone for the ground water supplying many if not all of the wells in the Newberg Area.

Because of the unique topography of the Newberg Area—many square miles of high ground almost completely surrounded by a lower elevation river and streams—essentially all of the ground water which supplies the numerous wells originates from the precipitation which falls directly on the area; the region therefore is a co-located sole source aquifer service area and its own recharge zone.

(d) *Consequences of Designation.* Section 1424(e) of the Safe Drinking Water Act states: If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register.** After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into a plan or deisgn the project to assure that it will not so contaminate the aquifer.

(e) *Public Meetings.* EPA may hold informal public meetings to explain the sole source aquifer program and provide the opportunity for public comment. The Regional Administrator will give widespread notice of such meetings.

Dated: February 8, 1984.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 84-6248 Filed 3-7-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No 84-7]

A&A International, a Division of Tandy Corp. v. Kawasaki Kisen Kaisha, Ltd.; Filing of Complaint and Assignment

Notice is given that a complaint filed by A&A International, a Division of Tandy Corporation against Kawaski Kisen Kaisha, Ltd. was served February 27, 1984. Complainant alleges that respondent has violated sections 14 Fourth (c) and 18(b)(3) of the Shipping Act, 1916, in connection with various rates and charges assessed against numerous shipments of complainant, and the settlement of claims filed concerning these rates and charges.

This complaint has been assigned to Administrative Law Judge William Beasly Harris. Hearing in this matter, if any if held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 84-6224 Filed 3-7-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Mellon National Corp.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than April 2, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania, to acquire Heritage Bancorporation, Monroe Township, New Jersey, and thereby indirectly acquire Heritage Bank, N.A., Monroe Township, New Jersey.

Board of Governors of the Federal Reserve System, March 5, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-6203 Filed 3-7-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

"Tar," Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes; Correction

AGENCY: Federal Trade Commission.

ACTION: Publication of "Tar," Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes: (Correction).

SUMMARY: This document corrects a Commission document previously published on March 2, 1984 (49 FR 7871).

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Judith P. Wilkenfeld, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202-376-8648) or Harold C. Pillsbury, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202-523-3559).

SUPPLEMENTARY INFORMATION: The following information was inadvertently omitted from the Commission's Publication of the "Tar," Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes.

We were requested by American Brands Inc. to make a special pick up of Tareyton Ultra Low Tar, filter, soft pack, menthol cigarettes which were not available at the time of our initial purchase.

Results of testing are as follows:

Brand	Type	TPM dry (mg/cig)	Nicotine (mg/cig)	Carbon monoxide (mg/cig)
Tareyton Ultra Low Tar.	Filter, soft pack, menthol.	2	0.2	2

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-6238 Filed 3-7-84; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Amendment of Memorandum of Understanding—Honoring of Outstanding Airline Issued Traffic Documents on a Default Airline Carrier

This general notice publicizes an amendment of the Memorandum of Understanding (MOU) between the Air Traffic Conference of America and the General Services Administration, on behalf of all Federal agencies, as published in the **Federal Register** (48 FR 7503), February 22, 1983.

The original MOU which relates to the honoring of outstanding airline issued traffic documents of a default airline carrier is amended to add language which will automatically actuate the Offer of Accommodation when a carrier seeks or is afforded bankruptcy protection from creditors.

Section I. Definitions, paragraph B. Default Carriers, subparagraph 1. is revised to read as follows:

"1. Cease Scheduled air passenger service operations (excluding cessation by Act of God, civil disturbance, Government mandated aircraft-type groundings or labor disputes), or takes steps looking to cessation of such operations or winding up its scheduled air passenger service operations, *or files a petition or is afforded protection from creditors under chapter 7 or 11 of the Bankruptcy Act;* or,"

The effective date of this amendment to the Memorandum of Understanding is January 16, 1984.

For the: General Services Administration.

Thomas P. Wolf,

Director, Office of Transportation Audits, General Services Administration.

For the: Air Traffic Conference of America

Aden D. Riggin,

Director, Military and Government Transportation Services, Air Transport Association of America.

As of February 1, 1984, the extent of participation in the above MOU by Air Traffic Conference of America carriers was:

Participating

Air California, Inc.
Air Florida, Inc.
Alaska Airlines, Inc.
Aloha Airlines, Inc.
American Airlines, Inc.
Best Airlines
Capitol Air, Inc.
Continental Airlines, Corp.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
Federal Express
Flying Tiger Line, Inc.
Frontier Airlines, Inc.
Hawaiian Airlines, Inc.
Midway Airlines, Inc.
Muse Air
Northwest Airlines, Inc.
Ozark Air Lines, Inc.
Pacific Southwest Airlines
Pan American World Airways, Inc.
Piedmont Aviation, Inc.
Republic Airlines, Inc.
Trans World Airlines, Inc.
US Air
Western Air Lines, Inc.
Wien Air Alaska, Inc.

Non-Participating

United Air Lines, Inc.

Dated: February 29, 1984.

Leroy P. Boucher,

Director, Office of Finance.

[FR Doc. 84-6211 Filed 3-7-84; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Board of Scientific Counselors, Division of Cancer Biology and Diagnosis; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCBD, National Cancer Institute, June 11, 1984, at the National Institutes of Health, Building 31, Conference Room 8, Bethesda, Maryland 20205. This meeting will be open to the public on June 11, from 8:30 a.m. to adjournment for concept review of proposed DCBD research projects. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Ihor J. Masnyk, Director, Extramural Research Program, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A-04, National Institutes of Health, Bethesda, Maryland 20205 (301/496-4345) will furnish substantive program information.

Dated: March 1, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84-6219 Filed 3-7-84; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, Division of Cancer Prevention and Control; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, May 3-4, 1984, Building 31C, Conference Room 10, Bethesda, Maryland 20205. This entire meeting will be open to the public from 8:30 a.m. on May 3 through adjournment on May 4, to discuss the current and future programs of the Division of Cancer Prevention and Control. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meetings and rosters of committee members, upon request.

Dr. Mary E. Sears, Acting Executive Secretary, National Cancer Institute, National Institutes of Health, Blair Building, Room 614, Bethesda, Maryland 20205 (301/427-8630) will furnish substantive program information.

Dated: March 1, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84-6221 Filed 3-7-84; 8:45 am]

BILLING CODE 4140-01-M

Cardiology Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, April 30 and May 1, 1984, Building 31C, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. on April 30 to adjournment on May 1. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Eugene R. Passamani, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20205, telephone (301) 496-5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: March 1, 1984.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 84-6220 Filed 3-7-84; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 28, 1970, as amended most recently in pertinent parts at 45 FR 76518, November 19, 1980, and 47 FR 3607, January 26, 1982) is amended to reflect the establishment of the Office of Science within the Office of the Commissioner. This action is being taken to enhance organizational visibility of science and scientific expertise and leadership within FDA.

Section HF-B, Organization and Functions, is amended by inserting a new paragraph (c) reading as follows:

(c) *Office of Science (FHAH).* Advises and assists the Commissioner and other key officials on scientific issues which have an impact on policy, direction, and long-range goals.

Coordinates and provides guidance on special and overall science policy in program areas which cross major agency component lines and scientific aspects which are critical or controversial, including the agency risk assessment policy.

Represents the agency with other government agencies, state and local governments, industry, academia, consumer organizations, Congress, and national and international organizations, and the scientific community on science policy.

Serves as the focal point for overall management of scientific agency research, training, contracts, and fellowship activities.

Provides leadership and direction on scientific matters and stimulates scientific and technological achievement in FDA.

Evaluates the adequacy of scientific resources available to the agency and initiates action as appropriate to enhance the scientific posture.

Advises the Commissioner on the needs, design, and location of scientific facilities, and participates with other agency components in planning of such facilities.

Provides leadership to agency components in the identification, recruitment, and retention of top level scientists to fill vacancies for key positions.

Assists in overseeing quality assurance of FDA-operated laboratories.

Dated: February 27, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-6228 Filed 3-7-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise two and amend one existing systems of records notices. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the previous publication of the material in the **Federal Register**. The two revised notices are published in their entirety below.

The records system notice describing the system of records titled "Aircraft Crew/Mechanic Information File—Interior, Office of the Secretary–7", was previously published in the **Federal Register** on August 17, 1983 (48 FR 37305). It is being revised to describe an additional location where records are maintained and to update the statements regarding the storage, retrievability safeguards, retention, and disposal of the records.

The records system notice titled "Office Operations Records on Employees, Department System—Interior, Office of the Secretary–58" was previously published in the **Federal Register** on May 27, 1981 (46 FR 28519). It is being revised to clarify the categories of individuals and records covered by the notice, the general purposes for maintaining the records, the system manager description, access criteria, and record source categories. The title of the notice is also revised to reflect the general administrative nature of the records. Two new routine disclosures to other Federal agencies and to the public in the form of directories are also added.

On December 6, 1983, a notice title "Employee Experience, Skills, Performance, Training, and Career Development Records—Interior, Office of the Secretary–76" was published for comment in the **Federal Register** (48 FR 54714). As a result of intra-Departmental comments received, two paragraphs of the notice pertaining to the descriptions of the system managers and notification procedure are being amended. The amended paragraphs are published below.

5 U.S.C. 552(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before April 9, 1984, will be considered. The notices shall be effective as proposed without further notice at the end of the comment period unless comments are received which would require a contrary determination.

Dated: February 29, 1984.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/OS–7

SYSTEM NAME:

Aircraft Crew/Mechanic Information File—Interior, Office of the Secretary—7.

SYSTEM LOCATION:

(1) National Headquarters—Office of Aircraft Services, Division of Technical Services, 3905 Vista Avenue, Boise, Idaho 83705; (2) Alaska Regional Office, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska 99503; (3) Atlanta Field Office, 75 Spring Street, SW., Atlanta, GA 30303; (4) Denver Field Office, Suite 291, 730 Simms Street, Golden, C) 80401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Professional, dual-function, & incidental function pilots, aircrew members & mechanics employed by Interior bureaus/offices; (2) Aircraft crew/mechanic employees of commercial operators utilized by Department of the Interior (DOI) bureaus/offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information relative to certificates, qualifications, experience levels, training and proficiency, performance information, and accident experience data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to determine aircraft crew/mechanic qualifications to comply with OAS procedures and directives. Disclosure outside the Department of the Interior may be made, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order of license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule regulation, order of license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, pilot qualification card, grant or other benefit, (4) to Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit, (5) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

These records are maintained in file folders on lists and forms, on microfiche

film, and in computer processible storage media.

RETRIEVABILITY:

(1) *DOI Employees*—Records for DOI employees are indexed by agency, location & name. (2) *Commercial Operators*—Records for commercial operators are indexed by name, Social Security Number, and/or pilot certificate number.

SAFEGUARD:

When not in use by an authorized person, paper and microfiche records will be stored in lockable file cabinets or in secured rooms with access limited to those personnel whose official duties require access. Access to computerized records is limited through use of access codes and entry logs to those whose official duties require access.

RETENTION AND DISPOSAL:

Records in this system are to be retained manually in file folders for 3 years, on microfiche film for an additional 4 years, and then destroyed. Manual and microfiche records will be concurrently computerized for 7 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

(1) National Headquarters—Chief, Technical Services Division, Office of Aircraft Services, 3905 Vista Avenue, Boise, Idaho 83705; (2) Alaska Regional Office, Regional Director, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, AK 99503; (3) Atlanta Field Office, Area Director, 75 Spring Street, SW., Atlanta, GA 30303; (4) Denver Field Office, Area Director, Suite 291, 730 Simms Street, Golden, Colorado 80401.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system comes from individual to whom it applies and Technical Representatives, Office of Aircraft Services.

INTERIOR/OS-58

SYSTEM NAME:

Administrative Operations Records on Employees, Department System—Interior, Office of the Secretary-58.

SYSTEM LOCATION:

All Departmental bureaus and offices including regional and field facilities thereof.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Department of the Interior, and independent agencies and commissions for which the Department provides administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records involving administrative and operational relationships between the employee and the office in which the employee works, which include: Workload and productivity records for scheduling purposes; travel activity and budgets; accident and safety records, property accountability; studies and special projects; committee and detail assignments; locator indexes, parking space assignments, and similar records. Records that identify employees and their organization, location, position title, occupational series and grade, office telephone number, functional or organizational titles assigned for program management purposes, home address and telephone number, and other related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 5105–5115, 5501–5516, 5701–5709, 31 U.S.C. 66a, 240–243, 40 U.S.C. 483(b), 43 U.S.C. 1467, 44 U.S.C. 3101, Executive Order No. 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are administrative in nature and reflect the employee's relationship to the activities and functions of the office. They are also used to prepare and maintain data bases, directories, and listings showing organizational and functional position assignments; staffing tables; listings for budget, organizational, space, administrative services, and training planning purposes; and the preparation of employee telephone directories. Disclosures outside the Department of the Interior may be made: (1) To the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to members of Congress in response to an inquiry made at the request of the individual of record, (4) to other Federal agencies for related program management purposes; (5) to the public in the form of agency telephone directories.

POLICY AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders or card files in file cabinets, word processing media, microfiche, or computer files.

RETRIEVABILITY:

By name or control number assigned to employee.

SAFEGUARDS:

In accordance with the requirements of 43 CFR 2.51

RETENTION AND DISPOSAL

Retained until completion of work project or activity to which the record pertains, or until separation of the employee, at which time the record is disposed of in accordance with appropriate records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

For the records located in the office in which the individual is (or was) employed, the appropriate personnel or administrative officer. For records related to special listings or directories of employees related to organizational, functional, or program assignments, the office maintaining the listing or directory.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the pertinent personnel office of the organization or office in which the individual is (or was) employed, or the office maintaining the listing or directory containing information about the individual. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records should be addressed to the pertinent personnel office of the facility at which he/she is

(or was) employed, or the office maintaining the listing or directory containing information about the individual. See 43 CFR 2.61 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is obtained through internal office procedures with which the individual is involved. Other sources are official agency records or documents designating employees to serve in special functional or organizational assignments.

INTERIOR/OS-76

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

For all records other than Contracting Officers' Warrant System Records: (1) The Personnel Officer of each bureau of the Department for records maintained in the bureau. (See Appendix for addresses of bureau headquarters offices), and (2) Chief, Division of Personnel Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240 for records maintained in the Office of the Secretary. For all Contracting Officers' Warrant System Records: Director, Office of Acquisition and Property Management U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Individuals may inquire whether or not the system contains records pertaining to them by contacting the personnel officer and/or administrative officer servicing the facility where they are employed. Contracting Officers may submit inquiries regarding Contracting Officers' Warrant System Records to the head of the procuring activity of the bureau in which the individual is employed, or to the Director, Office of Acquisition and Property Management. See 43 CFR 2.60 for notification procedure requirements.

* * * * *

[FR Doc. 84-6193 Filed 3-7-84; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Indian Affairs

Tlingit and Haida Tribes; Plan for the Use and Distribution of the Tlingit and Haida Tribes' Judgment Funds in Docket 342-70 Before the United States Court of Claims

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on June 19, 1981, in satisfaction of the award granted to the Tlingit and Haida Tribes in United States Court of Claims Docket 342-70. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated August 12, 1983, and was received (as recorded in the Congressional Record) by the Senate and by the House of Representatives on September 12, 1983. The plan became effective on January 25, 1984, as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated June 19, 1981, in satisfaction of the judgment granted in Docket 342-70 to the Tlingit and Haida tribes before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accured, shall be added by the Secretary of the Interior to the Tlingit and Haida funds in Docket 47900 that are the subject of the Act of July 13, 1970, 84 Stat. 431. Such funds in Docket 342-70 shall be used in furtherance of the tribal social and economic development activities contained in the Tlingit and Haida 'Six Point Plan', subject to the approval of the Secretary."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-6253 Filed 3-7-84; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

California Desert District; Amargosa Canyon Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Off-road vehicle trail designations for the Amargosa Canyon ACEC.

SUMMARY: Off-road vehicle trails are being designated to protect significant and sensitive wildlife, scenic, and cultural values. Precipitous and highly eroded canyon walls, dense riparian vegetation along a perennially flowing stream course, the presence of many forms of unique and highly localized wildlife, and several cultural sites are key resource components. The authorities for the management plan are 43 CFR 8000.0-6, 8340, 8341, 8342, 8343, 8351, 8364, 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, the Antiquities Act and the Archaeological Resources Protection Act of 1979. The ACEC contains approximately 8,300 acres of BLM-managed lands in Inyo and San Bernardino Counties. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan. The results of the ACEC Management Plan included public involvement.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Send inquiries to Area Manager, Barstow Resource Area Office, 831 Barstow Road, Barstow, California 92311. The ACEC Management Plan and public comments received will be available at the above address from 8:00 a.m. to 4:00 p.m. on regular working days. For further information contact Ted Rado at the above address or (619) 256-3595.

SUPPLEMENTARY INFORMATION: The regulations in this management plan are designed to minimize conflicts between public uses and sensitive natural and cultural values. Off-road vehicle use is currently prohibited within the central portion of Amargosa Canyon. This closure will continue, and vehicle use within the remainder of the area will be restricted to designated routes. Routes designated as "open," "limited" or "closed" will be clearly signed. A damaged vehicle barrier in the southern portion of Amargosa Canyon will be reconstructed to reinforce this closure. Development and designation of a hiking trail into the central canyon area will take place as an alternative to vehicle use here.

Administrative access into closed areas by BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state, and county employees is allowed when on

official duty and when cleared beforehand by the authorized officer. The public lands within the ACEC will remain open to all other resource uses not in conflict with the objectives of the ACEC Management Plans.

A map showing the restricted areas and designated routes of travel is available for review at the Barstow Resource Area Office. Copies of the map are available upon request.

Any person who violates or fails to comply with the regulations and restrictions implemented by this Plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: February 23, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84-6200 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-40-M

Grimshaw Lake Area of Critical Environmental Concern (ACEC); California Desert District; Implementation of Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Grimshaw Lake ACEC Management Plan.

SUMMARY: The ACEC was designated to provide for protective management of several unique forms of wildlife and their associated wetland habitats. This will be accomplished through control or elimination of those land uses which are incompatible with management objectives. The authorities for the management plan are 43 CFR 8000.0–6, 8340, 8341, 8342, 8343, 8351, 8364, 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The ACEC contains approximately 1,000 acres of BLM-managed lands in southeastern Inyo County. Development of this ACEC Management Plan included public involvement.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Send inquiries to Area Manager, Barstow Resource Area Office, 831 Barstow Road, Barstow, California 92311. The ACEC Management Plan and public comments received will be available at the above address from 8:00 a.m. to 4:00 p.m. on regular working days. For further information contact Ted Rado at the above address or (619) 256–3595.

SUPPLEMENTARY INFORMATION: The regulations in this management plan are designed to minimize conflicts between public uses and natural values. Vehicle use will be restricted to designated routes. Routes designated as "open," "limited" or "closed" will be clearly signed. Development and destination of a hiking trail along an abandoned railroad line through the central portion of the ACEC will take place as an alternative to vehicle use here. A parking area will be constructed and maintained, and easements across private lands obtained for visitors to the ACEC interested in hiking or wildlife viewing. A camping area will also be designated in the general area at a location which will prevent adverse effects to sensitive natural values. Application for withdrawal under the Public Land Laws, including the mining laws, will be made on all public lands in the ACEC for the protection of wetland habitats. The Bureau will also seek to acquire private lands within the immediate area through exchange with interested landowners.

Administrative access into closed areas by BLM personnel, BLM contractors, licensees, permittees, lessees, and other Federal, State, and county employees is allowed when on official duty and when cleared beforehand by the authorized officer. The public lands within the ACEC will remain open to all other resource uses not in conflict with the objectives of the ACEC Management Plan.

A map showing the designated routes of travel and ACEC boundary lines is available for review at the Barstow Resource Area Office. Copies of the map are available upon request.

Any person who violates or fails to comply with the regulations and restrictions implemented by this Plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: February 23, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84-6204 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-40-M

[NM 56102]

Realty Action—Exchange of Public and Private Lands in San Juan County, New Mexico

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 30 N., R. 15 W., N.M.P.M.

Sec. 19: S½S½SE¼NE¼, NE¼SE¼, SE¼SE¼, E½NW¼SE¼;
Sec. 20: SE¼SW¼, SW¼SW¼, NW¼SW¼, S½SW¼SW¼NW¼.

Containing 235 acres, more or less.

In exchange for these lands the Federal Government will acquire non-Federal lands in San Juan County from Public Service Company of New Mexico (PNM). These lands are described as follows:

T. 31 N., R. 7 W., N.M.P.M.
Sec. 11: NE¼;
Sec. 12: SW¼NW¼.
T. 32 N., R. 7 W., N.M.P.M.
Sec. 8: Lots 1 & 2 and a portion of Lot 3, NW¼SE¼, NE¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 13: N½SW¼, W½NW¼SE¼, SE¼NW¼SE¼.

Containing 566 acres, more or less.

The purpose of the exchange is twofold: The BLM would acquire private lands on Middle Mesa which would enhance the opportunities to improve both range and wildlife management. Second, the tract selected by PNM is currently being used for evaporation ponds in association with the San Juan Generating Plant. The transfer of this site to PNM would allow them more flexibility in managing the ponds and their associated plant facilities. The public interest will be well served by making the exchange.

Based on the preliminary appraisal estimate, the value of the lands to be exchanged are approximately equal. If an adjustment is necessary the values can be equalized by cash payment and/or the addition of lands that would be in the public interest to acquire.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for powerline purposes that have been granted to Tuscon Gas and Electric under serial numbers NM 15985 and NM 18691.

3. The mineral estates will not be exchanged, and all valid existing rights will be protected.

The publication of this notice in the Federal Register will segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon

issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from the date of this publication, whichever occurs first.

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Farmington Resource Area Office, 900 La Plata Highway, Farmington, New Mexico 87107.

For a period of 45 days interested parties may submit comments to the Albuquerque District Manager, P.O. Box 6770, Albuquerque, New Mexico 87107. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: March 1, 1984.

Michael F. Reitz,

Acting District Manager.

[FR Doc. 84-6206 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-FB-M

[C-35420-Exchange]

Conveyance of Public Lands in Hinsdale County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), William C. and Ruthanna M. Hall, Lake City, Colorado, have received a patent for the following described public lands in Hinsdale County, Colorado:

New Mexico Principal Meridian, Colorado,

T. 43 N., R. 4 W.,
Sec. 4, lots 30, 31, 34, 35 and 36;
T. 44 N., R. 4 W.,
Sec. 34, lots 13, 14, 18, 19, 20, 21, 25 and 26;
T. 42 N., R. 5 W.,
Tracts 40 and 41,
Containing 153.57 acres.

The purpose of this notice is to inform and give notice to the public and interested state and local government officials of the issuance of this conveyance document.

Dated: February 28, 1984.

Robert D. Dinsmore,

Chief, Branch of Lands & Minerals Operations, Colorado State Office.

[FR Doc. 84-6212 Filed 3-7-84; 8:46 am]

BILLING CODE 4310-JB-M

[INT DEIS 84-10]

Colorado; Mobil-Pacific Oil Shale Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (DEIS) and Public Hearings.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environment Policy Act of 1969, the BLM has prepared a DEIS for the proposed Parachute Shale Oil Project (Mobil) and the Pacific Shale Project (Pacific). Both separate, private projects have been analyzed in one EIS.

DATE: Comments will be accepted until May 4, 1984.

ADDRESS: Comments should be sent to: Mobil-Pacific EIS Team Leader, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501.

FOR FURTHER INFORMATION CONTACT: Phillip Neal, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, (303) 243-6552.

SUPPLEMENTARY INFORMATION: This Environmental Impact Statement (EIS) has been prepared by the Bureau of Land Management (BLM) for two separate private oil shale developments at the southern edge of the Piceance Creek Basin in Garfield County, Colorado. The two projects are Mobile Oil Corporation's proposed Parachute Shale Oil Project and the Pacific Shale Project proposed by a joint venture of Sohio Shale Oil Company, Superior Oil Company, and Cliffs Oil Shale Corporation.

Mobil Oil Corporation ("Mobil") proposes to develop a 100,000 barrel per calendar day shale oil project north of the town of Parachute. It would involve underground mining, onsite surface retorting and upgrading, surface disposal of processed shale, and delivery of shale oil to an existing regional pipeline system.

Pacific Shale Project ("Pacific") proposes to develop a 100,000 barrel per stream day shale oil project on a site about 10 miles northwest of the town of De Beque. The project would involve underground mining, onsite surface retorting, upgrading, surface disposal of retorted shale onsite, and transfer of shale oil to a regional multiproject product pipeline system.

This EIS has been prepared pursuant to requests from Mobil and from Pacific for rights-of-way, sales, or leases of public land.

Availability: Single copies of the Draft EIS may be obtained at the above address: Public reading copies are also available at the following locations:

Mesa County Public Library, Grand Junction, CO 81501;
Mesa College Library, Grand Junction, CO 81501;
Conservative Library, Denver Public Library, 1537 Broadway, Denver, CO 80203; and
Garfield County Public Library, Glenwood Springs, CO 81601.

Public hearings to receive oral and/or written comments on the DEIS will be held at 7:00 p.m. at the following locations:

April 16, 1984—New Castle, Town Hall;
April 17, 1984—Parachute, Town Hall;
April 18, 1984—De Beque, De Beque School; and
April 19, 1984—Grand Junction, BLM Office, 764 Horizon Drive.

Oral comments will be limited to 10 minutes and should be accompanied with a written synopsis of the comments.

Wright Sheldon,

District Manager.

[FR Doc. 84-6255 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-JB-M

Idaho Falls District Grazing Advisory Board; Meetings

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Grazing Advisory Board.

SUMMARY: The Idaho Falls District Grazing Advisory Board will meet Tuesday, April 17, 1984. Notice of this meeting is in accordance with Pub. L. 92-463. The meeting will begin at 9 a.m. at the Idaho Falls BLM office, 940 Lincoln Road in Idaho Falls. The meeting is open to the public; public comments on agenda items will be accepted from 10:30 to 11 a.m.

Agenda items for the meeting include a discussion of change of livestock class in the Big Desert, the status of the sheep experiment station's Mooreland Allotment, reviewing the 1984 advisory board funds and project requests for the Medicine Lodge and Pocatello recourse areas, presentation of the Edie Bench prescribed burn plan, grazing decisions for the Big Lost EIS area, plans for the 50-year celebration of the Taylor Grazing Act, and a discussion of plans by the Department of Energy to close roads and place more security restrictions on the Idaho National Engineering Laboratory.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45

a.m. to 4:30 p.m.) within 30 days of the meeting.

For more information contact: O'dell Frandsen, (208) 529–1020.

Dated: March 2, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84–6256 Filed 3–7–84; 8:45 am]

BILLING CODE 4310–GG–M

[Designation Order MT–020–8401; Supersedes Designation Order MT–068–8201; Interim Designation Order]

Montana Off-Road Vehicle Designation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Off-Road Vehicle Designation Decisions.

SUMMARY:

Decision

Notice is hereby given relating to the use of off-road vehicles on public land in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as limited or closed to off-road motorized vehicle use: Area A—T. 1 S., R. 26 E., PMM, Section 21: E½NE¼, SW¼NE¼, SE¼NW¼; Section 22: SW¼NE¼, NW¼, N½S½; Section 23: NW¼SW¼; Area B—T. 1 S., R. 26 E., PMM, Section 14: Lot 3, SE¼NW¼, E½SW¼, S½SE¼; Section 23: N½NE¼, NE¼NW¼; Section 24: W½2W½; Section 25: NW¼NW¼; Section 26: E½NE¼.

The 1,270-acre affected by these designations is known as the South Hills. These public lands are located in Yellowstone County, Montana, and are administered by the Billings Resource Area under the jurisdiction of the Miles City District. The designations are a result of resource management decisions contained in the 1984 Billings Resource Management Plan as refined by two recently completed cooperative management agreements now in effect between the Bureau of Land Management, homeowners of the Cedar Park Subdivision, Billings Motorcycle Club, and the Yellowstone County Commissioners. The rationale behind the closures is to allow BLM to manage acceptable levels of ORV activities while taking into consideration those concerns of neighboring homeowners and landowners regarding noise levels, safety and vandalism. Closing one 70-acre tract in the South Hills to all ORV use will help greatly reduce the above mentioned conflicts between ORV users and neighboring homeowners. Closing the remaining 1,200 acres to four-wheeled vehicles is a necessary safety precaution to reduce conflicts and the possibility of serious injury between motorcycle and four-wheel drive ORV users.

This designation order supersedes the interim off-road designation which was made prior to the development of the 1984 Resource Management Plan and the Cooperative Management Agreements. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Appeals.

A. Limited Designation. Twelve hundred acres in Areas A and B will be closed to all four-wheel drive vehicles.

The majority of lands in these two areas are suitable for motorized recreation activities and will accommodate present demand levels. Due to extremely steep terrain which presents a safety hazard as will as user conflicts, however, these areas will be closed to four-wheeled vehicles. In addition, the periphery of both areas will be posted with appropriate signs for the users.

B. Closed Designation. A seventy-acre area located in the southwest corner of Area A will be closed to all off-road vehicle uses. All motorized vehicle use is prohibited in this area to reduce conflicts between all ORV users and the adjacent homeowners and landowners. The periphery of this area will be posted with appropriate signs for the users.

These designations will become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impacts of these designations is available for inspection at the offices listed below.

ADDRESSES: For further information about these designations, contact either of the following Bureau of Land Management Officials:

District Manager, Miles City District Office, P.O. Box 940, Miles City, Montana 59301, (406) 232–4331, and

Area Manager, Billings Resource Area, 810 E. Main, Billings, Montana 59105, (406) 657–6262.

Dated: March 2, 1984.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 84–6254 Filed 3–7–84; 8:45 am]

BILLING CODE 4310–DN–M

[M–58033]

South Dakota; Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance.

SUMMARY: Pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713) the surface estate only in the following described land has been conveyed to Robert G. Stewart, Reliance, South Dakota:

Fifth Principal Meridian, South Dakota

T. 103 N., R. 73 W.,
Sec. 5, lot 1.
T. 104 N., R. 73 W.,
Sec. 32, SE¼SE½.
Aggregating 80.00 acres.

FOR FURTHER INFORMATION CONTACT: Ed Croteau, Montana State Office, (406) 657–6082.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

March 1, 1984.

[FR Doc. 84–6257 Filed 3–7–84; 8:45 am]

BILLING CODE 4310–DN–M

Draft Management Plan and Environmental Assessment; Red Hills, California; Availability

AGENCY: Notice of Availability of Draft Management Plan and Environmental Assessment.

SUMMARY: The Bureau of Land Management has prepared a draft Management Plan and Environmental Assessment for 7,100 acres of BLM-Administered public lands in the Red Hills located two miles southwest of Chinese Camp in western Tuolumne County, California, within the Folsom Resource Area of the Bakersfield District.

The major component of the proposed action is to designate 2,600 acres as an intensive use zone and 4,500 acres for restricted use. The alternatives analyzed include minimum use, maximum use, and no action.

Comments on this draft Management Plan and Environmental Assessment are being solicited from public agencies and interested individuals. The Bureau invites written comments on the statement to be submitted by April 20, 1984, to the Area Manager, Folsom Resource Area, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630.

A limited number of copies of this document are available upon request at the Folsom Resource area (916) 985–4474 and at: Bakersfield District Office,

Bureau of Land Management, Room 304, 800 Truxtun Avenue, Bakersfield, CA 93301.

Deane K. Swickard,

Area Manager.

[FR Doc. 84-6274 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-40-M

Yuma District Advisory Council Notice of Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of advisory council meeting.

SUMMARY: The Bureau of Land Management, Yuma District Advisory Council will meet from 9:00 a.m. to 3:00 p.m., April 13, 1984, at the Yuma Civic and Convention Center, 1440 Desert Hill Drive, Yuma, Arizona. The public is invited to attend. Public comments will be received by the council from 2:00–3:00 p.m.

Agenda

1. Election of Council Officers.
2. District Manager's Update.
3. Resource Management Plan Update.
4. Long Term Visitor Area Program.
5. Concession Management Plan.

Individuals wishing to make statements at the meeting should advise the District Manager by 4:00 p.m., April 12, 1984 so that time may be reserved.

A written report of the Council will be maintained at the BLM Yuma District Office, and will be made available for public inspection. Reproduction of the meeting report will be made available to the public at the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Glenn Stewart, (602) 726–6300.

J. Darwin Snell,

District Manager.

[FR Doc. 84-6278 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF INTERIOR

Firearm Closure Order; Kimama Butte Communication Site and Fire Lookout

AGENCY: Bureau of Land Management; Interior.

ACTION: Firearm Closure Order, Kimama Butte Communication Site and Fire Lookout.

DATE: This order shall become effective immediately and shall be in effect 24 hours per day for the next eleven years or until March 1, 1995.

SUMMARY: As provided by 43 CFR Part 8364, public lands located in Lincoln and Minidoka counties are closed to the discharging of all firearms, subject to the exemption below. Upon termination this closure shall be reviewed and may be reinstated or amended, modified, or changed by proper notification. This closure effects the following lands:

T. 7 S., R. 22 E., Boise Meridian, Lincoln County, Idaho,
Sec. 32, S½S½SE¼.
T. 8 S., R. 22 E., Boise Meridian, Minidoka County, Idaho,
Sec. 5, lots 1 and 2, S½NE¼.
Containing 197 Acres.

The subject lands are being closed to protect BLM employees stationed on Kimama Butte Lookout and to safeguard personal and private property of right-of-way holders that have large investments in communication equipment and structures. Public safety is dependent on these facilities being operational at all times. Malicious vandalism has made the communication site and fire lookout extremely hazardous.

Exempt from this order are law enforcement officers of Federal, State and County governments while on official business of that agency. Any person who fails to comply with this closure order shall be subject to prosecution under penalty of law as provided by 43 CFR 8360.0–7 and State or County statutes (Ordinance No. 82–8–1). Noncompliance is considered a misdemeanor.

Further information concerning the closing order is available at the Shoshone District Office, 400 West F Street, Shoshone, Idaho or by calling Ervin Cowley at (208) 886–2206.

Charles J. Haszier,

District Manager

Dated: March 1, 1984.

[FR Doc. 84-6271 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-GG-M

[W-81072]

Realty Action Sales of Public Lands in Lincoln County, Wyoming

Correction

In FR Doc. 84–1388, appearing on page 2319, in the issue of Thursday, January 19, 1984, in the second column, under "T. 20N., R.117W.," in the next line, "E2½," should read "E½,".

BILLING CODE 1505-01-M

[W-71186]

Wyoming; Proposed Continuation of Withdrawal

Correction

In FR Doc. 84–4263, beginning on page 6033, in the issue of Thursday, February 16, 1984, in the third column, in the **"DATE"** paragraph, in the third line "April 16, 1984" should read "May 16, 1984."

BILLING CODE 1505-01-M

[W-71185]

Wyoming; Proposed Continuation of Withdrawal

Correction

In FR Doc. 84–4953, appearing on page 7005, in the issue of Friday, February 24, 1984, in the first column, in the **"DATE"** paragraph, "(90 days from publication date)" should read "May 24, 1984"; in the second column, under "T. 48N., R. 116W.," in the fourth line "NW¼" should read "NE¼SE¼".

BILLING CODE 1505-01-M

Arizona; Safford District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona, Safford District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Public Law 94–579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held April 13, 1984 in Safford, Arizona at 9:00 a.m. at the Safford District Office, 425 East 4th Street, Safford, Arizona.

The agenda for the meeting will include:

1. A field trip, departing from the District Office at 9:00 a.m., of the San Simon Watershed Rehabilitation Area.
2. Inspection of Wildlife Habitat Improvement Projects.
3. Management update.
4. Advisory Council initiated topics.

The field trip will be from 9:00 a.m. to approximately 4:00 p.m. Members of the public are invited but must furnish their own transportation. Written statements from the public may be filed for the Councils consideration. Any written statements for council consideration must arrive at the District Office by 4:15 p.m. on Thursday, April 12, 1984.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection

and reproduction (within regular business hours) within 30 days following the meeting.

Dated: March 2, 1984.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 84-6285 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement for the Comprehensive Conservation Plan for Kanuti National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) and a Comprehensive Conservation Plan and wilderness suitability assessment for the Kanuti National Wildlife Refuge in interior Alaska. Public meetings regarding preparation of this plan and the EIS and wilderness assessment also will be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by May 31, 1984. Public meetings regarding the Kanuti National Wildlife Refuge plan and EIS will be held at:

Allakaket and Alatna, New Community Hall, March 21, 1984, time to be decided later

Bettles Field and Evansville, FAA Recreation Hall, 7:00 p.m., March 22, 1984

Fairbanks Ryan Junior High School, 951 Airport Way, Cross-street is Cowles, 7:30 p.m., April 2, 1984

In addition, public meetings will be held in late April in Hughes and Huslia, Alaska. Notice will be published in advance.

ADDRESSES: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service; 1011 E. Tudor Road; Anchorage, Alaska 99503. Attention: Pamela D. Wilson.

FOR FURTHER INFORMATION CONTACT: Pamela D. Wilson, Public Affairs Specialist, Refuge Planning, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503. (907) 786-3501.

SUPPLEMENTARY INFORMATION: This comprehensive conservation plan and wilderness substability assessment is being prepared to fulfill requirements of the Alaska National Interest Lands Conservation Act of 1980, section 304 g. The environmental review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), other appropriate Federal regulations, and Service procedures for compliance with those regulations.

We estimate the Draft Environmental Impact Statement and plan will be made available to the public by December 1985.

Dated: February 29, 1984.

Jan E. Riffe,

Acting Regional Director.

[FR Doc. 84-6273 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-07-M

Minerals Management Service

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following new and revised OCS Official Protraction Diagrams, approved on the dates indicated, are available at the Minerals Management Service, Alaska Outer Continental Shelf Region, Anchorage, Alaska. In accordance with Title 30, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area represented.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description	Revised date
NN 8-3	Jan. 28, 1983.
NP 1-3	Nov. 2,1983.
NP 1-4	Do.
NP 1-5	Do.
NP 1-7	Do.
NR 4-2	November 10, 1983
NR 6-4 Flaxman Island	Do.
NR 7-2	January 22, 1984.
NR 7-4	Do.
NR 7-5 Demarcation Point	Nov. 10, 1983.
NR 7-6	Jan. 22, 1984.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description	Approval date
NM 1-1 Gareloi Island	Sept. 6, 1983.
NM 1-4	Mar. 17, 1982.
NM 2-4	Do.
NM 3-2	Do.
NM 3-3	Do.
NM 3-4	Do.
NM 4-1	Do.
NM 4-2	Do.
NM 4-3	Do.
NM 60-1 Murray Canyon	Do.
NM 60-4	Do.
NM 1-7 Amchitka Pass	Sept. 6, 1983.
NM 4-8	Mar. 17, 1982.
NM 5-4	Jan. 12, 1983.
NM 5-6	Do.
NM 5-7	Mar. 17, 1982.
NM 5-8	Do.
NM 6-1	Do.
NM 6-2	Do.
NM 6-3	Jan. 12, 1983.
NM 6-4	Do.
NM 6-5	Do.
NM 6-6	Do.
NM 7-1	Mar. 17, 1982.
NM 7-2	Do.
NM 7-3	Jan. 12, 1983.
NM 7-4	Do.
NM 7-5	Do.
NM 8-2 Craig	Do.
NM 8-4 Dixon Entrance	Feb. 8, 1983.
NM 8-5	Jan. 12, 1983.
NM 9-1 Ketchican	Do.
NM 9-3 Prince Rupert	Feb. 8, 1983.
NM 59-8 Attu	Sept. 6, 1983.
NM 60-7 Shemya Island	Do.
NM 60-8 Kiska Volcano	Do.
NM 8-4 Juneau	Jan. 12, 1983.
NM 8-6 Sumdum	Do.
NM 8-7 Goddard	Do.
NM 8-8 Port Alexander	Do.
NM 7-8	Jan. 22, 1984.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Regional Manager, Minerals Management Service, Alaska Outer Continental Shelf Region, P.O. Box 101159, Anchorage, Alaska 99510–1159. Checks or Money Orders should be made payable to the Minerals Management Service.

Alan D. Powers,

Regional Manager Alaska OCS Region.

[FR Doc. 84-6206 Filed 3-7-84; 8:45 am]

BILLING CODE 4301-MR-M

Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 1610, 1901, 1966, and 1967, Blocks 65 and 64, South Pass Area, and Blocks 152 and 153, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from

an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on January 31, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 29, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-6277 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0758, Block 165, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on February 29, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: February 29, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-6276 Filed 3-7-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30322]

Southern Pacific Transportation Co.; Abandonment and Discontinuance of Trackage Rights Exemption in Butte and Yuba Counties, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption and proposed exemption.

SUMMARY: By a petition filed October 20, 1983, and supplemented February 8, 1984, Southern Pacific Transportation Company (SP) seeks an exemption under 49 U.S.C. 10505, from the requirement of prior approval under 49 U.S.C. 10903, in connection with proposals to: (1) Abandon its Oroville Branch between milepost 146.590 and milepost 147.929 near Oroville, a distance of 1.34 miles; and (2) discontinue trackage rights over Union Pacific Railroad Company (UP) between milepost 180.41 near Marysville and milepost 203.92 near Oroville, a distance of 23.51 miles, in Butte and Yuba Counties, CA.

The Commission is bifurcating this proceeding to exempt the abandonment of SP's line between milepost 147.4 and milepost 147.929, subject to the employee protective conditions in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

With respect to SP's proposals to: (a) Abandon the remaining portion of the Oroville Branch between milepost 146.590 and milepost 147.4, and (b) discontinue trackage rights over UP, we are establishing a schedule for receiving comments and redesignating this portion of the proceeding as Finance Docket No. 30322 (Sub-No. 1).

DATES: In F.D. 30322, the decision shall be effective on March 7, 1984, and petitions to reopen shall be filed by March 28, 1984. In F.D. No. 30322 (Sub-No. 1), comments shall be filed by April 9, 1984, and replies are due by April 27, 1984.

ADDRESSES: In F.D. No. 30322, send petitions referring to Finance Docket No. 30322 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioners' representatives: Gary Laakso, Southern Pacific Bldg., One Market Square, San Francisco, CA 94105

In F.D. No. 30322 (Sub-No.1), parties shall file and serve additional information by April 9, 1984, and replies shall be filed and served by April 27, 1984

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: March 1, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-6235 Filed 3-7-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30416]

St. Louis Southwestern Railway Co.; Purchase (Portion) Exemption-Southern Pacific Transportation Co.

February 27, 1984.

The Southern Pacific Transportation Company (SPT) and its subsidiary St. Louis Southwestern Railway Company (SSW) have notified the Commission that SSW intends to acquire from SPT two segments of line totaling 5.94 miles, extending from milepost 256.52 near Eustace to the end of the line at milepost 259.40, and from milepost 240.66 near Smitty to the end of the line at milepost 237.06, in Henderson County, TX. SPT own 99.9 percent of total stock of SSW.

SPT no longer owns trackage directly connecting the two rail segments because of the abandonment approved by the Commission in AB–12 (Sub–No. 53), *Southern Pacific Transp. Co.-Abandonment*, 363 I.C.C, 105 (1980). *Aff'd State of Texas* v. *United States*, 642 F. 2d 87 (1981). SSW owns trackage that connects with both segments. Acquisition of those lines by SSW will provide needed connections, increase operating efficiency, and eliminate unnecessary intercorporate accounting.

This transaction is within a corporate family and comes within the class of transactions described in 49 CFR 1111.5(c)(3) which has been exempted from Commission regulation. SSW's purchase of the lines will not result in changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use the exemption, any employee affected by the acquisition of the line by SSW shall be protected pursuant to *New York Dock Ry.-Control-Brooklyn Eastern Dist.*,. 360 I.C.C. 60(1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-6234 Filed 3-7-84; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: March 22–23, 1984.
Time: 9:00 a.m. to 4:00 p.m.
Room: 316.
Program: This meeting will review applications submitted to the research resources Program: United States Newspaper Program, Division of Research Programs, for projects beginning after July 1, 1984.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-6287 Filed 3-7-84; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel, Advisory Committee; Notice of Meeting Change

This is to announce a change in a meeting of the Humanities Panel Advisory Committee.

The meeting to be held on March 8, 1984 in Room 430, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, D.C. to review applications submitted for the Planning and Assessment Studies Programs, has been changed. It will be held on March 22, 1984 in Room 430.

This meeting was announced on page 5844 of the **Federal Register** dated February 15, 1984.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-6296 Filed 3-7-84; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision

2. The title of the information collection: 10 CFR Part 110

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Exporters and importers of nuclear material and equipment.

6. An estimate of the number of responses: 660

7. An estimate of the total number of hours needed to complete the requirement or request: 617

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 110 provides application, reporting and recordkeeping requirements for the export and import of nuclear equipment and material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 28th day of February 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–6180 Filed 3–7–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–206/361/362]

Southern California Edison Co. and San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3); Exemption

I

The Southern California Edison Company and San Diego Gas & Electric Company (the licensees) holds Facility License Nos. DPR–13, NPF–10, and NPF–15, which authorize operation of the San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3 (the facilities). The licensees provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. These facilities are pressurized water reactors located in San Diego County, California.

II

Section IV.F.1 of Appendix E to 10 CFR Part 50 requires each licensee of a nuclear power facility to conduct an annual emergency preparedness exercise and to include participation by appropriate State and local government agencies.

By letter dated January 19, 1984, the licensee requested an exemption from the requirement for State and local participation in the Annual Emergency Plan Exercise scheduled for February 29, 1984, at the San Onofre Nuclear Generating Station, Unit No. 2. The State and local governments within the San Onofre 10-mile emergency planning zone notified FEMA Region IX of their intent to withdraw from their commitment to participate in the February exercise.

On September 28, 1983, the U.S. Federal Emergency Management Agency (FEMA) published a final rule (44 CFR Part 350) which states in part at Section 350.9 that each State which has a commercial nuclear power site within its boundaries shall fully participate in an exercise jointly with the nuclear power plant licensee and appropriate local governments at least every two years. It further states that each appropriate local government which has a site within its boundaries or is within the 10-mile plume exposure pathway Emergency Planning Zone of such site shall fully participate in a joint exercise with the licensee and the State at least every two years.

Federal Emergency Management Agency Headquarters has notified FEMA Region IX that since the State of California and the local governments within the 10-mile Emergency Planning Zone of the San Onofre Nuclear Generating Station are eligible to go to a biennial exercise frequency in accordance with 44 CFR Part 350, they are excused from participation in the annual exercise scheduled for February 1984.

The last full-scale emergency preparedness exercise at San Onofre was held on March 23, 1983. Federal Emergency Management Agency evaluation findings pertaining to State and local government participation in that exercise indicated that all jurisdictions reflected an adequate or better capability to respond to an offsite emergency at the San Onofre Nuclear Generating Station.

Based on our evaluation, we conclude that the licensee's request for a one-time exemption for State and local governments is reasonable and that granting the request will not adversely affect the state of emergency preparedness at the San Onofre site. We conclude, therefore, that the licensee's request for an exemption from the requirements of 10 CFR 50, Appendix E, *Section* IV.F.1 should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action see the licensee's request dated Janurary 19, 1984, which is available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the San Clemente Branch Library, 242 Avenida del Mar, San Clemente, California 92672.

Dated at Bethesda, Maryland this 29 day of February 1984.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Division of Licensing.

[FR Doc. 84–6181 Filed 3–7–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–445, 50–446]

Texas Utilities Electric Co. (Comanche Peak Steam Electric Station, Units 1 and 2); Application for Operating License

March 1, 1984.

Served March 2, 1984.

Please take notice that the Evidentiary Hearing in the above captioned proceeding scheduled to take place March 12–16, 1984, 8:30 a.m. to 6:00 p.m. Monday to Thursday and 8:30 a.m. to 3:00 p.m. Friday, at the Metro Center Hotel, Fort Worth, Texas 76102, has been rescheduled to the week of March 19–23, at the same time and location.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Administrative Judge.

[FR Doc. 84–6182 Filed 3–7–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 13797; 812–5696]

Investment Trust of Boston, et al.; Filing of Application

March 2, 1984.

Notice is hereby given that Investment Trust of Boston c/o ITB Distributors, Inc., 60 State Street, Boston, Massachusetts 02109 and Investment Trust of Boston High Income Plus Fund,

Inc. (hereinafter collectively referred to as the "Load Funds" and each individually as a "Load Fund"), and Investment Trust of Boston-Massachusetts Tax Free Income Fund and Investment Trust of Boston-New York Tax Free Income Fund (hereinafter referred to as the "Low-Load Funds" and each individually as a "Low-Load Fund"; the Load Funds and Low-Load Funds hereinafter collectively referred to as the "Funds"), open-end, management investment companies registered under the Investment Company Act of 1940 (the "Act"), and ITB Distributors, Inc. ("ITB"), principal underwriter or distributor of each Fund (ITB and the Funds herein collectively referred to as "Applicants"), filed an application on November 14, 1983, for an order (1) pursuant to Section 11(a) of the Act approving certain proposed offers of exchange of shares among the Funds on a basis other than their relative net asset values per share at the time of exchange, and (2) pursuant to Section 6(c) of the Act, granting an exemption from Section 22(d) of the Act in connection with certain exchanges and reinvestment privileges. All interested persons are referred to the application on file with the Commission for a statement of representations therein, which are summarized below, and to the Act and the rules thereunder for the complete text of the provisions thereof which are relevant to any consideration of the application.

Applicants state that Investment Trust of Boston's shares are registered under the Securities Act of 1933 and currently are offered for sale to the public in a continuous offering at their net asset value plus a maximum sales charge of 7.25% of the offering price (7.82% of the net amount invested), with reductions reflecting the amount being invested and certain other factors. According to the application, the Low-Load Funds and Investment Trust of Boston High Income Plus Fund ("High Income Fund") have each filed a registration statement under the Securities Act of 1933, pursuant to which each seeks to register its shares for sale to the public. When their registration statements become effective, ITB proposes to maintain a continuous public offering of the shares of High Income Fund at their net asset value plus the same sales charge (with reductions) applicable to shares of Investment Trust of Boston. ITB also proposes to maintain a continuous offering of the shares of the two Low-Load Funds at their respective net asset values plus a maximum sales charge of 4.75% of the offering price (4.99% of the net amount invested), also with reductions reflecting the amount being invested and other factors.

Shares of the Funds are distributed principally by securities broker-dealers, who have entered into dealer agreements with ITB ("Qualified Dealers"). Qualified Dealers may also offer their customers a service called ITB Insured Money Account ("IMA"). Under the IMA program a Qualified Dealer arranges for the opening on behalf of its customers through a broker of interest-bearing accounts at depository institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

After the registration statements for the High Income Fund and/or the Low-Load Funds become effective and public offerings of any of the three Funds commence, Applicants proposed to permit: (1) A shareholder of a Load Fund to exchange shares for shares of the other Load Fund or for shares of a Low-Load Fund at their relative net asset values without a sales charge; (2) a shareholder of a Low-Load Fund to exchange shares for shares of the other Low-Load Fund at their relative net asset values without a sales charge; (3) a shareholder of a Low-Load Fund who has held his or her shares for more than 6 months to exchange shares for shares of a Load Fund at their relative net asset values without a sales charge; and (4) a shareholder of a Low-Load Fund who has held his or her shares for less than 6 months to exchange his or her shares for shares of a Load Fund at their relative net asset values plus a sales charge equal to the difference between the rate applicable to the Load Fund on the value of the exchanged assets and that applicable to the Low-Load Fund from which the shareholder exchanged (unless his or her Low-Load Fund shares were held as a result of an earlier exchange from a Load Fund in which case the exchange would be at the relative net asset values of the Funds without a sales charge).

Applicants also propose to permit an investor who has redeemed his or her shares of a Load Fund (or the shares of a Low-Load Fund if they were acquired as the result of an earlier exchange from a Load Fund) and deposited the proceeds in an IMA to purchase thereafter shares of any Fund at its then current net asset value without a sales charge. Further, an investor who has redeemed his or her shares of a Low-Load Fund and deposited the redemption proceeds in an IMA may purchase, after holding the shares and thereafter maintaining a minimum balance in the IMA equal to the amount to be reinvested for a total of more than 6 months, shares of any Fund at its then current net asset value without a sales charge. However, an investor who has redeemed his or her shares of a Low-Load Fund and deposited the redemption proceeds in an IMA may only purchase, after holding the shares and thereafter maintaining a balance in the IMA equal to the amount to be reinvested for a total of less than 6 months, shares of a Low-Load Fund at its then current net asset value without a sales charge; and shares of a Load Fund at its then current net asset value plus a sales charge equal to the difference between the rate applicable to the Load Fund on the value of the exchanged assets and that applicable to the Low-Load Fund originally purchased (unless his or her Low-Load Fund shares were held as a result of an earlier exhange from a Load Fund, in which case the exchange would be at the relative net asset values of the Funds without a sales charge).

Applicants assert that the purpose of the proposed exchange offers is to permit a shareholder of any Fund who changes his or her investment objective to exchange, in a simple transaction, his or her Fund shares for shares of any other Fund on an equitable basis. Applicants further assert that most of the proposed exchanges will comply with Section 11(a) itself because they will be made on the basis of the Funds' relative net asset values per share without any sales charge. A shareholder of a Low-Load Fund who has held shares or maintained a minimum balance in his or her IMA for less than 6 months and who changes his or her investment objective simply by paying the differential charge on the value of the shares being exchanged.

According to Applicants, if these exchanges were made at their relative net asset values without any sales charge, it could disrupt the distribution system of the Load Funds because an investor could easily avoid the sales charge by first purchasing Low-Load Fund shares and then immediately exchanging them for Load Fund shares. It is contended that the basis for these exchanges proposed by Applicants would avoid this problem, would be equitable to all shareholders and would benefit exchanging shareholders by crediting them for having previously paid a sales charge.

Applicants also wish to make available the proposed reinvestment privilege to Fund shareholders holding IMA's whose imvestment objective has again changed. Applicants believe that the reinvestment privilege will improve the range of investment opportunities

and services available to Fund shareholders and other investors. In addition, Applicants believe that granting the proposed exemption for the reinvestment privilege will be consistent with the purposes of Section 22(d) of the Act because the proposed reinvestment privilege will not discriminate among investors. The reinvestment privilege would be available to all present and future Fund shareholders on the same basis.

Finally, Applicants state that requiring IMA account-holders whose purchases of Fund shares are eligible only for reduced, instead of eliminated, sales charges to pay such reduced sales charges is necessary in order to avoid the disruption of the distribution system of the Load Funds that would be possible if an investor could first purchase Low-Load Fund shares, redeem them and invest in an IMA, and then reinvest them in Load Fund shares without paying the difference in sales charges on the reinvestment. The proposed privilege requires that an investor who wishes to reinvest in the Funds have maintained at all times since redemption a balance equal to the amount to be reinvested.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 27, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date and order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6299 Filed 3-7-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20709; (SR-MSRB-84-3)]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

March 2, 1984.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Ave., N.W., Washington, D.C. 20036, submitted on January 12, 1984, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend the confirmation requirements for certain municipal securities. The proposed rule change would amend MSRB Rule G-15(a)(5) to require inclusion of additional information on customer confirmations for transactions in municipal securities maturing in more than two years and paying investment returns solely at redemption. These confirmations would be required to include a statement either on the front or the reverse of the confirmation indicating: (1) That the securities did not provide periodic payments; (2) that the securities are callable at prices below their full maturity value, if applicable; and (3) that it may be difficult for the customer to determine whether the security has been called, unless the security is registered. The rule proposal includes a specific legend that would satisfy these requirements.

Because the amendments would require changes to confirmations used by municipal brokers and dealers, the MSRB determined that the rule change should not become effective until September 1, 1984, to give the industry time to bring their confirmations into compliance.

Notice of the terms of substance of the proposed rule change was given in Securities Exchange Act Release No. 20585, January 23, 1984, published in the **Federal Register** (48 FR 3949, January 31, 1984). No comments on the proposed rule change were received.

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 MSRB, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved, to be effective September 1, 1984.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6225 Filed 3-7-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must received on or before April 13, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency Clearance Officer of your intent as early as possible.

COPIES: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street, NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Information Collections Submitted for Review

Title: Portfolio Financing and Evaluation Reports
Form Nos.: SBA 684, 1031
Frequency: On Occasion
Description of Respondents: New small business concerns
Annual Responses: 4200
Annual Burden Hours: 840
Type of Request: Extension
Title: Funds to Licensee

Form Nos.: SBA 25, 26, 27, 28, 33, 34, 444C, 1022, 1022A, 1065
Frequency: On Occasion
Description of Respondents: SBIC licensees
Annual Responses: 300
Annual Burden Hours: 1200
Type of Request: Extension.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-6303 Filed 3-7-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2119]

Texas; Declaration of Disaster Loan Area

Smith County and the adjacent Counties of Cherokee, Gregg, Henderson, Rusk, Upshur, Van Zandt and Wood in the State of Texas constitute a disaster area because of damage caused by below freezing temperatures on December 22–29, 1983. Applications for loans for physical damage may be filed until the close of business on May 3, 1984, and for economic injury until the close of business on December 3, 1984, at the address listed below: U.S. Small Business Administration, 1100 Commerce Street, Dallas, Texas 75242, or other locally announced locations.

Interest rates for this disaster are:

	Percent
Homeowners with credit available elsewhere	12.500
Homeowners without credit available elsewhere	6.250
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 211907 for physical damage and for economic injury the number is 614700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 2, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-6305 Filed 3-7-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2120]

Texas; Declaration of Disaster Loan Area

Leon County and the adjacent Counties of Anderson and Madison in the State of Texas constitute a disaster area as a result of damage caused by a tornado which occurred on February 11, 1984. Eligible persons, firms and organizations may file applications for physical damage until the close of business on May 3, 1984, and for economic injury until the close of business on December 3, 1984, at the address listed below: U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.750
Homeowners without credit available elsewhere	6.375
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.5000

The number assigned to this disaster is 212012 for physical damage and for economic injury the number is 614800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 2, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-6304 Filed 3-7-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 900]

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1983

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1983 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute.

Publication of this listing in the **Federal Register** is required by Section 7342(f) of Title 5, United States Code, as added by Section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978.

(Pub. L. 95-105, August 17, 1977, 91 Stat. 865).

Dated: March 1, 1984.

Ronald I. Spiers,

Under Secretary for Management.

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency—Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars			
President and First Lady	Photographs: Color of Prime Minister and Mrs. Hawke; autographed only by Prime Minister Hawke; in black leather frame with Australian crest at top; 9½" x 12" overall. Recd: June 14, 1983. Est. value: $120. Archives, foreign.	The Honorable Robert Hawke, Prime Minister of Australia, Australia.	Nonacceptance would have caused donor embarrassment.
Do	Jewelry: Gold cuff links, tie clasp, collar bar w/ two or three pearls each; and, set of gold necklace, earrings, ring and "NR" pin, all set w/pearls. Recd: Oct. 25, 1983. Est. value: $1,360. Archives, Foreign.	His Excellency Hussain Muhammed Ershad, Lt. Gen.; President of the Council of Ministers of the People's Republic of Bangladesh, Bangladesh.	Do.
Do	Clothing: 2 shirts and 2 pairs of pants (for the Pres.); 4 Saris or bolts of fabric: Gold and red, 6 yds. 17"; red and gold tulle handmade bustiere; synthetic charmeuse w/satin drawstring skirt w/cap; and pair of shoes. Machine-embroidered tablecloth and napkins. Recd: Oct. 25, 1983. Est. value: $1,111. Archives, Foreign.	....do	Do.
Do	Athletic equipment: Bridles, (2), brown leather w/stamped leaf design and personalized; brass hardware; contained in wood cases; cases are 11½" x 16". Recd. Aug. 17, 1983. Est. value: $240. Archives, Foreign.	His Excellency Carlos Eugenio Vides, Minister of Defense and Public Security, El Salvador.	Do.
Do	Sculptures: 2 figures; white porcelain of a groom controlling a spirited horse in a rearing position; mounted on porcelain base; by "Nymphenburg"; 9" x 11" x 24" high. Recd: Oct. 4, 1983. Est. Value: $1,000. Residence; for official use/display.	His excellency Dr. Karl Carstens, President of the Federal Republic of Germany, Germany, Federal Republic of.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Household: Tea set consisting of 10 pieces by "KPM"; white porcelain with gold floral motif and gold rim; platter, and tea pot with lid, "NRR"; 2 dessert plates, 2 cups and 2 saucers, "NR" and "RR"; a sugar bowl and creamer; displayed in a black case. Recd: Oct. 4, 1983. Est. value: $1,500. Residence; for official use/display.	do	Do.
Do	Photographs: Two black and white of Emperor and Empress Hirohito in formal poses; under glass in silver frames w/gold imperial crest at top; ea. 11¼" x 14¼" in velvet-covered boxes. Recd: Nov. 9, 1983. Est. value: $220. Residence; for official use/display.	Imperial Majesties Hirohito, the Emperor and Empress of Japan, Japan.	Do.
Do	Household: Plate, Shigaraki, pottery; 23" diam.; incl. is a wooden display stand; 15" x 12" x 13"; and, jar, Shigaraki, pottery; 18" diam. x 19" H. Recd: Nov. 9, 1983. Est. value: $750. Archives, Foreign.	The Honorable Takeichi Miyaoka, Mayor of Hiijode-Cho, Japan.	Do.
Do	Artwork: Wood display stand for Battledore; 20" high. Recd: Nov. 9, 1983. Est. value: $50. Archives, Foreign.	do	Do.
Do	Household: Folding screen, 2-panelled silk w/painting of kimono hanging from rack, entitled "I-Koh-Ko-Sode-Zu", by Takasni Ochiai; 21" x 52½". Recd: Nov. 9, 1983. Est. value: $455. Archives, Foreign.	Teh Honorable Eiichi Nakao, Member House of Representatives/National Diet of Japan, Japan.	Do.
Do	Painting: Watercolor entitled "The East Stupa of Yashkushi-Ji Temple in Japan" by Ikuo Hirayama; signed; in goldpainted frame with gold border under plexiglass; 37½" x 32" overall. Recd: Jan. 20, 1983. Est. value: $800. Archives, Foreign.	His excellency Yasuhiro Nakasone, Prime Minister of Japan, Japan.	Do.
Do	Cassettes: (3) UCA 60 min video cassettes color plus and (2) sk video cassette T-120's of "The Visit of President Ronald Reagan to the Republic of Korea." Recd: Dec. 14, 1983. Est. value: $410. Archives, Foreign.	Mrs. Doo Hwan Chun, wife of the President of the Republic of Korea, Korea, Republic of.	Do.
Do	Photograph Albums: 2, containing color photos of "the State Visit of His Excellency the President of the United States of America and Mrs. Ronald W. Reagan to the Republic of Korea November 12–14, 1983" blue velvet in velvet cases; albums inscribed. Recd: Dec. 14, 1983. Est. value: $600. Archives, Foreign.	do	Do.
Do	Album: Korean postage stamps w/color photos of President and Mrs. Chun; 7½" x 9"; in cloth-covered slipcase. Recd: Nov. 13, 1983. Est. value: $85. Archives, Foreign.	His Excellency and Mrs. Doo Hwan Chun, President of the Republic of Korea, Korea, Republic of.	Do.
Do	Books: Two duplicate sets of paperback books on Nepal, some of which are by His Majesty Birendra; enclosed in cloth-covered cases. Recd: Dec. 7, 1983. Est. value: $50. Archives, Foreign.	His Majesty Bir Bikram, Shah Dev Birendra, King of Nepal, Nepal.	Do.
Do	Flowers: large arrangement of lilies, carnations, marigolds, etc. Recd: Apr. 6, 1983. Est. value: $150. Residence; for official use/display.	His Excellency Ferdinand E. Marcos, President of the Republic of the Philippines, Philippines, Philippines.	Do.
Do	Desk set and accessories: Letter holder: 5" x 3" x 1"; memo holder; 8" x 5" x 3"; card holder; 5" x 3" x 2"; desk pad (blotter pad); 22" x 15"; jewelry box; 10" x 5" x 2"; photograph frame; 10" x 12"; pencil cup; 4½" x 3" x 3"; box; 4" x 3" x 2", all with mother-of-pearl on silver-colorad metal. Recd: May 31, 1983. Est. value: $155. ARchives, Foreign.	do	Do.
Do	Flowers: Large floral arrangement of orchids displayed on a wicker base. Recd: Dec. 22, 1983. Est. value: $350. Residence; for official use/display.	His Excellency Abdelkader Braik Al-Ameri, Ambassador of Qatar, Qatar.	Do.
Do	Sculpture: Bronze of a Gaucho on horseback spearing a wild boar; No. 7 of 15 by A. Coello of Portugal, signed; mounted on oval wood base; 15" H. x 18" L. x 8½" W. Recd: Dec. 20, 1983. Est. value: $2,200. Residence; for official use/display.	His Majesty Juan Carlos I King of Spain, Spain.	Do
Do	Photograph: Color, of Prime Minister Premadasa; permanized on wood plaque, easel style; 12" x 14". Recd: May 2, 1983. Est. value: $45. Archieves, Foreign.	His Excellency R. Premadasa, Prime Minister of Sri Lanka, Sri Lanka.	Do.
Do	Household: Tray, silver, oval-footed design w/fluted and scalloped interior and edging; 16½" x 13"; contained in red box; and, jewelry or trinket box, silver, footed, oval w/hinged lid, and overall filigree style design; 6" x 3" x 3"; enlosed in red box. Also incluced are several paperback booklets on Sri Lanka and one of the Prime Minister. Recd: May 2, 1983. Est. Value: $1,100. Archives, Foreign.	do	Do.
Do	Artwork: Relief of a Gazelle mounted on a hand-painted picture on copper; by Gastone; in brown wood frame; 25" x 31". Recd: Sept. 13, 1983. Est. value: $200. Archives, Foreign.	His Excellency Robert Mugabe, Prime Minister of Zimbabwe, Zimbabwe.	Do
First Lady	Household: Spoons, miniature, silver (demitasse), set of 6, "Australian Lyre Bird" design on handle; 3¾" diam., contained in black box w/Australian Crest on lid; box is 7" x 5½" x 1¼". Recd: Jun. 14, 1983. Est. value: $180. Archives, Foreign.	Mrs. Hazel Hawke, wife of Prime Minister of Australia, Australia.	Do
Do	Jewelry: Necklace, double strand of graduated natural pearls, from Bahrain's pearling grounds; attached w/a white gold clasp set w/9 diamonds; 18" length; contained in a velvet-covered box; included are two unattached brass plaques (English and Bahraini text). Recd: Jul. 20, 1983. Est. value: $2,100. Archives, Foreign.	His Highness Shaikh Isa Bin Sulman Al-Khalifa Amir of the State of Bahrain, Bahrain.	Do
Do	Household: 2 silver bowls circular, W/ Repousse designs; 7⅜" diam., 3½" H.; in velvet cases. Recd: Oct. 25, 1983. Est. Value: $1,300. Archives, Foreign.	His Excellency Hussain Muhammad Ershad, Lt. Gen.: President of the Council of ministers of the People's Republic of Bangladesh, Bangladesh.	Do.
Do	Painting: Color of Simon Bolivar w/his horse on a hillside by nighttime, acrylic on canvasboard, by Carmen Baptista, signed; in simulated antique goldleaf frame; 10½" x 12½". Recd: Apr. 14, 1983. Est. value: $250 Archives, Foreign.	Mrs. Carmen Baptista, wife of the Ambassador of Bolivia, H.E. Mariano, Baptista, Bolivia.	Do
Do	Linen: Tablecloth, white, crocheted, depicting "snowflake" and other geometrical designs; 80" x 96". Recd: Oct. 3, 1983. Est. value: $300. Archives, Foreign.	His Excellency Aristides Pereira, President of the Republic of Cape Verde, Cape Verde.	Do.
Do	Recordings: (5); 3 are single entitled "Music From Iraq" (Baghdad); 2 are in an album, "The Martyr", composed by Walid Gholmieh; incl. are 2 recorded cassettes, English and Iraqi versions, of "The Martyr". Recd: Dec. 22, 1983. Est. Value: $60. Archives, Foreign.	The Honorable and Mrs. Nizar Hamdoon, Minister and Head of the Iraqi interests section embassy of India, Iraq.	Do.
Do	Jewelry: Pin, Gold, studded w/diamonds representing mother and son; handcrated by artist Padani; 1½"; contained in box w/ presentation plate on inside lid, lettered "To Nancy Reagan with warm greetings from Olira Navon". Recd: Jan. 7, 1983. Est. Value: $1100. Archives, Foreign.	Mrs. Ofira Navon, wife of the President of Irael, Israel.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Jewelry: Pin, Brooch of ancient Roman glass enclosed in sterling silver wire; 2" diam., designed and handmade by Miriam Hirshovitz; in myrtlewood box, 3½" x 2¾" x 1½".	Mrs. Yitzhak Shamir wife of Pm and Min. of For. Affairs of Israel, Israel.	Do.
Do	Accessories: Cosmetic or train case, double-handled w/ interior mirror and brass fittings; 10½" H. x 12½" L. x 8" W.; clutch purse W/ spring closure, 9" x 14"; shoulderbag, envelope style, Adj. strap, 10" x 12"; 2 zippered cosmetic cases, one 6" x 8" and one round, 6" L.; all covered in taupe-colored leather (ostrich); 2 ballpoint pens, sterling silver and leather; and scarf, crep de Chine, 35" sq. Recd: Oct 20, 1983. Est. value: $4,800. Archives, Foreign.	Mrs. Bettino Craxi, wife of Prime Minister of Italy, Italy.	
Do	Household: Ashtrays, (2) porcelain, Gold-washed borders w/ plumed hat handpainted in center of each; by Hermes of Paris; 6½" x 8". Recd: Jun. 2, 1983. Est. value: $400. Residence; for Official Use/Display.	Mr. Mariapia Fantani, wife of the Pres. of the council of ministers of the Italian Republic, Italy.	Do.
Do	Jewelry; Necklace, gold and ivory balls on gold chain; 61½" long; contained in black velvet box. Recd: Jun 7, 1983. Est. value: $4,000. Archives, Foreign.	His Excellency, Felix Houphouet-Boigny, President of the Republic of Ivory Coast, Ivory Coast.	Do.
Do	Household: Jewelry or all-purpose box, ivory w/ a gold mask on hinged lid w/ four gold ball feet; 5" x 7" x 4"; contained in a green velvet box. Recd: Jun. 13, 1983. Est. value: $2,500. Residence; for official use/display.	His Excellency Felix Houphouet-Boigny, President of the Republic of Ivory Coast, Ivory Coast.	Do
Do	Flowers: Roses, long stemmed, red; 3 dozen in white ceramic vase. Recd: Jul. 6, 1983. Est. value: $150. Residence; for official use/display.	The Honorable Edward Seaga, Prime Minister of Jamaica, Jamaica.	Do
Do	Household: Jewelery box, sterling silver w/ etched floral design in silver and gold and gold hinges and closure on double doors; four interior ebony red velvet-lined drawers w/ silver and gold pulls; 5⅛" W. x 4½" D. x 6" H.; enclosed in black simulated leather case. Recd: Nov. 9, 1983. Est. value: $425. Archives, Foreign.	Imperial Majesties Hirohito, the Emperor and Empress of Japan, Japan.	Do
Do	Household: Black lacquered stationery box; 11½" x 9" x 2½"; and lacquered chest w/three drawers and one door; 14¼" x 10¼" x 12"; both have butterfly motif. Recd: Nov. 9, 1983. Est. value: $200. Archives, Foreign.	His Excellency and Mrs. Yasuhiro Nakasone, Prime Minister of Japan, Japan.	Do
Do	Flowers: Silk, multicolored arrangement of various flowers, in white ceramic vase; approx. 3 feet H. overall. Recd: Jan. 20, 1983. Est. value: $2,000. Residence; for official use/display.	His Excellency Yasuhiro Nakasone, Prime Minister of Japan, Japan.	Do
Do	Household: Ceramic tea bowl, cobalt blue w/ gold bamboo design and emerald green design on interior; handcrafted; 5" diam., 3" H.; designed by Senno Soshitsu. Recd: Jan. 20, 1983. Est. value: $200. Archives, Foreign.	His Excellency Yasuhiro Nakasone, Prime Minister of Japan, Japan.	Do
Do	Household: Jewelery Boxes, (2), white gemstone w/ silver-colored metal fittings and cushioned interior; 3½" x 2½" x 2"; in velvet covered box w/ interior presentation plaque. Recd: Nov. 13, 1983. Est. value: $80. Residence; for official use/display.	Mrs. Doo Hwan Chun, wife of the President of Korea, Korea, Republic of.	Do
Do	Household: Jewelry box, black lacquer w/ elaborate mother-of-pearl birds and floral designs on hinged double doors; 8 interior drawers w/ mother-of-pearl floral motifs; made in Korea; 17¼" wd. x 15" H. x 7¾" D.; contained in blue velvet chest, 19" x 17" x 9". Recd: May 3, 1983. Est. value: $375. Archives, Foreign.	His Excellency Bum Suk Lee, Minister of Foreign Affairs of the Republic of Korea, Korea, Republic of.	Do
Do	Painting: Watercolor and other media of a 16th-century chapel entitled "Mar-Elias Chaya"; by Aida Marini, signed; matted under plexiglass in gold-toned wood frame; 27¼" x 36½". Recd: Dec. 5, 1983. Est. value: $350. Residence; for official use/display.	Mrs. Joyce Gemayel, wife of the President of Lebanon, Lebanon, Republic of.	Do
Do	Linens: Tablecloth, white organdy, w/handsewn orchid design; handmade; 13 feet × 6 feet and 8 inches; and, 12 matching napkins and 12 cocktail napkins, ea. w/one floral motif; 16" × 20" square respectively. Recd: July 22, 1983. Est. value: $1,000. Residence; for official use/display.	Mrs. Joyce Gemayel, wife of President Gemayel of Lebanon, Lebanon Republic of.	Do.
Do	Jewelry: Necklace, graduated beads, 24"; bracelet, native female motif; ivory and contained in an ivory box w/elephant and human figures on side and a miniature elephant attached to inscribed hinged lid; 4¾" × 3" × 3"; included is an ivory spoon lettered "Liberia" w/shape of country on handle; 4" long. Recd: June 23, 1983. Est value: $1,515. Archives, Foreign.	Mrs. Nancy Doe, wife of Commander-in-Chief of Liberia, Liberia.	Do.
Do	Trees: (2), Bonsai; one white pine, 150 years old; one persimmon, 110 years old; included is a bonsai kit of tools (7) in a black vinyl case; case is 10 " × 6" ×1½". Recd: Apr. 13, 1983. Est. value: $8,500. National Arboretum Official Display.	His Majesty Hassan II, King of Morocco, Morocco.	Do.
Do	Household: Jewelry or all-purpose trinket box, silver, heart-shaped w/embossed temple design on hinged lid; 5" diam.; enclosed in red velvet box. Recd: Dec. 7, 1983. Est. value: $250. Archives, Foreign.	His Majesty Bir Bikram Shah Dev Birendra, King of Nepal, Nepal.	Do.
Do	Flowers: Large arrangement of white anthurium, rubrum lilies, baby carnations, palm. Recd: July 15, 1983. Est value: $150. Residence; for official use/display.	Her Excellency Imelda Marcos, First Lady of the Philippines, Philippines.	Do.
Do	Clothing: Two dresses, white sleeveless floor-length beaded gown w/a bird design in gold-colored sequins on front and back, and a matching jacket; and, a black crepe floor-length, short-sleeve gown w/beaded and sequined top; both handmade by J. Moreno, Manila. Recd: July 14, 1983. Est. Value: $2,400. Archives, Foreign.	....do	Do.
Do	Household: cup, sterling silver, w/bas relief swag design; handcrafted; 4" h., 4¼" diam.; enclosed in velvet box; 7" × 7" × 5" × 5½". Recd: Sept. 15, 1983. Est. Value: $250. Archives, Foreign.	His Excellency Antonio Dos Santos Ramalho Eanes, President of the Republic of Portugal, Portugal.	Do.
Do	Clothing: Purse, red leather shoulderbag, envelope style w/zippered closure by "Loewe". Recd: June 23, 1983. Est. Value: $290. Archives, Foreign.	His Excellency Felipe Gonzalez, President of the Government of Spain, Spain.	Do.
Do	Jewelry: Bracelet, gold (14-20 k.); 2 ¾" diam.; enclosed in an art nouveau box of blue-gray material w/ carved white floral design on hinged lid and sides: 11" L. × 7" WD. × 3" H. Recd: Oct. 26, 1983. Est. Value: $435. Archives, Foreign.	His Excellency Gnassingbe Eyadema, President of the Republic of Togo, Togo.	Do.
Do	Household: Soup tureen, copper, w/removable lid; and, a copper ladle; 9" H. x 13" diam. (tureen); 16" L. (ladle); and, goblets, (6), copper w/malachite motif; 7" H. each. Recd: Apr. 15, 1983. Est. Value: $350. Archives, Foreign.	His excellency Dr. Kenneth David Kaunda, President of the Republic of Zambia, Zambia.	Do.
Do	Linens: Bed covering, beige heavy cotton, hand-crocheted 87" x 98". Recd: Sept. 13, 1983. Est. Value: $275. Archives, Foreign.	His excellency Robert Mugabe, Prime Minister of Zimbabwe, Zimbabwe.	Do.
President	Household: Vase, crystal, 4-sided, engraved w/dove of peace and logo of the U.N. on one side; crafted by Olle Alberius for Orrefors of Sweden; No. 30; 1983; signed; 9" H. x 9" W. x 4" D.; enclosed in blue box. Recd: Sept. 27, 1983. Est. Value: $550. Residence; for official use/display.	His Excellency Dr. Javier Perez de Cuellar, Secretary General of the United Nations.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Desk accessory: Letter opener, white gold, w/a blue and brown stone set in handle; 9¼" long; enclosed in a green leather box bearing Australian crest on hinged lid; box is 11½" x 4½" x 1". Recd: June 14, 1983. Est. Value: $850. Archives, Foreign.	The Honorable, Robert Hawke, Prime Minister of Australia, Australia.	Do.
Do	Videocassette: 2 tapes, both labeled "Presidential Football, Presenter NTSC, REC 31/5/83"; one is a Sony L-500; the other is Scotch 3M E-120. Recd: June 14, 1983. Est. Value: $150. Archives, Foreign.	do	Do.
Do	Sculpture: A Royal Lipizzaner stallion and his rider, mounted on a circular base lettered "In Den Pilaren, Spanische Reitschule" by "Wien", stamped "1595" and penned "122" on the bottom; 9½" x 8"; displayed in a black chest w/hinged doors, chest is 12" x 12" x 11¼". Recd: Feb. 8, 1983. Est. Value: $800. Residence; for official use/display.	His Excellency Bruno Kreisky, Chancellor of the Republic of Austria, Austria.	Do.
Do	Saber: Traditional Arab ceremonial, w/flint steel blade (inscribed) and gold handle; contained a gold (875) sheath w/incised and raised motifs and studded w/14 cultured pearls; 36½" L.; displayed in red velvet-covered chest; 36½" x 8" x 3"; included are two unattached brass plaques (English and Bahraini text). Recd: July 20, 1983. Est. Value: $1,200. Archives, Foreign.	His Highness Shaikh Isa Bin Sulman Al-Khalifa, Amir of the State of Bahrain, Bahrain.	Do.
Do	Protrait: President Reagan, oil on canvas, by Syful Islam, signed, 1983; in lt. brown wood scalloped frame w/Presidential plaque on front, inscribed on reverse; 28" x 32" overall. Recd: Oct. 25, 1983. Est. Value: $200. Archives, Foreign.	His Excellency Hussain Muhammed Ershad, Lt. Gen.; President of the Council of Ministers of the People's Republic of Bangladesh, Bangladesh.	Do.
Do	Artwork: 2 ivory mastodon tusks, uncarved and unpolished, on wood bases; 55" H.; silver incense burner, filigree design w/hanging ball chains; 11" x 11", in velvet box; silver cart w/oxen and driver; 12" x 7" x 5", on wood base w/plaque, in wood and glass case; and, 2 bklts. Poetry by Gen. Ershad, one inscribed, in fabric, leather covers; paperback. Recd: Oct. 25, 1983. Est. Value: $1,040. Archives, Foreign.	do	Do.
Do	Coin: a $100 gold coin, minted in 1982, commemorating Belize; lmt. ed.; 6.21 grams of .500 fine gold; by the Franklin Mint; enclosed in plastic. Recd: May 20, 1983. Est. Value: $185. Archives, Foreign.	The Honorable George Cadle Price, Prime Minister of Belize, Belize.	Do.
Do	Pipes: (7), zebrawood; contained in a rosewood chest w/ carved scene on hinged lid and engraved plaque; chest is 22" L. x 8½" W. x 3" H. Recd: Oct. 3, 1983. Est. Value: $255. Archives, Foreign.	His Excellency, Aristides Pereira, President of the Republic of Cape Verde, Cape Verde.	Do.
Do	Horse. Recd: Oct. 18, 1983. Est. Value: Indeterminable. Amer. Embassy of Chad official use.	His Excellency Hissein Habre, President of the Republic of Chad, Chad.	Do.
Do	Carpet: Wool, deep red background w/blue/black and ivory colored geometrical motif inside border designs; fringe on two ends; 8' x 10" x 6' 7". Recd: Oct. 17, 1983. Est. Value: $1,300. Archives, Foreign.	do	Do.
Do	Snakeskin: Python, 12 Feet and 9 inches long; tanned; and, two elephant tusks; uncarved and unpolished, w/3 brass bands; 42" long. Recd: Oct. 17, 1983. Est. Value: $2,590. Archives, Foreign.	do	Do.
Do	Clothing: Hat "Panama" by Montecristi; (folds up into balsa wood box); handcrafted in Ecuador; included is a handmande straw carrying case; 16" x 12" x 6". Recd: Apr. 15, 1983. Est. Value: $225. Archives, Foreign.	His Excellency Osvaldo Hurtado, President of the Republic of Ecuador, Ecuador.	Do.
Do	Book: "Political Power in Ecuador", by Osvaldo Hurtado, inscribed; translated by Nick D. Mills, Jr.; published 1977 by University of New Mexico Press, Alberquerque. Recd: Apr. 15, 1983. Est. Value: $30 Archives, Foreign.	do	Do.
Do	Photograph: Color, General Carlos Vides; under glass in plain black leather frame; 9" x 11"; inscribed. Recd; Aug. 17, 1983. Est. Value: $65. Archives, Foreign.	His Excellency Gen. Carlos Eugenio Vides, Minister of Defense and Public Security, El Salvador.	Do.
Do	Athletic Equipment: Saddle and tack; english forward seated hunting saddle w/stirrups, leathers and girth, by Gibbons of London. Recd: Apr. 15, 1983. Est. Value: $400 Ranch; for official use/display.	Her Majesty Elizabeth II, Queen, England	Do.
Do	Wallhanging: Tapestry, wool, "Tapisserie D' Aubusson" ("The Coat of Arms of the United States') Depicting the Great Seal of the United States; Designed by Jacques Fadat, handwoven by Tapisseries Contemporaines D' Aubusson; signed on reverse and attached with a certificate of authenticity; 37⅛" x 37". Recd: Mar. 5, 1983. Est. Value: $225. West Wing; for official use/display.	The Honorable Jacques Chirac, Mayor of the city of Paris, France.	Do.
Do	Painting: The Old City Hall of Filderstadt, Bernhausen, built in 1616; acrylic on masonite, by Gudrun Sigg-Kohler, 1982, signed; mounted on board frame; 35⅛" X 30"; included is an historical summation in calligraphy w/wax seal attached. Recd: Feb. 9, 1983. Est. Value: $350. Archives, Foreign.	The Honorable Karl Fessler, Lord Mayor of Filderstadt, Germany, Federal Republic of.	Do.
Do	Household: Tableware, bowl, Waterford crystal, pedestal style w/scalloped edge; 11" diam., 10½" H.; filled w/shamrocks. Recd: Mar. 19, 1983. Est. Value: $5,000 Archives, Foreign.	His Excellency Peter Barry, Minister for Foreign Affairs of Ireland, Ireland.	Do.
Do	Historic artifacts: Ancient Roman glass beaker or container w/silver wired neck and silver residue on body; 7½" H. x 4" diam. and 2" mouth; handblown; displayed on myrtlewood base w/engraved presentation plaque under plexiglass cover; overall 12⅛" H. x 6⅛" x 6⅛" sq. Recd: Nov. 22, 1983. Est. Value: $750. Archives, Foreign.	His Excellency Chaim Herzog, President of Israel, Israel.	Do.
Do	Religious article: Menorah, handcrafted, (candelabrum), of a filigree design w/nine candleholders, silver w/goldplating, (one is removable for lighting the other eight candles); 9"H. x 8" W.; displayed on a velvet-covered base atop an olivewood base w/engraved presentation plaque lettered "To President Ronald Reagan With Profound Respect and Appreciation, Jan. 1983, Yitzhak Navon, President of Israel," inside a removable lucite case. Recd: Jan. 5, 1983. Est. Value: $300. Archives, Foreign.	His Excellency Yitzhak Navon, President of Israel, Israel.	Do.
Do	Figure: Mezuza, "The Agam Mezuza", a door post prayer in lucite casing, by Yaacov Agam, signed; mounted on black wood stand; 6" x 2" x 3" overall; enclosed in velvet-covered box. Recd: Nov. 28, 1983. Est. Value: $250. Archives, Foreign.	His Excellency Yitzhak Shamir, Prime Minister and Minister of Foreign Affairs of Israel, Israel.	Do.
Do	Sculpture: Bronze statue of di Garibaldi on Horseback, by Florin Codre, signed; 16: H. x 14" L. x 7" W.; displayed in red buckram-covered carrying case; case is 18" H. x 17" L. x 10" W. Recd: Oct. 21, 1983. Est. Value: $1,000 Archives, Foreign.	His Excellency Bettino Craxi, President of the Council of Ministers of the Italian Republic, Italy.	Do.
Do	Clothing: 5 neckties, 4 in vari-colored stripings and 1 w/overall geometrical pattern; all silk by Trussardi; contained in a black ostrich and calfskin case; case is 10" x 14½". Recd: Oct. 26, 1983. Est. Value: $625 Archives, Foreign.	do	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Figures: 3; mask (Masque Contemporary Yaoure style), wood, no. 3 from the Bouafle region; displayed on a lucite stand; mask is 15" H. x 10" W. x 4" D.; and, a pair of seated figures of a man and woman, holding a cane and nursing a child, repectively; 15" H. x 4" D. x 4" W.; made of ivory. Recd: June 13, 1983. Est. Value: $1,925 Archives, Foreign.	His Excellency Felix Houphouet-Boigny, President of the Republic of Ivory Coast, Ivory Coast.	Do.
Do	Household: Dish octagonal, glazed porcelain w/overall multicolored floral design on blue background; 15⅛" x 15⅛"; included is a stained wood easel for displaying dish. Recd: Nov. 9, 1983. Est. Value: $400 Archives, Foreign.	Imperial Majesties Hirohito, The Emperor and Empress of Japan, Japan.	Do.
Do	Photographs: (3) color of President Reagan at ceremony in Japan; one depicts American Ambassador Mike Mansfield; dry-mounted and Matted in paper-covered wood frame; ea. 21" x 25" overall. Recd: Nov. 12, 1983. Est. Value: $225 Archives, Foreign.	Mr. Yutaka Kawashima, Director, First North America Division, Ministry of Foreign Affairs Japan.	Do.
Do	Artwork: Helmet, ornamental Samural, (Swusse-Kabuto), displayed in glass Case, 5½" x 3" x 6". Recd: Nov. 9, 1983. Est. Value: $375. Archives, Foreign.	The Honorable Mutsuo Kimura, President of the House of Councillors, National Diet of Japan, Japan.	Do.
Do	Flowers: Rhododendron sanplings, 500; 250 are Japonicum Buten (red); 250 are Japonicum Flavum (blue). Recd: Nov. 9, 1983. Est. Value: $3,750. National Arboretum Official Display.	His Excellency Yasuhiro Nakasone, Prime Minister of Japan, Japan.	Do.
Do	Athletic equipment: Golf clubs, set of 16; five woods and eleven irons (including sand wedge and putter); steel, nylon and wood by Honma, Japan; in black vinyl zippered bag and cover, lettered "Honma, Ronald Reagan" in white. Recd: June 1, 1983. Est. Value: $1,380 Camp David; for official use/ display.	....do	Do.
Do	Photograph: of Prime Minister Yasuhiro Nakasone; inscribed in Japanese; under glass in sterling silver (970) fram with gold crest at top; 9" × 11" overall; contained in gray vinyl covered box. Black and white. Recd: Jan. 20, 1983. Est. Value: $125. Archives, Foreign.	....do	Do.
Do	Desk accessory: Letter box, black, with mother-of-pearl floral, and butterfly design on removable lid and sides; 13" × 9" × 4½". Recd: Jan. 20, 1983. Est. Value: $95. Archives, Foreign.	....do	Do.
Do	Picture: Tapestry depicting the Kanda Festival of Kanda Shrine, (which occurs May 14, and 15), comprised of a parade of floats carried on the shoulders of Edokko; handwoven in color on silk brocade; displayed under plexiglass with green fabric border and goldleaf liners; 20" × 25". Recd: Jan. 20, 1983. Est. Value: $200. Archives, Foreign.	....do	Do.
Do	Household: Bowl, rice or all-purpose, forest green cloisonne w/ silver leaf design; 4" H. × 5" diam. Recd: Jul. 5, 1983. Est. Value: $165. Archives, Foreign.	....do	Do.
Do	Household: Vase, cloisonne, green w/floral motif; 6½" W. × 13⅛ H.; a small stand is included. Recd: Nov. 10, 1983. Est. Value: $400. Archives, Foreign.	The Honorable, Shunichi Suzuki, Governor of Tokyo Japan.	Do.
Do	Doll: Ceremonial, wooden "kochi" (represents Prince Michizane Sugawara, a scholar of the Heian period (794–1192) 11" H.); done by Yeigetsu Ishikawa and Koji Tomi-Hari; displayed in glass case. Recd. Oct. 28, 1983. Est. Value: $300. Archives, Foreign.	The Honorable Yoshihiko Tusuchiya, Member, House of Councillors/National Diet of Japan Japan.	Do.
Do	Artwork: Masks, NOH, (2), painted gold and used in Japanese theatre; male is "Daigensui-Myoo" (symbolizes ability to triumph over any obstacle"); 12" x 12"; female is "Hojuppo-Tenyo" (symbolizes ability to harmonize all things); 12" x 17". Recd: Nov. 9, 1983. Est. Value: $150. Archives, Foreign.	His Excellency Sosuke Uno, Minister of International Trade and Industry of Japan, Japan.	Do.
Do	Household: Cigarette box, sterling silver (925) w/ engraved royal crest and facsimile signature on hinged lid; by Deyhle of Germany; 7⅛" x 5" x 1½". Recd: May 16, 1983. Est. Value: $250. Archives, Foreign.	His Royal Highness Hassan Bin Talal, Crown Prince of the Hashemite Kingdom of Jordan, Jordan.	Do.
Do	Desk accessory: Document box, lacquerware, depicting White House photo of the President and Mrs. Reagan, bordered in mother-of-pearl w/inlaid floral designs on side; inscribed; 16" x 12" x 5"; and, paperweights, crystal, set of 4 octagonal etched w/ likeness of President Reagan and President Chun and the respective seals of their countries; each 3⅛" square; in velvet-covered boxes. Recd: Nov. 13, 1983. Est. Value: $360. Archives, Foreign.	His Excellency Doo Hwan Chun, President of the Republic of Korea, Korea, Republic of.	Do.
Do	Household: Bowl, cloissonne, onion design, floral exterior w/ silver tip and rims on removable lid and silver interior; 5½" diam. x 5" H.; enclosed in velvet box. Recd: Dec. 6, 1983. Est. Value: $400. Archives, Foreign.	His Excellency Won-Kyung Lee, Minister of Foreign Affairs of the Republic of Korea, Korea, Republic of.	Do.
Do	Medallion: Gold, lettered "Matamoros 1983" and "Jorge Cardenas" on reverse; 1⅛" diam.; contained in leather pouch. Recd: July 15, 1983. Est. Value: $650. Archives, Foreign.	The Honorable Jorge Cardenas, Mayor of Matarnoros, Mexico.	Do.
Do	Household: Box, sterling silver (0925) w/ hinged lid bearing gold seal of Mexico and engraved (inscribed) on inside; 8⅛" x 11" x 2⅛"; enclosed inside leather chest and housed in a velvet covered box; chest is 12" x 14" x 3" and box is 18" x 14¾" x 6"; and, set of bookends w/ a spur motif and a removable ashtray, of steel, w/ gold-colored "RWR"; 8¼" x 8" x 3¼"; in velvet box, 10" x 10½". Recd: Aug. 14, 1983. Est. Value: $1,905. Archives, Foreign.	His Excellency Miguel de la Madrid Hurtado, President of the United Mexican States, Mexico.	Do.
Do	Men's accessories: Belts, (3), crocodile (two brown and one black), by Chaumet-Morabito of Paris; included is an 18 kt. gold "buckle" designed as a case w/a silver double "RR" on hinged top containing a silver quartz watch by Chaumet; (case is removable to attach to other belts); all contained in a red leather case w/gold crest of King Hassan on hinged lid; case is 20½' x 14½' x 6'; and a bolo tie, leather w/an 18 kt. gold disc on wood. Recd: Apr. 1, 1983. Est. Value: $6,105. Archives, Foreign.	His majesty Hassan II, King of Morocco, Morocco.	Do.
Do	Artwork: Wooden window, intricately handcarved replica of ancient temple 40' L. x 20' W. x 4' thick; enclosed in red velvet case. Recd: Dec. 7, 1983. Est. Value: $200. Archives, Foreign.	His majesty Bir Bikram Shah Dev Birandra, King of Nepal, Nepal.	Do.
Do	Book: "Rembrandt" (the complete etchings), by K. G. Boon; inscribed by Prime Minister Lubbers; published by Harry N. Abrams, Inc., NY. Recd: Mar. 17, 1983. Est. Value: $90. Archives, Foreign.	His Excellency Rudd Lubbers, Prime Minister of Netherlands, Netherlands, The.	Do.
Do	Photograph: Of Prime Minister Lubbers, autographed; under glass in sterling silver frame; 5' x 7'. Black and white. Recd: Mar. 17, 1983. Est. Value: $75. Archives, Foreign.	....do	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Miscellaneous: Censer (a container for burning incense); elaborate pedestal design mounted on a circular tray w/engraved scenes and inscription; of gold, decorated w/gemstones; 23' H. x 14' diam.; displayed in a red case w/Royal Crest of Oman on exterior and interior doors and an engraved presentation plaque on top; case is 22½' x 15' x 15½'. Recd: Apr. 15, 1983. Est. Value: $500. Archives, Foreign.	His Majesty Qaboos Bin Said, Sultan of Oman, Oman.	Do.
Do	Photograph: Color, of His Majesty Qaboos Bin Said, inscribed; in dark bottle green leather frame w/gold crest at top; 11' x 14' overall; displayed in a dark green leather case w/gold crests stamped on double hinged doors; case is 12' x 16'. Recd: Apr. 15, 1983. Est. Value: $500. Archives, Foreign.	....do	Do.
Do	Plaque: Set of 7 bronze plaques commemorating the Day of Portugal, Luis de Camoes and of the Portuguese Communities Overseas; 3½' to 5' diam.; contained in a sectioned blue velvet box w/presentation plaque attached to inside lid; box is 15½' x 13½'. Recd: June 10, 1983. Est. Value: $525. Archives, Foreign.	His Excellency Antonio Dos Santos Ramalho Eanes, President of the Republic of Portugal, Portugal.	Do.
Do	Household: 2 vases, porcelain, quadrilateral style w/multi-colored chinese floral and foo dog designs on pure white background; removable lids w/ golden foo dog figure handles; new pieces by Vista Alegre of Portugal; 18" H. x 8" W. x 4⅛" D. Recd: Sept. 15, 1983. Est. Value: $700. Archives, Foreign.	....do	Do.
Do	Book: "Portugal and the Independence of the United States", by Jose Calvet de Magalhaes, published by Ministerio Dos Negocios Estrangeiros, Lisbon, 1983; bound in dark Blue Calfskin with gold-stamped border design and raised banded spine; 7¾" x 10". Recd: Sept. 14, 1983 Est. Value: $120. Archives, Foreign.	....do	Do.
Do	Photograph: Color, of President Eanes, inscribed; in sterling silver frame bearing Portuguese Crest; wooden backed easel; 8½ x 13". Recd: Sept. 15, 1983. Est. Value: $225. Archives, Foreign.	....do	Do.
Do	Photograph: Color, of Prime Minister Gonzalez, inscribed; in sterling silver frame; 11⅛" x 14" overall. Recd: June 23, 1983. Est. Value: $185. Archives, Foreign.	His Excellency Felipe Gonzalez, President of the Government of Spain, Spain.	Do.
Do	Painting: "Dos Continentes" (series), oil on canvas; a multicolored modernistic rendering, by Alfonso Albacete, 1982, signed on reverse; in plain wood frame; 76" x 53". Recd: June 23, 1983. Est. Value: $2,500. Archives, Foreign.	....do	Do.
Do	Photograph: Color, of President Nimeiri, inscribed in Sudanese; under glass in ivory frame; 12" x 13⅛" overall; enclosed in velvet box. Recd: Nov. 21, 1983. Est. Value: $475. Archives, Foreign.	His Excellency Gaafar Mohamed Nimeiri, President of the Democratic Republic of the Sudan, Sudan.	Do.
Do	Souvenir album: Assortment of new Togolaise postage stamps; autographed by President Eyadema; black leather w/brass-plated corners; black leather slipcase; 13½" x 11" x 3". Recd: Oct. 24, 1983. Est. Value: $250. Archives, Foreign.	His Excellency, Gnassingbe Eyadema, President of the Republic of Togo, Togo.	Do.
Do	Artwork: 2 pieces of Kenti cloth, Heavy cotton of multicolored rectangular overall pattern, depicting American and Togolaise Flags in opposing corners; 11' L. x 7'3" W.; other two pieces are more vibrant colors in same pattern w/no flag designs; 70" x 46" ea. Recd: Oct. 24, 1983. Est. Value: $2,400. Archives, Foreign.	....do	Do.
Do	Household: Chest covered in red leatherette w/goldstamped designs; hinged top and front revealing six drawers w/metal pulls; filled w/dates on vine and assortment of sweet cakes and candy; chest is 21" x 14" x 15". Recd: Dec. 22, 1983. Est. Value: Indeterminable Archives, Foreign.	His Excellency Habib Bourguiba, President of the Republic of Tunisia, Tunisia.	Do.
Do	Food: Dates, 4 leatherette-covered boxes filled w/approx. 3 lbs. each. Recd: Sept. 14, 1983. Est. Value: Indeterminable. Perishable.	....do	Do.
Do	Household: Chest covered in red leatherette w/goldstamped designs; hinged top and front revealing six drawers w/metal pulls; filled w/dates on vine; chest is 21½" x 14" x 14". Recd: Jan. 11, 1983. Est. Value: Indeterminable. Archives, Foreign.	....do	Do.
Do	Plaque: Yapese storyboard, depicting local lore being passed on concerning Yapese money; handcarved from local hardwood; 21½" x 18". Recd: May 18, 1983. Est. Value: $250. Archives, Foreign.	The Honorable John De Avila Mangefel, Governor of the State of Yap Western Caroline Islands.	Do.
Do	Desk accessories: Pen holder; letter holder; cigarette lighter; letter opener; ashtray; coaster set; and ivory tusk (2) display piece; all made of malachite; tusks and letter opener of ivory and malachite. Recd: Aug. 4, 1983. Est. Value: $500. Archives, Foreign.	His Excellency Marshal Sese Seko Mobutu, President of the Republic of Zaire, Zaire.	Do.
Do	Artwork: Copper relief of five roosters pecking feed, by Safi Mwanza Intitule signed, in brass-colored metal frame over wood; 33" H. x 52" L. Recd: Aug. 4, 1983. Est. Value: $300. Archives, Foreign.	....do	Do.
Do	Sculpture: A copper column displayed on a circular wood base which depicts native figures plying their individual crafts; handcarved; presentation plaque attached; base is 11" diam., 31" H. Recd: Apr. 15, 1983. Est. Value: $500. Archives, Foreign.	His Excellency Dr. Kenneth David Kaunda, President of the Republic of Zambia, Zambia.	Do.
James A. Baker III, Chief of Staff and Assistant to the President.	Assortment: One brown leather portfolio stamped "Kingdom of Morroco" and twelve bottles of Moroccan wine (Cincomar, Parlier and Fermaud) Blanc de Blanc selection. Recd: Jan. 17, 1984. Est. value: $171. GSA.	His Excellency Ali Bengelioun, Ambassador of Morocco.	Do.
Do	Jewelry: 16" gold chain w/ 1" cartouche. Recd: Sept. 29, 1983. Est. value: $225. GSA.	Mohammed Abdel Halim Abu Ghazala, Deputy Prime Minister and Minister of Defense and Military Production, Egypt.	Do.
Do	Jewelry: One pair of gold and jade cufflinks. Recd: Nov. 30, 1983. Est. value: $375. GSA.	His Excellency Chun Doo Hwan, President of the Republic of Korea, Republic of Korea.	Do.
Michael K. Deaver, Deputy Chief of Staff and Assistant to the President.	Jewelry: 16" gold chain w/ 1" cartouche medallion. Recd: Sept. 29, 1983. Est. value: $225. GSA.	Mohammed Abdel Halim Abu Ghazala, Deputy Prime Minister and Minister of Defense and Military Production, Egypt.	Do.
Do.	Household: Two white wicker princess chairs; 63" H. x 46" WD., 1 table 32" diam. x 28" high. Recd;: Sept. 23, 1983. Est. value: $565. GSA.	His Excellency Benjamin Romualdez, Ambassador of the Philippines, Philippines.	Do.
Do.	Jewelry: Jade and gold cufflinks. Recd: Nov. 30, 1983. Est. value: $375. GSA.	His excellency Doo Hwan Chun, President of the Republic of Korea, Korea, Republic of.	Do.
George A. Keyworth, Science Advisor to the President.	Artwork: Silver filigree boat in glass case, 16½" x 12" x 4". Recd: Sept. 22, 1983. Est. Value: $475. Presidential Staff; for official use/display.	Dr. Ing B. J. Habibie, Minister for Research and Technology, Indonesia.	Do

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Household: Vase, 11" high with light green background with dark green floral pattern. Recd: Dec. 7, 1983. Est. Value: $325. Presidential Staff; for official use/display.	Chung Oh Lee, Korean Science Minister, Korea.	Do
Do	Artwork: Chinese scroll. Recd: Sept. 30, 1983. Est. Value $600. Presidential staff; for official use/display.	Fang Yi, Chairman of US/PRC Joint Commission, Peoples Republic of China.	Do
Robert C. McFarlane, Deputy Assistant to the President for National Security Affairs.	Jewelry: Jade and gold cufflinks. Recd: Nov. 30, 1983. Est. Value: $375. GSA	His Excellency Chun Doo Hwan, President of the Republic of Korea, Republic of Korea.	Do
Do	Household: Off-white ceramic vase, 10¾" high. Recd: Nov. 30, 1983. Est. Value: $175. Presidential Staff; for official use/display.	Shinyang Lho, Director, Agency for National Security Planning, Republic of Korea.	Do
Gaston J. Sigur, Special Assistant to the President/National Security Affairs for NS.	Household: End table, wooden, octagonal, 21" x 22" wide. Recd: Oct. 25, 1983. Est. value: $350. Presidential Staff; for official use/display.	His Excellency Zia Ul Haq, President of Pakistan, Pakistan.	Do.
Do	Jewelry: White jade, 1 necklace, 1 pair of earrings, and 1 stone. Recd: May 17, 1983. Est. value: $200. GSA.	Mrs. Bum Suk Lee, Wife of the Minister of Foreign Affairs of Korea, Republic of Korea.	Do.
Charles P. Tyson, Deputy Assistant to the President for National Security Affairs.	Jewelry: Three quartz watches, (1 man's and 2 ladies' watches). Recd: Oct. 13, 1983. Est. value: $320. GSA.	The Honorable Kiyoshi Sumiya, Chief of Protocol, Japan.	Do.
Do	Household: Ceramic vase, off-white, 10¾". Recd: Oct. 25, 1983. Est. value: $175..	Mr. Shinyong Lho, Agency for National Security Planning, Republic of Korea.	Do.
Frederich Wettering, Director of African Affairs for National Security Council.	Sculpture: 2, carved ebony figures, one of a woman and the other a man, each 10" x 6". Recd: Apr. 18, 1983. Est. value: $200. Presidential Staff; for official use/display.	The Honorable Joseph Wayas, President of the Senate, Nigeria.	Do.
	Agency: Office of the Vice President		
George Bush	Flowered porcelain vase on wooden base. Recd May 1983. Est. Value—$250. On display at the Vice President's residence.	Mrs. Zemin Chai, Wife of former ambassador China.	Non-acceptance would have cause embarrassment to the donor.
Do	Two tablerunners—burgundy and white with gold threading. Recd October 1983. Est. Value—$320. Stored in OVP safe.	Hussain Mohammed Ershad, Chief Martial Law Administrator, Bangladesh.	Do.
Barbara Bush	Gold and pearl necklace. Recd October 1983. Est. Value—$185. Stored in OVP safe.	....do	Do.
Do	Leather Gucci purse. Recd February 1983. Est. Value—$225. Stored in OVP safe.	Mrs. Amintore Fantani, Wife of Prime Minister, Italy.	Do.
George Bush	Silver plated servingware—tea pots, tea boxes, cups, trays, rosewater set. Recd September 1983. Est. Value—$478. Stored in OVP office.	City of Fez, Morocco	Do.
Do	Silver plated servingware—coffee urn ($260). Dome top server ($240). Recd September 1983. Est. Value—$500. Stored in OVP safe.	....do	Do.
Do	Waterford crystal serving dish. Recd July 1983. Est. Value—$650. In use at the Vice President's residence.	Garrett Fitzgerald, Prime Minister, Ireland	Do.
Barbara Bush	Handmade Irish table linens. Recd July 1983. Est. Value—$210. In use at the Vice President's residence.	....do	Do.
Do	Linen tablecloth and napkins. Recd July 1983. Est. Value—$225. In use at the Vice President's residence.	Mrs. Amin Gemayal, Wife of President, Lebanon.	Do.
George Bush	Color portrait in silver frame. Recd June 1983. Est. Value—$185. On display at Vice President's residence.	Felipe Gonzalez, Prime Minister, Spain	Do.
Do	Antique handgun, circa 1855. Recd April 1983. Est. Value—$1,000. On display in Vice President's White House office.	Crown Prince Hamad, Bahrain	Do.
Do	Gold pocket watch. Recd September 1983. Est. Value—$3,400. On display in Vice President's White House office.	King Hassan II, Morocco	Do.
Barbara Bush	Ladies diamond and gold watch with two faces. Recd September 1983. Est. Value—$4,000. Stored in OVP safe.	....do	Do.
George Bush	Carved native art—ivory vase. Recd June 1983. Est. Value—$750. Donated to Tuskegee Institute.	Felix Houphouet Boigny, President, Ivory Coast.	Do.
Barbara Bush	Gold necklace and bracelet. Recd June 1983. Est. Value—$8,000. Donated to Tuskegee Institute.	....do	Do.
George Bush	Vatican prints by Raphael. Recd February 1983. Est. Value—$230. Stored in OVP safe.	Pope John Paul II, Vatican City	Do.
Do	Four foot copper lamp with relief sculpture. Recd March 1983. Est. Value—$250. Donated to Tuskegee Institute.	Kenneth D. Kaunda, President, Zambia	Do.
Barbara Bush	Duo strand of natural pearls with emerald white gold clasp. Recd July 1983. Est. Value—$1,100. Stored in OVP safe.	Shaikh isa bin, Salman al Khalifa, Amir, Bahrain.	Do.
George Bush	Lead crystal vase. Recd June 1983. Est. Value—$160. On display at Vice President's residence.	Willy Andersen, Citizen, Norway	Do.
Do	Silver and gold covered dish—4' diameter. Recd November 1983. Est. Value—$350. Stored in OVP safe.	U. Haluk Bayulken, Minister of Defense, Turkey.	Do.
Do	Six cases of Algerian wine. Recd September 1983. Est. Value—$150. Destroyed by Secret Service.	Chadli Benjedid, President, Algeria	Do.
Barbara Bush	Burnoose and dress. Recd: September 1983. Est. Value—$150. Stored in OVP safe.	Mrs. Chadli Benjedid, wife of President, Algeria.	Do.
George Bush	Four Tunisian gold coins. Recd September 1983. Est. Value—$724. On display in Vice President's White House office.	Habib Bourguiba, President, Tunisia	Do.
Barbara Bush	Selection of table linens—napkins, coasters, placemats. Recd September 1983. Est. Value—$150. In use at the Vice President's residence.	Madame Habib Bourguiba, wife of President, Tunisia.	Do.
George Bush	Solid gold dagger with stainless steel blade. Recd July 1983. Est. Value—$2,500. On display in the Vice President's White House office.	Shaikh isa bin, Salman al Khalifa, Amir, Bhrain..	Do.
Do	Antique Italian print, circa 1822. Recd January 1983. Est. Value—$300. On display in Vice President's residence.	Lelio Lagorio, Defense Minister, Italy	Do.
Do	Porcelain floral lamp. Recd September 1983. Est. Value—$200. In use at the Vice President's residence.	Gyorgy Lazar, Premier, Hungary	Do.
Barbara Bush	Woolen cape with hood. Recd September 1983. Est. Value—$150. Stored in OVP safe.	Mrs. Gyorgy Lazar, Wife of Premier, Hungary.	Do.
George Bush	Black lacquer jewelry box, inset with mother/of-pearl. Recd May 1983. Est. Value—$350. On display at the Vice President's residence.	Mrs. Bum Suk Lee, Wife of Foreign Minister, Korea.	Do.
Do	Painting of Eskimo. Recd March 1983. Est. Value—$275. On display at the Vice President's residence.	Allan J. MacEachen, Deputy Prime Minister, Canada.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Barbara Bush	Dresses—black and purple. Recd July 1983. Est. Value—$1,245. Stored in OVP safe.	Imelda Marcos, Wife of President, Philippines.	Do.
George Bush	Book of antique engravings. Recd February 1983. Est. Value—$500. Stored in OVP safe.	Pierre Mauroy, Prime Minister, France	Do.
Do	Italian gold coin. Recd February 1983. Est. Value—$450. On display in Vice President's White House office.	Tommaso Morlino, President of Italian Senate, Italy.	Do.
Do	Complete set of Honma golf clubs. Recd May 1983. Est. Value—$1,295. Stored in OVP safe.	Yasuhiro Nakosone, Prime Minister, Japando.	Do.
Barbara Bush	Blue cloisonne rice bowl. Recd July 1983. Est. Value—$165. Stored in OVP safe.	....do	Do.
George Bush	Large blue glass bowl/vase. Recd June 1983. Est. Value—$325. On display at the Vice President's residence.	Olof Palme, Prime Minister, Sweden	Do.
Do	Brass trunk. Recd September 1983. Est. Value—$250. Stored in OVP office	Mustapha Tarik, governor of Marrakech, Morocco.	
Do.			
Barbara Bush	Two antique silver anklets. Recd September 1983. Est. Value—$500. Stored in OVP safe.	....do	
Do.			
George Bush	Silver filigree tea set. Recd July 1983. Est. Value—$3,000. Stored in OVP safe.	Omer Mohamed el Tayeb, First Vice President, Sudan.	
Do.			
Do	Green glass vase. Recd March 1983. Est. Value—$350. On display at the Vice President's residence.	Pierre Trudeau, Prime Minister, Canada	
Do.			
Barbara Bush	China tea set. Recd February 1983. Est. Value—$196. In use at the Vice President's residence.	Mrs. Richard von Weizsaecker, Wife of Mayor—West Berlin, West Germany.	
Do.			
Do	Green glass bowl. Recd July 1983. Est. Value—$300. On display at the Vice President's residence.	Anne-Marie Willoch, Wife of Prime Minister, Norway.	
Do.			
George Bush	Jade vessel on wooden base. Recd December 1983. Est. Value—$750. On display at the Vice President's residence.	Yue-Kong Pao, Citizen, Hong Kong	
Do.			
Barbara Bush	Silver pin with diamonds. Recd February 1983. Est. Value—$300. Stored in OVP safe.	Sandro Pertini, President, Italy	
Do.			
George Bush	Silver cigarette box. Recd February 1983. Est. Value—$300. On display at the Vice President's residence.	Sandro Pertini, President, Italy	
Do.			
Do	Small metal box and plate. Recd April 1983. Est. Value—$550. Stored in OVP safe.	Ranasinghe Premadasa, Prime Minister, Sri Lanka.	
Do.			
Do	Two mounted elephant tusks, Recd June 1983. Est. Value—$625. Donated to Tuskegee Institute.	Mohamed Ali Samantar, Defense Minister, Somalia.	
Do.			
Do	Crystal glassware, Bowl ($425), Dish ($175). Recd July 1983. Est. Value—$600. In use at the Vice President's residence.	Kalevi Sorsa, Prime Minister, Finland	
Do.			
	Agency: U.S. Senate		
Alfonse M. D'Amato, U.S. Senator.	Decorative Screen. Recd Nov. 9, 1982. Est. Value. $400.00. Requested and received approval from the Select Committee on Ethics on Mar. 14, 1983 for official use of item during tenure in Senate..	Premier Sun Yun-Suan, Republic of China	Refusal would likely cause offense or embarrassment.
Robert W. Kasten, Jr., U.S. Senator.	Moroccan Rug. Recd Dec. 22, 1983. Est. Value—$1,000.00. Requested approval from the Select Committee on Ethics on Jan. 10, 1984 for official use of item during tenure in Senate..	Colonel-Major Kabbj, Morocco	
Do.			
Charles H. Percy, U.S. Senator	Silver platter. Recd July 1983. Est. Value—$5,000.00. Requested and received approval from the Select Committee on Ethics on Aug. 3, 1983 for official use of item during tenure in Senate..	Humberto Lugo Gil, chief of Mexican Delegation to the Mexico-U.S. Interparlimentary Group.	
Do.			
Strom Thurmond, U.S. Senator	Silver bowl. Recd Apr. 12, 1983. Est. Value—$150.00. Requested and received approval from the Select Committee on Ethics on June 13, 1983 for official use of item during tenure in Senate..	Honorable Ingemund Bengtsson, Speaker of the Swedish Parliament, Sweden.	
Do.			
Lowell Weicker, Jr., U.S. Senator.	Decorative Cigar box. Recd Mar. 31, 1983. Est. Value—$200.00. Requested approval from the Select Committee on Ethics on Jan. 13, 1984 for official use of item during tenure in Senate..	President Fidel Castro, Republic of Cuba	
Do.			

REPORT OF TRAVEL OR EXPENSES OF TRAVEL

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
	Agency: U.S. Senate		
Mark J. Barnes, Chief Counsel to Senator Ted Stevens.	Sept. 18-20, 1983; Recd lodging, food, and transportation within Socialist Republic of Romania.	Aurelian Neacso, Socialist Republic of Romania.	Refusal would likely cause offense or embarassment.
James T. Bruce III, Counsel, Minority, Senate Committee on Energy and Natural Resources.	Aug. 21-25, 1983; Recd lodging, food and transportation in Sweden	Ministry of Housing and Swedish Council for Building Research, Government of Sweden.	Do.
Dale Bumpers, U.S. Senator	May 29-30, 1983; Recd lodging, food and transportation while attending Conference in Bonn, West Germany.	Friedrich-Ebert-Stiftung (Foundation), Bonn, West Germany.	Do.
Mark O. Hatfield, U.S. Senator	Aug. 1983; Recd lodging, food and transportation within the Republic of the Philippines.	Mrs. Marcos, Republic of the Philippines	Do.

REPORT OF TRAVEL OR EXPENSES OF TRAVEL—Continued

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Pete Wilson, U.S. Senator	Feb. 11-13, 1983; Recd lodging, food and transportation in Munich, West Germany.	Frei Herr Evald Heinrich von Kleist, Vercunde Conference, Munich, West Germany.	Do.
Agency: U.S. House of Representatives, Committee on Standards of Official Conduct			
Geraldine A. Ferraro, Member of Congress.	Lodging and meals in Cyprus	Cyprus House of Representatives	Fact-finding trip.
Barney Frank, Member of Congress.	Lodging in Azores	Regional Government of the Azores, Portugal.	Do.
Mark D. Siljander, Member of Congress.	Helicopter travel in El Salvador and Honduras	El Salvador and Honduras	No other means of transportation.
Do	Air transportation in Israel	Herut Party of Israel	Fact-finding trip.
L. Kirk O'Donnell, Counsel to the Speaker.	Travel expenses to and from Europe	European Economic Community	European Community Visitors Program.

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Department of Agriculture			
John R. Block, Secretary of Agriculture.	World Food Day Proof set of coins. Received Nov. 16, 1983. Est. Value $480.00. Held in office of Mr. McElroy, Chief, Foreign Visitors Staff.	Dir. of Food and Agriculture Organization, Rome, Italy.	Non-acceptance would have caused embarrassment to both the Secretary and the Director General.
Agency: Department of the Air Force			
Lt. Gen. Robert W. Bazley, Vice Commander-in-Chief, United States Air Forces in Europe (Now AF/IG).	Turkish Carpet. Recd—Mar. 20, 1983. Est. Value—$200.00. Approved for official use in the CINCUSAFE Executive Dining Room.	Brig. Gen. Baki Aydin, Turkish AF	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Barry Bennett, Special Agent, AFOSI.	Movado wristwatch. Recd—July 2, 1983. Est. Value—$250.00. Stored in HQ AFMPC/MPCASA.	Mr. Sukru Balci, Chief of Police and Governor of Istanbul, Turkey.	Do.
Brig. Gen. Richard S. Beyea, Jr., AFOSI Commander.	Coffee Table and 2 Crushed Velvet Chairs. Recd—Oct. 18, 1983. Est. Value—$750,00. Approved for official use in the HQ AFUSI protocol office..	Gen Fabian C. Ver, Chief of Staff, Armed Forces of the Philippines.	Gift delivered to HQ AFOSI after notification by the Philippine Embassy. To decline would have caused embarrassment to donor and U.S. Government.
Gen. Charles, A. Gabriel, Chief of Staff, USAF.	Painting. Recd—Jan. 13, 1983. Est. Value—$2,000.000. Approved for official use in the office of the AF Chief of Staff.	Lt Gen Hector Vasconez, Commanding General, Ecuadorian AF.	Non-acceptance would have caused embarrassment to donor and U.S. Government
Do	"Taurus" automatic pistol. Recd—Jan. 20, 1983. Est. Value—$368.00. Disarmed and approved for official use in the office of the AF Chief of Staff.	Gen. Delio Jardim de Mattos, Minister of Aeronautics Brazil.	Do.
Do	Pakistan Carpet. Recd—Feb. 17,1983. Est. Value—$800.00. Approved for official use in the Quarters of the AF Chief of Staff.	Air Chief Marshal Muhammad Anwar Shamim, Chief of Staff, Pakistan AF.	Do.
Do	Pakistan Carpet. Recd—Feb. 18, 1983. Est. Value—$800.00 Approved for official use in the Quarters of the AF Chief of Staff.	President Mohammad Zia ul-Hag, Pakistan.	Do.
Do	Pakistan Carpet. Recd—Sept. 14, 1983. Est. Value—$400.00. Approved for official use in the Quarters of the Af Chief of Staff.	....do	Do.
Mrs. Barbara Mullins, wife of Gen James P. Mullins, Commander, Air Force Logistics Command.	Lady's Gold Watch. Recd—Nov. 28, 1982. Est. Value—$2,100.00. Stored in HQ AFMPC/MPCASA.	Brig Gen Toaimy, Royal Saudi AF	Do.
Hon. Verne Orr, Secretary of the Air Force.	Pakistan Carpet. Recd—Dec. 10, 1982. Est. Value—$800.00 Approved for official use in the office of the SAF.	President Mohammad Zia ul-Hag, Pakistan.	Do.
Do	Turkish Carpet. Recd—Mar. 23, 1983. Est. Value—$7,200.00. Approved for official use in the office SAF.	Mrs. Salim Edes, Turkey	Do.
Do	Assault Rifle, ornate wood-carved stock. Recd—Mar. 1983. Est. Value—$850.00. Disarmed and approved for official display in the Office of the Secretary of the Air Force.	Deputy Defense Minister Saudi AF	Do.
Do	"Taurus" automatic pistol. Recd—Dec. $368.00. Approved for disarmament and official display in the Office of the Secretary of the Air Force.	Gen Delio Jardim de Mattos, Minister of Aeronautics, Brazil.	Do.
Agency: Department of the Army			
Colonel Eugene D. George, Chief, Neurosurgery Service, Walter Reed Army Medical Center.	Pearl necklace. Recd Feb. 1983. Est. Value—$200. US Army Military Personnel Center, Alexandria, Virginia.	Member of the Royal Family Saudi Arabia	To preclude potential embarrassment to U.S. Government and donor.
Brigadier General Thomas P. McHugh, Assistant Division Commander, 1st Infantry Division.	Silver cigarette case and silver rose. Recd Apr. 1, 1983. Est. Value—$149. Headquarters Command Display Case, Fort Riley, Kansas—official use.	Senor General Zevallos, Commandant General of the Peruvian Army.	Do.
Mrs. E. C. Meyer, Wife of Army Chief of Staff.	18 Karat Yellow Gold Earrings. Recd Mar. 24, 1983. Est. Value—$750. US Army Military Personnel Center Alexandria, Virginia.	....Do.	Do.
General E. C. Meyer, Army Chief of Staff.	Heckler and Koch GMBH 9mm automatic pistol, serial number 37495. Est. Vaule—$200. Recd Aug. 24, 1982. US Army Military Personnel Center Alexandria, Virginia.	General Meinhard Glanz, Inspector of the German Army.	Do.
Do.	Licenia FM-Browning automatic pistol, serial number 58360. Recd Nov. 9, 1981. Est. Value—$200. US Army Military Personnel Center, Alexandria, Virginia.	General Leopoldo Galtieri Former Commander of the Argentine Army.	Do.
Do.	Fabrique Nationale D'Armes Automatice pistol, serial number 711586. Recd July 27, 1982. Est. Value—$200. US Army Military Personnel Center Alexandria, Virginia.	General Edmond L. M. DeWilder, Commander of the Belgian Army.	Do.
General John A. Wickham, Jr., Army Chief of Staff.	Four hand-carved step tables. Recd Dec. 1982. Est. Value—$175. Headquarters, Department of the Army, Pentagon—offical use.	General Mohammad Zia-Ul Haq, Army of Pakistan.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
William J. Casey, Director, CIA	Rectangular lacquer and mother-of-pearl box with phoenix bird medallion opening to view a removable tray with multicolored fan medallion, encased, L: 13¼". Recd Apr. 9, 1983. Est. Value—$175. To be reported to GSA for disposion.	Public Law 95-105 A(F)(4)	Non-acceptance would have caused embarrassment to donor.
Do.	Pair 925-sterling and 14 karat yellow gold pistol grips, each with spread winged eagle clasping serpent above profile horsehead and horseshoe, wt. approx. 2 oz. Recd Sept. 16, 1983. Est. Value—$150. To be reported to GSA for disposition.	do	Do.
Do	(a) Mother-of-pearl and vory inlaid hinged box, L: 10¼"; (b) Repousse silver oval mirror surmounted by peacock, L: 10", together with folding stand. Recd Dec. 1, 1983. Est. Value—$195. To be reported to GSA for disposition.	do	Do.
Do	(a) Vermeil silver dagger and sheath, bearing the Grest Seal, L: overall 10½"; (b) 21 Karat yellow gold and enamel four-piece ensemble, consisting of bangle bracelet, necklace and a pair of pierced pendant earrings; (c) 21 karat yellow gold and enamel five-piece ensemble, consisting of finger ring, bracelet, necklace and pair of pendant earrings; (d) Silver and brass incense burner, H: 10". Recd Mar. 29, 1963. Est. Value—$1,000.	do	Do.
Do	Four-piece amethyst and diamond ensemble, consisting of a finger ring, lavaliere and chain and a pair of pierced earrings, each set with oval cabochon amethyst, the lavaliere also set with tiny round diamond. Recd. Apr. 9, 1983. Est. Value—$150. To be reported to GSA for disposition.	do	Do.
Do	(a) Man's 14 karat yellow gold six-piece cuff-stud set, consisting of a pair of cuff links and four shirt studs, each set with cultured pearl; (b) Diamond, coral and pearl ensemble, consisting of choker with strand of ten cultured pearls, together with 14 karat yellow gold floriform clasp centering six round diamonds weighing approx. .50 carats and six shaped coral panels; 18 karat yellow gold four-leaf ring centering a round diamond weighing approx. .08 carat. and four shaped coral panels; and a pair of pierced earrings en suite, each set with round diamond and four shaped coral panels; (c) Mother-of-pearl ashtray, 6" round (d) Large chest containing place mats, wall hanging, two ladies purses, salad bowl set, straw hat, jewelry box, napkin holders; (e) Ornate wood tables (two, 24" round) and four gold velvet chairs Recd Apr. 6, 1983. Est. Value—$1,000. To be reported to GSA for disposition.	do	Do.
Do	Mother-of-pearl and noir lacquer jewel chest, two panel doors concealing three drawers above one long drawer, raised on bracket feet. Recd Apr. 9, 1983. Est. Value—$175. To be reported to GSA for disposition.	do	Do.
Do	(a) Coral four-piece ensemble, consisting of multistrand necklace, pair pendant earrings and a finger ring (ring and earrings with 14 karat yellow gold mounts, the necklace clasp silver); (b) 20th century Oriental School, mountainous landscape with two dwellings, watercolor on paper; (c) Oriental table cloth and napkin set, gilt metallic and good luck roundel decorations. Recd Mar. 8, 1983. Est. Value—$210. To be reported to GSA for disposition.	do	Do.
Do	(a) Yoyama 800-silver hinged cigarette box, with engraved cartouche medallion with four vignettes centering armorial crest, L: 11"; (b) Asprey leather easel-back photo frame with gilt Great Seal crest pediment, opening 8"x11", within leather case en suite. Recd Apr. 15, 1983. Est. Value—$325. To be reported to GSA for disposition.	do	Do.
Do	Filigree silver 11-piece beverage set, consisting of a two-handle tray, three demi-tasse cup housings, three saucers, covered compote, ewer, round stand, and a pair of tongs, in a red velvet carrying case. Recd July 29, 1983. Est. Value—$275. To be reported to GSA for disposition.	do	Do.
Do	143-piece brass flat table service, in fitted case, simulated bamboo pattern. Recd May 17, 1983. Est. Value—$350. To be reported to GSA for disposition.	do	Do.
Do	Carved wood cocktail table, elaborately carved top with octagonal medallion, raised on cabriole legs ending in claw and ball feet, 54" x 25". Recd Aug. 5, 1983. Est. Value—$275. To be reported to GSA for disposition.	do	Do.
Do	(a) Ivory desk set, consisting of a rectangular covered box, memo pad holder, ballpoint pen and stand, butane lighter, ask receiver, paper knife, and a cylindrical pencil holder, eight pieces; (b) Linen and embroidered work shirt; (c) Ivory and yellow gold six-piece ensemble, consisting of a necklace, pair pierced earrings, pair stiff bangle bracelets, and guard ring. Recd Nov. 22, 1983. Est. Value—$190. To be reported to GSA for disposition.	do	Do.
Agency employee	(a) Man's Longines quartz date watch, dial set with four white sapphires within a 950-vermeil case, stainless steel back; (b) Lady's Longines quartz date watch, gold filled case and attachment; (c) Les Dior three-piece ensemble, consisting of fountain pen, ballpoint pen, and a butane cigarette lighter, Noir enamel and gilt mounts. Recd July 1981 (report recd in 1983). Est. Value—$145. To be reported to GSA for disposition.	do	Do.
Do	(a) Man's Helbros day-date wrist watch, gold filled case and attachment; (b) Lady's Rolex oyster perpetual date watch, stainless steel case with black leather attachment; (c) Man's Omega constellation automatic date watch, gold filled with stainless steel back and brown reptile leather attachment; (d) Silver plated four-piece coffee-tea service, maker Gorham, pattern number YC471, consisting of a coffee pot, teapot, covered sugar and creamer. Recd Sept. 1983. Est. Value—$410. To be reported to GSA for disposition.	do	Do.
Do	Man's Rolex oyster perpetual datejust watch, stainless steel case and attachment, serial number 7485829. Recd Mar. 29, 1983. Est. Value—$225. To be reported to GSA for disposition.	do	Do.
Do	(a) Silver plated trifid stand, retioculated plated hinged domed lid opening to reveal a removable dish inset, trifid scrolling arms with an engraved and pierced plate, raised on trifid animal paw feet, H: 16"; (b) Rug 6.8' x 4.10', red ground with floral medallion. Recd June 21, 1983. Est. Value—$285. Retained for official display (rug only). To be reported to GSA for disposition (silver stand).	do	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Department of Defense			
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Set of wooden stack tables (4), with inlaid gold design. Recd on or about Oct. 1, 1983. Est. Value—$200. Approved for official display in office of Donee.	General Mohammad Zia-Ul Haq, President of Pakistan.	Non-acceptance would have caused embarrassment to donor.
Lt. Gen. Philip C. Gast, USAF, Director, Defense Security Assistance Agency.	Wooden table, decorated with hand-carving and inlaid gold design (legs were not attached). Recd Feb. 1, 1983. Est. Value—$275. Transferred to GSA for official display.	Admiral K. R. Niazi, Chief of Naval Staff, Pakistan.	Do.
Do	Carved ivory tusk statue of lady on wooden base, with engraved ivory plaque on end of base. Recd June 20, 1983. Est. Value—$500. Approved for official display in office of Donee.	General Mohamed Ali Samantar, Vice President and Minister of Defense, Somalia.	Do.
Do	Onyx and brass candelabrum, with three candle holders, approx. 12" high. Recd July 27, 1983. Est. Value—$250-$300. Reported to GSA and stored in Space Management and Services pending disposition by GSA.	Field Marshal Abu-Ghanzala, Minister of Defense, Arab Republic of Egypt.	Do.
Do	Onyx platter in large green plush-covered box, and two decorative pillow covers. Recd Aug. 23, 1983. Est. Value—$250—platter; $50—pillow covers. Reported to GSA and stored in Space Management and Services pending disposition by GSA.	Maj. Gen. Mirza Aslam Beg, Chief of the General Staff, Pakistan Army.	Do.
Dr. Fred C. Ikle, Under Secretary of Defense for Policy.	Set of two small round tables, with marble tops and ornate brass legs. Recd on or about Sept. 30, 1983. Est. Value—$350. Reported to GSA and stored in Space Management and Services pending disposition by GSA.	General Mohammad Zia-Ul Haq, President of Pakistan.	Do.
Dr. W. Beth Stephens, Director, Department of Defense Dependents Schools, Office of the Assistant Secretary of Defense (Manpower, Installations and Logistics).	Two bracelets (bangles), 20K yellow gold with design; double-strand, seed pearl necklace, with yellow gold clasp of four diamonds and a sapphire inset. Recd May 17, 1983. Est. Value—$300-$400 each for bracelets and necklace. Delivered to GSA.	His Highness, Isa bin Salman al-Khalifa Amir, Manama, Bahrain.	Do.
William H. Taft IV, General Counsel and Director, Defense Legal, Services Agency.	Pakistani rug, 3' x 5'. Recd Oct. 1, 1983. Est. Value—$500. Approved for official display in office of Donee.	Government of Pakistan	Do.
General John W. Vessey, Jr., USA, Chairman, Joint Chiefs of Staff.	Dining room table and eight chairs made of Philippine narrawood (mahogany). Recd Oct. 16, 1983. Approved for official use at Quarters 6, Fort Myer, Va..	General Fabian C. Ver, Chief of Staff, Armed Forces of Philippines.	Non-acceptance would have caused embarrassment to donor.
Dr. James P. Wade, Jr., Principal Deputy Under Secretary of Defense for Research and Engineering.	Set of wooden stack tables (4), with inlaid gold design; lamp base (without shade), light green, with inlaid gold design. Recd October 1983. Est. Value—Tables—$200; Lamp base—$75. Approved for official display in office of Donee.	General Mohammad Zia-U1 Haq, President of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Caspar W. Weinberger, Secretary of Defense.	Porcelain horse and rider on stand. Recd Mar. 23, 1983. Est. Value—$200. Approved for official display in office of Donee.	MOD Serra of Spain	Do.
Caspar W. Weinberger, Secretary of Defense and Mrs. Weinberger.	Ivory desk set, and ivory jewelry set. Recd June 14, 1983. Est. Value—Desk set—$500; Jewelry set—$300. Reported to GSA and stored in Space Management and Services pending disposition by GSA.	Lt. Gen. Mohamed Ali Samantar, 1st Vice President and Minister of Defense of Somalia.	Do.
Caspar W. Weinberger, Secretary of Defense.	Large ivory elephant tusk, carved in small elephants, on stand, in case. Recd July 20, 1983. Est. Value—$1000. Approved for official display in office of Donee.	Maj. Gen. Umar Muhammad al-Tayyib, 1st Vice President of Sudan.	Do.
Caspar W. Weinberger, Secretary of Defense.	Handcrafted gold dagger, in case. Recd July 21, 1983. Est. Value—$1,500-$2,000. Approved for official display in office of Donee.	Isa bin Salman al-Khalifa, Amir of Bahrain..	Do.
Mrs. Caspar W. Weinberger, Wife of Secretary of Defense.	Double strand of cultured pearls, with an emerald and diamonds in gold clasp, handcrafted in Bahrain. Recd July 21, 1983. Est. Value—$450. Delivered to GSA.	....do	Do.
Caspar W. Weinberger, Secretary of Defense.	Two (2) daggers mounted on plaque. Recd September 1983. Est. Value—$200. Approved for official display in office of Donee.	Inspector General, Pakistan	Do.
Caspar W. Weinberger, Secretary of Defense and Mrs. Weinberger.	Pakistani rug, approx. 3'x5'. Recd Sept. 30, 1983. Est. Value—$600. Aproved for official display in office of Deputy Secretary.	General Mohamed Ali Samantar, President of Pakistan.	Do.
Caspar W. Weinberger, Secretary of Defense.	Large porcelain presentation platter, decorated with gold design and flowers. Recd September 1983. Est. Value—$300. Approved for official display in E-ring showcase..	MOD of Pakistan, Talpur	Do.
Do	Large painting in frame, titled: "Sun Rise," by S. K. Afjal. Recd Oct. 25, 1983. Est. Value—$200-$400. Stored in Space Management and Services pending official display.	General H. M. Ershad, President of People's Republic of Bangladesh.	Do.
Do	Black lacquer box, with mother-of-pearl inlaid design, in large plush-covered box. Recd Nov. 30, 1983. Est. Value—$175. Approved for official display in office of Donee.	Won-Kyung Lee, Minister of Foreign Affairs of the Republic of Korea.	Do.
Do	Large painting in frame, rural scene with bridge, by Addams. Recd Dec. 23, 1983. Est. Value—$200-$400. Stored in Space Management and Services pending official display.	H. E. Ali Salim al-Hinai, Ambassador of Oman.	Do.
James A. Williams, Lieutenant General, USA, Director.	Oriental rug, 4.5 x 7'. Recd Oct. 20, 1983. Est. Value—$800 Approved for official use in DIA.	Lieutenant General Akhtar, Pakistan	Non-acceptance would have caused embarrassment to donor.
Do	Coffee table, carved wood. Recd Oct. 20, 1983. Est. Value—$225. Approved for official use in DIA.	....do	Do.
Do	Soviet AK-74 rifle. Recd Oct. 22, 1983. Est. Value—$200. Approved for official use in DIA.	....do	Do.
Do	Oriental rug, 4 x 7'. Recd Oct. 22, 1983. Est. Value—$400. Approved for official use in DIA.	Vice Admiral Khan, Pakistan	Do.
Do	Oriental rug, 4.5 x 7'. Recd Oct. 23, 1983. Est. Value—$800. Approved for official use in DIA.	Lieutenant General Rahim, Pakistan	Do.
Agency: Department of Energy			
Donald Paul Hodel, Secretary of Energy.	Contemporary Arabian Repousse Silver EWER Recd Apr. 11, 1983. Est. Value—$400. Reported to GSA and stored in GSA Vault at 18th & F St., NW., Washington, D.C. pending disposition by GSA.	Dr. Mana Saeed Al Otaiba, Minister of Petroleum and Mineral Resources, United Arab Emirates.	Refusal could have caused offense or embarrassment or adversely affected the Foreign relations of the United States.
Do	Set of pearls (2 strands). Recd Nov. 16, 1983. Est. Value—$300	Abdul Aziz Bin Khalifa Ali-Thani, Minister of Finance and Petroleum and Chairman of QGPC, Doha, Qatar.	Do.
Do	Gold Dagger. Recd Nov. 16, 1983. Est. Value—$150	....do	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Silver Tea Pot. Recd Nov. 17, 1983. Est. Value—$175	Dr. Mana Saeed Al-Otaiba, Minister of Petroleum and Mineral Resources, United Arab Emirates.	Do.
Do	Four gold bracelets with various precious stones. Recd Nov. 17, 1983. Est. Value—$700.	...do	Do.
Do	Gold Dagger. Recd Nov. 17, 1983. Est. Value $1,200	Sheikh Zayed bin Sultan al-Nahyn, President of the United Arab Emirates and Ruler of Abu Dhabi, United Arab Emirates.	Do.
Do	Gold necklance with gold charm. Recd Nov. 20, 1983. Est. Value $225	Dr. Rida Obaid, Executive Director and Chairman of the Board, Saudi Arabian National Center for Science and Technology, Riyadh, Saudi Arabia.	Do.
Agency: Environmental Protection Agency			
Kenneth E. Biglane, Director, Hazardous Response Support Division, Office of Emergency & Remedial Response.	Man's ROLEX Swiss Watch, Oyster Perpetual Datejust, Stainless steel case and band. Est. Value $1,200. Recd Apr. 17, 1983. Secured at EPA awaiting GSA disposal instructions.	H.E. Hamand Abdul Rahman al-Medfa, Minister of Health, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor.
J. Stephen Dorrier, Chief, Environmental Response Team, Hazardous Response Support Division, Office of Emergency & Remedial Response..	Man's ROLEX Swiss Watch, Oyster Perpetual Datejust, Stainless steel case and band. Est. Value $1,200. Recd Apr. 17, 1983. Secured at EPA awaiting GSA disposal instructions.	...do	Do.
Agency: Government of the District of Columbia, Office of the Mayor			
Marion Barry, Jr., Mayor	Two ivory tusks on stepped wood bases. Accepted Oct. 24, 1985. Est. Value $700. On display in the District Bldg..	H.E. General Gnassingbe Eyadema, President of Togo.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency: Federal Commications Commission			
Kalmann Schaefer, International Telecommunications Advisor.	Sterling silver presentation gift box (92.5% pure), with a miniature mosaic of St. Peter's Square affixed to the center of the box lid. The gift was involuntarily accepted on Feb. 9, 1983, estimated value is approximately $3,500-$4,000. In accordance with GSA instructions, the item is being held at the FCC, awaiting further disposition instructions.	Ministry of the Italian Posts and Telecommunications (Government of Italy), through Mario Castellani, member of Italian delegation..	Despite the explanation by Mr. Schaefer that Chairman Fowler, the intended recipient, could not accept such a gift, it was left with Mr. Schaefer and thereupon reported to GSA.

REPORT OF TRAVEL OR EXPENSES OF TRAVEL

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Federal Communications Commission			
Henry M. Rivera, Commissioner	Commissioner Rivera was a participant in the American Council of Young Political Leader's (ACYPL) Study Tour of the Turkish Elections from Oct. 31, 1983 to Nov. 7, 1983. The Commissioner's food and lodging expenses while in Ankara and Istanbul were paid by the Turkish Atlantic Association of Young Political Leaders. Est. Value—$455.00.	Turkish Atlantic Association of Young Political Leaders (TAAYPL) through grant from NATO Information Service.	These were routine and ordinary expenses associated with participation in the Study Tour of the Turkish Elections, and payment for these items was pre-arranged.
Mimi Wayforth Dawson, Commissioner.	Commissioner Dawson, on Oct. 27, 1983, had a stopover in London on her return from an official FCC trip to Geneva. She stayed the extra day to meet with Mr. John Watson, Treasurer of the Atlantic Association of Young Political Leaders (AAYPL). Ms. Dawson is Secretary-General of the AAYPL and the trip to London was in this capacity. The AAYPL paid for expenses incurred for hotel, (10/27), meals, and local transportation. Est. Value—$163.00.	Atlantic Association of Young Political Leaders, a multinational organization, is funded by NATO.	These were routine and ordinary expenses associated with her position as Secretary-General of the AAYPL.

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Board of Governors of the Federal Reserve System			
Paul Volcker, Chairman	Vase. Recd. July 1983. Est. Value—$250. Retained for Board use	Makoto Utsumi, Minister, Embassy of Japan.	Non-acceptance would have caused embarrassment.
Agency: National Aeronautics and Space Administration			
Robert L. Crippen, Captain, USN, NASA Astronaut, STS-7 Commander.	18K gold Omega wristwatch. Serial 44 129 041. Recd July 19, 1983. Est. Value—$6,500. NASA HQ pending disposition by GSA.	Amir of Bahrain	Non-acceptance would have caused embarrassment to donor
Do	Necklace consisting of two graduated pearl strands. Recd July 19, 1983. Est. Value—$2,000. NASA HQ pending disposition by GSA.	...do	Do.
John M. Fabian, Colonel, USAF, NASA Astronaut, STS-7 Mission Specialist.	18K gold Omega wristwatch. Serial 44 129 042. Recd July 19, 1983. Est. Value—$6,500. NASA HQ pending disposition by GSA.	...do	Do.
Do	Necklace consisting of two graduated pearl strands. Recd July 19, 1983. Est. Value—$2,000. NASA HQ pending disposition by GSA.	...do	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Frederick H. Hauck, Captain, USN, NASA Astronaut, STS–7 Pilot.	18K gold Omega wristwatch. Serial 44 129 044. Recd July 19, 1983. Est. Value—$6,500. NASA HQ pending disposition by GSA.	....do	Do.
Do	Necklace consisting of two graduated pearl strands. Recd July 19, 1983. Est. Value—$2,000. NASA HQ pending disposition by GSA.	....do	Do.
Sally K. Ride, PhD, NASA Astronaut, STS–7 Mission Specialist.	18K gold Omega wristwatch. Serial 44 129 046. Recd July 19, 1983. Est. Value—$6,500. NASA HQ pending disposition by GSA.	....do	Do.
Do	Necklace consisting of two graduated pearl strands. Recd July 19, 1983. Est. Value—$2,000. NASA HQ pending disposition by GSA.	....do	Do.
Norman E. Thagard, M.D., NASA Astronaut, STS–7 Mission Specialist.	18K gold Omega wristwatch. Serial 44 339 346. Recd July 19, 1983. Est. Value—$6,500. NASA HQ pending disposition by GSA.	....do	Do.
Do	Necklace consisting of two graduated pearl strands. Recd July 19, 1983. Est. Value—$2,000. NASA HQ pending disposition by GSA.	....do	Do.
Tina Thibideau (spouse of P. Thibideau, Science Information Officer, NASA HQ) (Mrs. Thibideau is an Italian citizen).	Educational Scholarship. Est. Value—$1,600. Scholarship began Dec. 1, 1982 and extended to Fall 1983.	Italian Ministry of Foreign Affairs University of Rome.	Acceptance of scholarship is in accordance with NASA regulations.
Senior NSA Official	Gold Dagger, 25 July 1983. Estimated Value: $200.00. Approved for Official Display in office of donee.	Senior Official of a Foreign Government	Non-acceptance would have caused embarrassment to donor.

REPORT OF TRAVEL OR EXPENSES OF TRAVEL

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: National Transportation Safety Board			
Rudolf Kapustin, Air Safety Investigator.	$600 Gulf Air Travel to Abu Dhabi	United Arab Emirates	U.S. Accredited Representative to participate in an accident investigation in Abu Dhabi at the request of the United Arab Emirates. NTSB air safety investigators normally ride in the jumpseat of aircraft when traveling to familiarize themselves with the flight operations and procedures of the airline and the aircraft.

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Department of the Navy			
General Paul X. Kelley, USMC, Commandant of the Marine Corps.	Light machine gun. Ultramax 100 MK III 5.56. Recd Oct. 21, 1983. Est. Value—$800. Approved for official display in the Marine Corps Development and Training Center, Quantico.	Chief of Singapore Armed Forces	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rear Admiral Clinton W. Taylor, USN, Commander South Atlantic Force.	Two (2) ivory elephant tusks. Four feet in length. Two (2) wood mounting blocks. Recd Nov. 16, 1983. Est. Value—$3,000–$5,000. Approved for official display in Commander in Chief U.S. Atlantic Fleet Headquarters.	President Gnassingbe Eyadema, Togo	Do.
Agency: Overseas Private Investment Corporation			
L. Ebersole Gaines, Executive Vice President.	Copper-Plated Tea Set, consisting of pitcher, sugar bowl, creamer and tray. Recd Aug. 1983. Est. Value—$250. On Display in Donee's Office.	Government of Pakistan	Non-acceptance would have caused embarrassment to Donor.
Agency: Department of State			
Jeffry Bozworth, Special Agent, Office of Security.	$100 in cash. recd March 17, 1983. Deposited with U.S. Treasury	Foreign Minister Salem, Lebanon	Delivered after departure of Donor.
Robert C. Campbell, Bahrain Desk Officer.	Man's CHOPARD Geneve gold wristwatch, mesh strap, No. 9253, serial No. 1906 1091. Recd July 22, 1983. Est. Value—$5,000. Delivered to GSA for disposition Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Delivered following departure of donor—return of gift would have caused offence.
Martin J. Coyne, Jr., Office of Protocol.	Man's OMEGA quartz Seamaster wristwatch, stainless steel and gold (?) #11425—Serial 46 241 393 DL 3960 924. Recd July 23, 1983. Est. Value—$2,000. Delivered to GAA for disposition Jan. 18, 1984.	....do	Non-acceptance would have caused embarrassment to donor and to U.S. Govt.
Linda Dewan, Office of Protocol	Gold OMEGA ladies wristwatch, basket weave design strap, No. 44 088 250 C4 83. Recd July 22, 1983. Est. Value—$2,000. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.
Roy R. Higgins, Deputy Chief Office of Security.	$400 in cash. Recd Oct. 4, 1983. Deposited with U.S. Treasury	Foreign Minister Dr. Elie Salem, Lebanon	Received upon departure of donor; non-acceptance would have caused embarrassment.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Jeane J. Kirkpatrick, U.S. Representative to the United Nations.	Two watches: (a) CHAUMENT wristwatch, heavy white/gold alternating bars comprising watchband, 2 dials and 2 winding stems w/cabochon sapphire winding stems; (b) 2 retangular framed wathces joined w/hinge; 2 gold winding stems, brown reptile band #Y569,1 10903. Recd September 1983. Est. Value—(a) $(6,000. (b) $1,000. Delivered to GSA for disposition. Jan. 18, 1984.	HM King Hassan II, Morocco	Given at personal request and insistence of donor—refusal would have caused embarrassment.
Mary Masserini, Office of Protocol.	Ladies gold OMEGA wristwatch, rope style bracelet #1353. Recd July 23, 1983. Est. Value—$2,000. Delivered to GSA for disposition Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor and to U.S. Govt.
J. William Middendorf, U.S. Permanent Representative to Organization of American States.	(a) *Artifact:* stone seal from Valdura culture of Ecuador (seal used in documents or for imprints in cloth); (b) *Artifact:* 3" clay figure of woman from Valdura culture of Ecuador (approx. 5000-3500 B.C.)—Headdress similar to Egyptian. Recd (a) February 1983. (b) Fall 1983. Est. Value—(a) $900. (b) $2,000. Delivered to GSA for disposition Jan. 18, 1984.	H.E. Raul Falconi, PermRep of Ecuador to OAS.	Do.
Catherine Murdock, Office of Protocol.	Ladies gold OMEGA wistwatch, #1353, basket weave style bracelet. Recd July 23, 1983. Est. Value—$2,000. Delivered to GSA for disposition. Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Do.
Richard W. Murphy, U.S. Ambassador to Saudi Arabia.	Chinese vase, blue & white w/beige flowers (carnations), approx. 26" high, probably porcelain. Recd Jan. 12, 1983. Est. Value—$350. Approved for official display at Embassy Residence.	Govt. of Saudi Arabia	Do.
Do	21 Kt gold coin—12 grams—souvenir of donor's son's birthday: likeness of donor on one side; likeness of son on reverse. Recd Feb. 23, 1983. Est. Value—$158.35. Delivered to GSA for disposition Jan. 18, 1984.	Family of Prince Turki bin Abdul Aziz, Saudi Arabia.	Do.
Do	Gymnasium equipment. Recd Apr. 1, 1983. Est. Value—$2,500. Retained for official use and added to Embassy inventory.	HRH Majid Bin Abd Al-Aziz, Governor of Mecca.	Non-acceptance would have caused embarrassment to donor and to U.S. Govt—Accepted on behalf of Embassy community.
Do	Round medallion, 2½" diameter, 24K gold. One side: Face of King Ibn Saud on raised map/reverse side: sea gulls, boats with word "Jeddah." Recd Aug. 9, 1983. Est. Value—$1,577.22. Approved for official display in office of Donee.	HE Mohammad Said Farsi, Lord Mayor of Jidda, Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and to U.S. Govt.
Do	Figurine: bone china, Coalport, game birds "The Partridge" #1785—No. 120 in limited edition of 750 copies. Recd December 1983. Est. Value—$400. Approved for official display in office of Donee.	HE Shaykh Ali A. Alireza, Former Saudi Ambassador to U.S..	Do.
Do	Silver sword in sheath, approx. 39½" long; 3½" circumference, with 2 round hooks for hanging. Recd August 1983. Est. Value—$500. Approved for official display in Donee's office.	HE Mohammad Said Farsi, Lord Mayor of Jidda, Saudi Arabia.	Do.
Do	11 gold bangle bracelets, 21KT, approx. ⅛" each. Recd Aug. 17, 1983. Est. Value—$1,524.82. Delivered to GSA for disposition Jan. 18, 1984.	Chief of Royal Protocol, Royal Diwan, Saudi Arabia.	Do.
Do	1 pair of gold cufflinks—21KT in design of Saudi coin—1 1/16" diameter. Recd Aug. 18, 1983. Est. Value—$318.84. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.
Cathy I. Postupack, Office of Arabian Peninsual Affairs.	Ladies gold OMEGA wristwatch, No. 1353, quartz, rope style strap, Serial No. BA 7919323 44017119. Recd July 22, 1983. Est. Value—$2,000. Delivered to GSA for disposition Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Do.
Daryl L. Rashkin, Office of Security.	$100 in cash. Recd June 11, 1983. Deposited with U.S. Treasury	Foreign Minister Salem, Lebanon	Delivered after departure of donor.
Nancy V. Rawls, U.S. Ambassador to Ivory Coast.	Ivory and gold necklace & matching bracelet in medallion design with gold filigree frame; necklace 31" long and 11 "medallions"; bracelet 8" long with 4 "medallions." Recd June 15, 1983. Est. Value—$1,000. Delivered to GSA for disposition Jan. 18, 1984.	HE Felix Houphouet-Boigny, President, Ivory Coast.	Non-acceptance would have caused embarrassment to donor and to U.S. Govt.
Do	Objet d'Art: gold African mask on ivory base. Recd Aug. 17, 1983. Est. Value—$500. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.
Do	Ivory and gold necklace and matching bracelet—gold filigree design in flowers and leaves. Recd Aug. 16, 1983. Est. Value—$1,000. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.
Do	Two unmounted ivory tusks, approx. 3'6" high. Recd Aug. 3, 1983. Est. Value—$6,000. Approved for official display at Embassy.	Christian Zagote, Minister of Waters and Forests, Abidjan, Ivory Coast.	Do.
Selwa Roosevelt, Chief of Protocol.	Double strand of small graduated pearls, 17" long, gold clasp with one small emerald and four small diamond chips. Recd July 22, 1983. Est. Value—$350. Delivered to GSA for disposition Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Do.
Do	Ladies gold OMEGA watch, with rope style bracelet, No. 1353 BA 7919310 43988647. Recd July 22, 1983. Est. Value—$1,000. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.
George P. Shultz, Secretary of State (All gifts for Secretary Shultz, except where noted for Mrs. Shultz).	Sterling silver w/gold wash ceremonial Arab coffeepot—approx 14" high. Recd Apr. 6, 1983. Est. Value—$250. Delivered to GSA for disposition Jan. 18, 1984.	Crown Prince Hamad, Bahrain	Do.
Do	Tablecloth, approx 140"×76" w/24 matching napkins—machine embroidered in Syria—green background w/gold and green embroidery (*Secy. and Mrs. Shultz*). Delivered to GSA for disposition Jan. 18, 1984.	HE Abdel Halim Khaddam, Deputy Prime Minister and Minister of Foreign Affairs and Mrs. Khaddam, Syria.	Do.
Do	Lacquer box, apprx 11¾"×15"×5", black w/inlaid mother-of-pearl design cover, flying cranes; removable tray w/butterfly and flowers. Recd May 13, 1983. Est. Value—Approx. $500. Delivered to GSA for disposition Jan. 18, 1984.	HE Bum Suk Lee, Minister of Foreign Affairs, Republic of Korea.	Do.
Do	Framed water color, approx 24"×32" depicting 2 squirrels on a grape vine. Artist: Kim Jeong Uk. (*For Mrs. Shultz.*) Recd May 13, 1983. Est. Value—$250. Transferred for official use in office Assistant Secretary of State for East Asian Affairs.	HE Bum Suk Lee, Minister of Foreign Affairs, Republic of Korea.	Do.
Do	Ivory Objet d'Art, approx 1¾" high in front, 3" high in rear w/gold mask-type face mounted in middle on top. Recd June 7, 1983. Est. Value—Approx $1,000. Delivered to GSA for disposition Jan. 18, 1984.	HE Felix Houphouet-Boigny, President, Ivory Coast.	Do.
Do	Gold filigree necklace, approx. 18" long, worked in fan-shaped flowers; w/gold matching bracelet, approx. 7½" long. (*For Mrs. Shultz.*) Recd. June 7, 1983. Est. Value—$1,000. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.
Do	14K gold pendant in shape of a coffee bean (no chain). (*For Mrs. Shultz.*) Recd June 20, 1983. Est. Value—$300. Delivered to GSA for disposition Jan. 18, 1984.	Mrs. Alvaro Magana, Wife of President of El Salvador.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	1 pair 14K gold cufflinks, coffee bean motif on each end of suspension. Recd June 20, 1983. Est. Value—$500. Delivered to GSA for disposition Jan. 18, 1984.	H.E. Dr. Alvaro Magana, President, El Salvador.	Do.
Do	Rug, approx 4'x6'—predominantly blood red w/black and beige diamond design. Recd July 3, 1983. Est. Value—$400. Retained for official use in Donee's office.	Children of Nasr Bagh Refugee Camp, Peshawar, Pakistan (Administered by Govt. of Pakistan).	Do.
Do	One double strand of graduated natural pearls, approx. 19" long, w/gold clasp set with diamond chips and small emerald. (*For Mrs. Schultz.*) Recd July 19, 1983. Est. Value—$3,000. Delivered to GSA for disposition Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Do.
Do	Gold dagger, approx 11-¼" overall length, inlaid w/leather and fitted with device for attaching to belt; reverse side covered w/beige velvet. Recd July 19, 1983. Est. Value—$5,000. Delivered to GSA for disposition Jan. 18, 1984..	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Do.
Do	(a) Evening gown, grey tent style w/hand sewn gold & silver beads in sunburst pattern emanating from neckline. (b) 2-piece evening gown, plum color, overlay decorated w/silver beads. Est. Value—$500. Delivered to GSA for disposition Jan. 18, 1984..	Mrs. Imelda Marcos, Wife of President of Philippines.	Do.
Do	(a) 1 mirror, approx 2'x3' decorated with variety of sea shells (many broken in transit), small box w/extra shells included). (b) 12 books (including a 10-volume set) from Philippines. (c) Inlaid mahogany chest w/mother-of-pearl design, approx 34"x17½" s 16", containing Philippine handicrafts. Recd July 25, 1984. Est. Value—$500. Delivered to GSA for disposition Jan. 18, 1984..	President and Mrs. Ferdinand Marcos, Philippines.	Do.
Do	Gold mask-like figure, approx. 4¼" tall and 3¼" wide, wearing ornate headpiece—on reverse are 2 loops suitable for hanigng on belt or neck (?). Recd Aug. 26, 1983. Est. Value—$300. Delivered to GSA for disposition Jan. 1984.	HE Bernardo Sepulveda Amor, Secretary of Foreign Relations, Mexico..	Do.
Do	Gold key chain w/gold coin on end—coin bears likeness of King George and is dated 1914. Recd Sept. 19, 1983. Est. Value—$300. Delivered to GSA for disposition Jan. 18, 1984.	HE Field Marshall Muhammad Abd al-Halim Abu Ghazala, Minister of Defense and War Production, Egypt.	Do.
Do	(a) HEREND china tea set, service for 12, consisting of teapot, creamer, sugar bowl, 12 cups and 12 plates—green and gold floral design; (b) 8 bottles of Hungarian wine in black carrying case. Recd Sept. 21, 1983. Est. Value—$600 combined. Delivered to GSA for disposition Jan. 18, 1984.	HE Peter Varkonyi, Minister of Foreign Affairs, Hungary.	Do.
Do	White porcelain fruit dish, approx. 9½", at widest part, with cut-out design; orange, purple and blue flowers painted in inside bottom; Hallmark: "KPM". (*For Mrs. Shultz.*) Recd Oct. 8, 1983. Est. Value—$200. Delivered to GSA for disposition Jan. 18, 1984.	Mrs. Veronica Carstens, Wife of President of Federal Republic of Germany.	Do.
Do	Antique engraved map of Western Hemisphere by Johann Baptist Homann—approx 32" × 29½" framed (glass broken). Recd Oct. 8, 1984. Est. Value—$1,000..	HE Dr. Karl Carstens, President, Federal Republic of Germany.	Do.
Do	(a) 15" gold chain, connected to pendant of 9 pink pearls; (b) approx. 4 yds. silk material, beige background w/gold & magenta designs; (c) one organdy tablecloth (beige w/burnt orange embroidery) and 12 matching napkins. (*For Mrs Shultz.*) Recd Oct. 8, 1983. Est. Value—$250 combined. Delivered to GSA for disposition Jan. 18, 1984.	HE LTG H. M. Ershad, Chief Martial Law, Administrator, Bangladesh.	Do.
Do	(a) White jade & gold necklace, approx. 38" long, w/flying crane on pendant; (b) White jade & gold cufflinks w/2 peacocks and flower on each cufflink. Recd Nov. 13, 1983. Est. Value—$400 combined. (*For Secy. and Mrs. Shultz.*) Delivered to GSA for disposition Jan. 18, 1984.	HE Chun Doo-Hwan, President, Republic of Korea.	Do.
Do	Cloisonne & silver wine pot w/lid, turquoise, blue and white; 2 matching wine cups and matching saucers.(*For Secy. and Mrs. Shultz.*) Recd Nov. 13, 1983. Est. Value—$175. Delivered to GSA for disposition Jan. 18, 1984.	HE Won-Kyung Lee, Minister of Foreign Affairs, Republic of Korea.	Do.
Do	Gold watch with black (crocodile?) strap. Face is approx. 1¼" × 1¼" square with 2 separate movements incorporated into face #612773. Recd Dec. 12, 1983. Est. Value—$2,000. Delivered to GSA for disposition Jan. 18, 1984..	HM King Hassan II, Morocco	Do.
Do	Black lacquer box, approx. 12¼" x 8¾", decorated with mother-of-pearl designs (fans, peacocks, flowers). Recd Nov. 30, 1983. Est. Value—$200. Delivered to GSA for disposition Jan. 18, 1984.	HE Lee Won Kyung, Minister of Foreign Affairs, Republic of Korea.	Do.
Do	Leather (crocodile?) purse, approx. 9" x 6½", fitted with comb, matching shoulder strap, gold metal compact, gold metal lipstick case, leather holder for comb and holder for cigarettes (?). (*For Mrs. Shultz.*) Recd Dec. 12, 1983. Est. Value—$250. Delivered to GSA for disposition Jan. 18, 1984.	HM King Hassan II Morocco	Do.
Do	White jade & polished brass necklace, approx. 30" long w/pendant depicting a heron in flight; 1 pair of matching earrings; 1 extra piece of jade, small, oval shaped. (*For Mrs. Shultz.*) Recd May 12, 1983. Est. Value—$50. Delivered to GSA for disposition Jan. 18, 1984.	Mrs. Bum Suk Lee, Wife of Minister of Foreign Affairs, Republic of Korea.	Do.
Do	1 tablecloth, approx. 100" x 56", white with white embroidery, and 12 matching napkins. (*Secy. and Mrs. Shultz.*) Recd May 7, 1983. Est. Value—$70. Delivered to GSA for disposition Jan. 18, 1984.	HE Abdel Halim Khaddam, Deputy Prime Minister and Minister of Foreign Affairs and Mrs. Khaddam, Syria.	Do.
Do	Cross stitched wall hanging, approx. 88" x 102", red background with multicolored design of flowers and animals. Recd Aug. 2, 1982. Est. Value—$60. Delivered to GSA for disposition Jan. 18, 1984.	HE Indira Gandhi, Prime Minister of India	Do.
Do	GUCCI scarf, 26" x 26", multicolored floral pattern with tan border. (*For Mrs. Shultz.*) Recd Dec. 12, 1982. Est. Value—$45. Delivered to GSA for disposition Jan. 18, 1984.	HE Emilio Colombo, Foreign Minister, Italy.	Do.
Do	Framed hand embroidered wall hanging, approx. 2'4" x 3'3½", beige background with blues, greens, black and burgundy—native village scene. Recd Oct. 25, 1983. Est. Value—$150. Transferred for official use in Office of Protocol, Reception Area.	HE LTG H.M. Ershad, Chief Martial Law, Administrator, Bangladesh.	Do.
Roscoe S. Suddarth, Deputy Chief of Mission, American Embassy, Jidda, Saudi Arabia.	21KT gold coin, 12 grams, souvenir of Prince Turki's son's birthday: likeness of prince on one side; likeness of son on reverse. Recd Feb. 23, 1983. Est. Value—$158.35. Delivered to GSA for disposition Jan. 18, 1984.	Family of Prince Turki bin Abdul Aziz, Saudi Arabia.	Do.
Timothy L. Towell, Deputy Chief of Protocol.	Man's OMEGA wristwatch, gold case, mesh strap, quartz No. 1332 #44339348. Recd July 22, 1983. Est. Value—$2,000. Delivered to GSA for disposition Jan. 18, 1984.	Shaikh Isa bin Sulman Al-Khalifa, Amir of Bahrain.	Do.
Brooks Wrampelmeier, Director, Arabian Peninsula Affairs.	Ladies wristwatch, gold OMEGA, No. 1387, gold mesh strap, Serial No. 44 972 143, BA 791744B. Recd July 22, 1983. Est. Value—$2,000. Delivered to GSA for disposition Jan. 18, 1984.	....do	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Department of Transportation			
Captain C. R. Corbett, Chief, Environmental Response Division, U.S. Coast Guard.	1 Rolex Oyster Perpetual datejust wristwatch, jubilee band. Received: Apr. 17, 1983. Estimated Value: $1,500.00. On display at Coast Guard Academy Museum, New London, Connecticut. Curator: Mr. Johnson.	Dr. Midfa, Minister of Health, United Arab Emirates.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Admiral J.S. Gracey, Commandant, U.S. Coast Guard.	6.6' x 10' Moroccan Rug. Received: Feb. 24, 1983. Estimated value: $2,150.00 As property of the United States, the rug is now being used as part of the official furnishings of public family quarters of the Commandant, U.S. Coast Guard, located at 6601, Kennedy Drive, Chevy Chase, Maryland..	Minister & Mrs. Bensalem Smili, Moroccan Minister of Fisheries and Marine.	Do.
Lt. Commander J. L. O'Brien, Oil Spill Strike Team, U.S. Coast Guard.	1 Rolex Oyster Perpetual datejust wristwatch, jubilee band. Received: Apr. 17, 1983. Estimated Value: $1,500,.00. Located in GSA approved security container, Rm. 1202, U.S. Coast Guard Headquarters.	Dr. Midfa, Minister of Health, United Arab Emirates.	Do.
Donald T. Regan, Secretary of the Treasury.	Assortment of Books by President and Mrs. Marcos covering 14 different subjects and 24 volumes. Recd May 1983. Est. Value—$160. Reported to GSA—delivered to Federal Surplus Property, Bismark, ND.	Ferdinand E. Marcos & Wife, President, Philippines.	Delivered to Secretary's quarters following official visit to Manila. Refusal or return would have appeared discourteous or caused embarrassment to donor.
Do	Chest, Wood, 33" x 17" x 18", with decorative white inlay designs on all surfaces. Recd May 1983. Est. Value—$300. Repoorted to GSA and stored in Office of Administrative Programs pending disposition by GSA.	Ferdinand E. Marcos & Wife, President, Philippines.	Do.
Do	Mirror, 30" x 40", decorated with Mother of Pearl. Recd May 1983. Est. Value—$250. Reported to GSA and stored in Office of Administrative Programs pending disposition by GSA.	Ferdinand E. Marcos, President, Philippines.	Do.
Do	Vases, 1-pair, enabled, 84" x 5". Recd August 1983. Est. Value—$150. Retained in Donee's office for official display.	Minister Wang, Minister of Finance, China.	Delivered to Secretary's office following visit to U.S. Refusal or return would have appeared discourteous or caused embarrassment to donor.
Do	China Tea Set, Plate, Pot, and Cups, enclosed in cardboard box. Recd October 1983. Est. Value—$200. Reported to GSA and stored in Office of Administrative Programs pending disposition by GSA.	Ali-Khalifa, Minister of Oil and Finance, Kuwait.	Delivered to Secretary's quarters during official visit to Kuwait. To avoid any perceived ingratitude'discourtesy resulting through nonacceptance.
Do	Coffee Set, 24-Carat Gold, (plated), Plate, Pot and Cups, Enclosed in blue velvet box. Recd October 1983. Est. Value—$200. Reported to GSA and stored in Office of Administrative Programs pending disposition by GSA.	Muhammed al-Ali Abalkhail, Finance Minister, Saudi-Arabia.	Delivered to Secretary's office following official visit to Saudi-Arabia. Refusal or return would have appeared discourteous or caused embarrassment to donor.
Mrs. Donald T. Regan, Wife of Secretary of the Treasury.	Jewelry, Silver, Chain necklace with 2 broaches, enclosed in blue velvet box. Recd October 1983. Est. Value—$150. Reported to GSA and stored in Office of Administrative Programs pending disposition by GSA.	Wife of Muhammed Abalkhail, Finance Minister, Saudi-Arabia.	Do.
Donna M. Culpepper, Media Coordinator, Office of Near East, North Africa and South Asia, U.S. Information Agency.	Ladies' wristwatch, OMEGA, Seamaster Quartz, Gold. Recd August 1983. Est. Value—$2,000. Reported to GSA and stored in Agency vault pending disposition by GSA.	Al Thawadi, Director of Television, Government of Bahrain.	Gift left following departure of donor to his country.
Frederick G. Mason, Jr., Area Coordinator, Television and Film Service, U.S. Information Agency.	Men's wristwatch, OMEGA, Quartz, Gold. Recd August 1983. Est. Value—$2,000. Reported to GSA and stored in Agency vault pending disposition by GSA.	..... do	Do.

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Agency: Veterans Administration			
Carlos Bedrossian, M.D., Chief, Laboratory Service, VA Medical Center, Nashville, TN.	Oct. 5–9, 1983. $288 for Hotel Bill, Paris, France	European Federation of Cytologist Societies.	Guest Speaker at Annual Meeting of the Society; on annual leave at time of acceptance.
Edward D. Freis, M.D., Senior Medical Investigator, VA Medical Center, Washington, D.C..	Apr. 18–25, 1983. $300 for travel expenses while visiting Peking, China	People's Republic of China	Guest lacturer at the Peking Academy of Medicine; on annual leave at the time of acceptance.

[FR Doc. 84-5968 Filed 3-7-84; 8:45 am]

BILLING CODE 4710-20-M

DEPARTMENT OF TRANSPORTATION

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB February 8–February 28, 1984

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Feb. 8–Feb. 28, 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 5 days from the date of publication is 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 Feb. 8–Feb. 28, 1984:

DOT No. 2317
OMB No. 2137–0037 and 0044 (Combined)
By: Research and Special Programs Administration
Title: Symbol ID Registration Requirements (Drums and Drum Testers)
Forms: None
Frequency: One time
Respondents: Manufacturers of Containers for Hazardous Materials and Retesters
Need/Use: Materials Transportation Bureau (MTB) uses this requirement to identify manufacturers of containers. Container manufacturers use a symbol to avoid embossing containers with their name, which could weaken the container. MTB also uses this identity symbol to verify that a drum reconditioner is able to properly perform drum reconditioning.

DOT No. 2373
OMB No. 2120–0044
By: Federal Aviation Administration
Title: Rotorcraft External Load Operator Certificate Application—FAR 133
Forms: FAA Form 8710–4
Frequency: As required
Respondents: Rotorcraft external load operator certificate applicants
Need/Use: Respondents are applicants for initial certification as a Rotorcraft External Load Operator, or currently Certified Operators adding additional aircraft or equipment.

DOT No. 2374
OMB No. 2120–0027
By: Federal Aviation Administration
Title: Application for Certificate of Waiver or Athorization—FAR–91, 101, 105
Forms: FAA Form 7711–2
Frequency: On Occasion
Respondents: Individuals, businesses
Need/Use: FAA Act of 1958, Section 307 authorizes regulations governing navigable airspace. 14 CFR 91, 101, 105, prescribe regulations for use of the air space. They also provide for authorization to deviate from the regulations. Information collected is used to assure safety to persons, property, and other aircraft.

DOT No. 2375
OMB No. New
By: Research and Special Programs Administration
Title: Approval of Independent cylinder Inspection Agencies and Non-Domestic Chemical Analyses and Tests
Forms: None
Frequency: On Occasion
Respondents: Cylinder manufacturers and independent inspectors
Need/Use: The Materials Transportation Bureau uses these requirements to assure compliance by foreign cylinder manufacturers to the Department's regulations pertaining to the manufacture of cylinders.

DOT No. 2376
OMB No. 2133–0013
By: Maritime Administration
Title: Monthly Reports of Ocean Shipments Moving Under Export-Import Bank Financing
Forms: MA–518
Frequency: Monthly
Respondents: Ship owners, ship operators
Need/Use: Reports necessary to continue surveillance of cargoes financed by export-import bank in order to assure equitable distribution between U.S. flag and foreign ships.

DOT No. 2377
OMB No. 2125–0015 and 2125–0014 (Combined)
By: Federal Highway Administration
Title: Motor Carrier Accident Reports
Forms: MCS–50 T, MCS–50 B, MCS–50 BR, MCS–50 ST and MCS–50 SB
Frequency: On Occasion
Respondents: Motor carriers
Need/Use: Accident reports provide vital information to the Federal Highway Administration and Bureau of Motor Carrier Safety in administering its regulatory program for safe operations.

DOT No. 2378
OMB No. 2115–0503
By: U.S. Coast Guard
Title: Plan Approval and Records for U.S. Vessels Carrying Oil in Bulk
Forms: None
Frequency: On Occasion
Respondents: Vessel operators
Need/Use: This information collection is needed to ensure that: (1) sufficient information is available to the Coast Guard to determine that a vessel is complying with regulations; (2) sufficient information is available to vessel operating personnel for safe operation of the vessel and the required equipment; and (3) a means is available to appeal Coast Guard decisions.

DOT No. 2379
OMB No. New
By: U.S. Coast Guard
Title: Report of Advance Notice of Vessel Arrival and Departure, and

Advance Notice of Vessel Arrival and Departure Waivers
Forms: Narrative
Frequency: On Occasion
Respondents: Vessel operators
Need/Use: This information collection is needed by the Coast Guard Captain of the Port for vessel traffic supervision, contingency planning for oil or hazardous substance spills, counterterrorism, firefighting, and targeting certain types of vessels for examination. Also, this collection provides a vehicle for certain types of vessels to request a waiver of the regulations.

DOT No. 2389
OMB No. 2130–0502
By: Federal Railroad Administration
Title: Filing of Dedicated Cars
Forms: None
Frequency: On Occasion
Respondents: Railroads
Need/Use: The Federal Railroad Administration needs this information to record how many freight cars are assigned to dedicated service and thus need not comply with regulations required of cars for general use.

DOT No. 2381
OMB No. New
By: Federal Highway Administration
Title: Public Lands Highways Applications
Forms: None
Frequency: Annually
Respondents: State Highway Agencies
Need/Use: The information is necessary in order to have documentation to support decisions on allocating funds to States for highways through public lands.

DOT No. 2382
OMB No. New
By: Federal Highway Administration
Title: Marking of Vehicles by Private Carriers of the Hazardous Materials
Forms: None
Frequency: On occasion
Respondents: Motor carriers
Need/Use: The Federal Highway Administration requires that a motor vehicle operated by a private carrier transporting hazardous materials must be marked or placarded on both sides with the carriers name and address, so that the carrier may be contacted easily and quickly in emergencies, or for violations of regulations.

DOT No. 2383
OMB No. 2125–0025
By: Federal Highway Administration
Title: Highway Safety Improvement Program
Forms: Letter Report
Frequency: Annually
Respondents: State highway agencies
Need/Use: To monitor the progress of highway safety improvement programs and the effectiveness of those programs, and for the basis of an annual report to Congress on the subject.

DOT No. 2384
OMB No. New
By: Federal Highway Administration
Title: Preparation and Execution of the Projection Agreement and Modifications
Forms: PR–2, PR–2A, PR–2.1
Frequency: On Occasion
Respondents: State highway agencies
Need/Use: Project agreements are formal contractual agreements between Federal and State officials for highway projects. Statutes require approval of documentation of mutual responsibilities before the Federal-aid highway project may proceed.

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

Jon H. Seymour,

Deputy Assistant Secretary for Administration.

[FR Doc. 84–6306 Filed 3–7–84 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84–018]

Coast Guard Academy Advisory Committee, Meeting

AGENCY: Coast Guard, DOT.

ACTION: Open Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Monday and Wednesday April 2 and 4, 1984. The session on Monday will be held from 10:45 to 11:45 a.m. and 1:45 to 3:15 p.m. An open session will also be held on Wednesday from 10:15 to 11:15 a.m. The agenda for this meeting consists of the following items:

1. Faculty,
2. Curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75–38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the hearing. Persons wishing to attend or present oral statements at the meeting should notify, the U.S. Coast Guard Academy not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Capt. David A. Sandell, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444–8275.

B. L. Stabile,

Vice Admiral U.S. Coast Guard, Acting Commandant.

[FR Doc. 84–6290 Filed 3–7–84; 8:45 am]

BILLING CODE 4910–14–M

Coast Guard

[CGD 84–014]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of the sixth meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, March 29, 1983 at the U.S. Coast Guard Port Safety Station, 9640 Clinton Drive, Houston, Texas. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the Committee.
3. Reports of Subcommittees.
   A. Inshore Waterway Management.
   B. Offshore Waterway Management.
4. Discussion of Subcommittee Reports.
5. Presentation of any additional new items for consideration to the Committee.
6. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additonal information may be obtained from Commander R. A. Brunell, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589–6901.

Dated: March 5, 1984.
W. H. Stewart,
Rear Admiral, U.S. Coast Guard.
[FR Doc. 84-6289 Filed 3-7-84; 8:45 am]
BILLING CODE 4910-14-M

[CGD 84-015]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to Section 10(a) of the Federal advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of the third meeting of the Lower Mississippi River Waterways Safety Advisory Committee. The meeting will be held on April 17, 1984, in the 29th Floor Boardroom of the International Trade Mart Bldg., New Orleans, LA. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the January 24, 1984 meeting.
3. Chairman's Message.
4. Introduction of items for full committee discussion:

A. Should VTS New Orleans be a voluntary system?

B. What changes can be implemented to improve the effectiveness and efficiency of the present communications system employed by the Mississippi River and its Auxiliary waterways?

C. What measures can be taken to improve the credibility and utility of information provided by the VTS New Orleans, including expansion of the VTS to facilitate commerce as will as navigational safety?

5. Announcements.
6. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the executive Secretary no later than the day before the meeting. any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone Number (504) 589-6901.

Dated: March 5, 1984.
W. H. Stewart,
Rear Admiral, U.S. Coast Guard.
[FR Doc. 84-6288 Filed 3-7-84; 8:45 am]
BILLING CODE 4910-14-M

[CGD 84-016]

Lower Mississippi River Waterway Safety Advisory Committee, Auxiliary Waterways Subcommittee; Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Auxiliary Waterways Subcommittee for the Lower Mississippi River Waterways Safety Advisory Committee. The meeting will be held on April 9, 1984, in the Board Room of the New Orleans Board of Trade Bldg., New Orleans, LA. The meeting is scheduled to begin at 10:00 a.m. and end at 2:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Subcommittee Chariman's Message.
3. Items for Discussion:

A. Should VTS New Orleans be a voluntary system?

B. What changes can be implemented to improve the effectiveness and efficiency of the present communications system employed by the Mississippi River and its Auxiliary Waterways?

C. What measures can be taken to improve the credibility and utility of information provided by the VTS New Orleans, including expansion of the VTS to facilitate commerce as well as navigational safety?

5. Announcements.
6. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. BRUNELL, Executive Secretary, Lower Mississippi River Waterways Safety Advisory Committee, c/o Commander, Eight Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: March 5, 1984.
W. H. Stewart,
Rear Admiral, U.S. Coast Guard.
[FR Doc. 84-6287 Filed 3-7-84; 8:45 am]
BILLING CODE 4910-14-M

[CGD 84-017]

Lower Mississippi River Waterway Safety Advisory Committee, River Navigation Subcommittee; Meeting

Pursuant to Section (10)a of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the River Navigation Subcommittee for the Lower Mississippi River Waterways Safety Advisory Committee. The meeting will be held on April 5, 1984, in the 29th Floor Boardroom of the International Trade Mart Bldg., New Orleans, LA. The meeting is scheduled to begin at 9:00 a.m. and end at 2:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Subcommittee Chariman's Message.
3. Items for Discussion:

A. Should VTS New Orleans be a voluntary system?

B. What changes can be implemented to improve the effectiveness and efficiency of the present communications system employed by the Mississippi River and its Auxiliary Waterways?

C. What measures can be taken to improve the credibility and utility of information provided by the VTS New Orleans, including expansion of the VTS to facilitate commerce as well as navigational safety?

5. Announcements.
6. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: March 5, 1984.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-6286 Filed 3-7-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Flight Service Station at Boston, Massachusetts; Closing

Notice is hereby given that on or about March 3, 1984, the Boston Flight Service Station at Boston, Massachusetts, will be closed. Service to the general aviation public of Massachusetts and Rhode Island, formerly provided by this office, will be provided by the Bridgeport Flight Service Station in Bridgeport, Connecticut. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Burlington, Massachusetts, on February 10, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-6201 Filed 3-5-84; 11:17 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 29, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and/or to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0577
Form Number: AF 8
Type of Review: Reinstatement
Title: Extension of Time for Making Elections
OMB Number: 1545-0169
Form Number: IRS Forms 4461 and 4461-A
Type of Review: Revision
Title: Application for Approval of Master of Prototype Defined Benefit Plan. Application Approval of Master of Prototype Defined Contribution Plan
OMB Number: 1545-0143
Form Number: IRS Forms 2290 and 2290A
Type of Review: Revision
Title: Federal Use Tax Return on Highway Motor Vehicles

Alcohol, Tobacco and Firearms

OMB Number: 1512-0078
Form Number: ATF F 1533 (5000.18)
Type of Review: Extension
Title: Consent of Surety
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB Number: 1505-0036
Form Number: None
Type of Review: Reinstatement
Title: Self-Evaluation Transaction Plan
OMB Reviewer: Judy McIntosh (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

Gary Kowalczyk,

Departmental Reports, Management Office.

[FR Doc. 84-5953 Filed 3-7-84; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 47
Thursday, March 8, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, March 13, 1984.

PLACE: Commission Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 84-1-FOIA-3-SL, concerning a request for documents from a closed ADEA Charge file.
4. Freedom of Information Act Appeal No. 83-12-FOIA-97-HU, concerning a request for documents from a closed ADEA charge file.

Closed

1. Litigation Authorization; General Counsel Recommendations.
2. Consideration of Certain Subpoenas, Decisions and Settlements.
3. Proposed National ELI Issues List.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued March 6, 1984.

Dated: March 6, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-6362 Filed 3-6-84, 2:17 p.m.]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Monday, March 5, 1984, the Corporation's Board of Directors 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 the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a certain State member bank to determine the condition of such bank for insurance purposes: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Memorandum re: Leased Space for FDIC Offices in Chicago, Illinois.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter 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 by authority of subsections (c)(2), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(8), and (c)(9)(A)(ii)).

Dated: March 5, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-6342 Filed 3-6-84; 12:16 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Monday, March 5, 1984, the Corporation's Board of Directors 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 the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

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. 45,952-NR—Penn Square Bank, National Association, Oklahoma City, Oklahoma

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

By the same majority vote, the Board also voted to withdraw from the agenda for consideration in open session and to add to the agenda for consideration at the Board's closed meeting held at 10:30 a.m. the same day, the following matter:

Application of Ford City Bank and Trust Co., Chicago, Illinois, for consent to establish a remote service facility at Walgreen's, 9503 South Cicero, Oak Lawn, Illinois.

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be considered in a closed meeting by authority 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); and that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: March 5, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-6343 Filed 3-6-84; 16:16 am]

BILLING CODE 6714-01-M

4

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 6:35 p.m. on Friday, March 2, 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 United Bank of Oregon, Milwaukie, Oregon, which was closed by the Superintendent of Banks for the State of Oregon on Friday, March 2, 1984; (2) accept the bid for the transaction submitted by United States National Bank of Oregon, Portland, Oregon; and (3) provide such financial assistance, 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.

At that same meeting, the Board also (1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in all American National Bank, Virginia Gardens (P.O. Miami), Florida, which was closed by the Acting Comptroller of the Currency on Friday, March 2, 1984; (2) accepted the bid for the transaction submitted by Capital Bank, North Bay Village, Florida, an insured State nonmember bank; (3) approved the application of Capital Bank, North Bay Village, Florida, for consent to purchase certain assets of and to assume the liability to pay deposits made in All American National Bank, Virginia Gardens (P.O. Miami), Florida, and for consent to establish the sole office of All American National Bank as a branch of Capital Bank; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitiate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of 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: March 5, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-6344 Filed 3-6-84; 12:17 pm]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 13, 1984, 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance, Litigation, Audits, Personnel.

* * * * *

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, March 15, 1984, 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility reports for candidates to receive presidential primary matching funds
Draft advisory opinion #1984-6, Jeremiah J. Foley, Assistant Vice President, The Co-Operative Central Bank
Finance Committee Report
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-6384 Filed 3-6-84; 3:22 pm]

BILLING CODE 6715-01-M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—March 14, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 9973-10: Extension of the Johnson Scanstar Joint Service Agreement.
2. Docket No. 83-35: Licensing of Independent Ocean Freight Forwarders—Consideration of comments submitted in response to notice of proposed rulemaking and proposed final rules.

Portions closed to the public:

1. Docket No. 83-7: Atlantic and Gulf/West Coast of South America Conference et al. v. Empresa Maritima Del Estado—Consideration of the record.
2. Docket No. 83-16: Terry Marler and James Beasley, d.b.a. Titanic Steamship Line—Possible Violations of Section 3(a) of Public Law 89-777—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-6345 Filed 3-6-84; 12:17 pm]

BILLING CODE 6730-01-M

7

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 1, 1984, 49 FR 7694.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 7, 1984, 9:00 a.m.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

3. Modifications of Reporting Requirements of Shippers' Requests and Complaints—Notice of Proposed Rulemaking.

Francis C. Hurney,

Secretary.

[FR Doc. 84-6388 Filed 3-6-84; 3:30 pm]

BILLING CODE 6730-01-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Change in announcement of previous scheduled meeting.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Wednesday, March 7, 1984.

NEW TIME AND DATE: 10:00 a.m., Wednesday, March 21, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Secretary of Labor, MSHA v. Carbon County Coal Co., Docket No. WEST 82-106. (Issues include whether the judge erred in denying the operator's motion for summary decision in a civil penalty proceeding involving the operator's ventilation plan.)

TIME AND DATE: Immediately following oral argument.

STATUS: Closed (Pursuant to 5 U.S.C. 552(b)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above mentioned item.

It was determined by a unanimous vote of Commissioners that this meeting be postponed and that no earlier announcement of the meeting was possible. 5 U.S.C. § 552(e)(1).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84-6363 Filed 3-6-84; 2:17 pm]

BILLING CODE 6735-01-M

9

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Sunshine Act Meeting.

AGENCY HOLDING THE MEETING: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. A portion of this meeting will be closed to the public to discuss pending litigation and other legal matters.

TIME AND DATE: March 14, 1984, 10:00 a.m.; March 15, 1984, 9:00 a.m.

PLACE: ERB Memorial Union, 13th & University Streets, University of Oregon, Eugene, Oregon.

MATTERS TO BE CONSIDERED:

- Status Report of Bonneville Power Administration's FY 1985 Budget Submittal.
- Council Decision on Northwest-Southwest Intertie Access Policy.
- Presentation on Northwest Power Planning Council Power Planning Division Workplan.
- Presentation of Issue Papers on Amendment of the Columbia River Basin Fish and Wildlife Program.
- Public Comment on First Set of Issue Papers on Amendment of the Columbia River Basin Fish and Wildlife Program.
- Staff Presentation on Proposal to Require Bonneville Power Administration to Fund "Mitchell Act" Hatcheries.
- Council Business.
- Public Comment will follow each item.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-6325 Filed 3-6-84; 10:35 am]

BILLING CODE 0000-00-M

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SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published).

STATUS: Open/Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, February 24, 1984.

CHANGE IN THE MEETING: Additional items.

The following additional item will be considered at an open meeting scheduled for Tuesday, March 6, 1984, at 10:00 a.m., in Room 1C30.

The Commission, on February 2, 1984, met to consider proposals by the American Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, the New York Stock Exchange, Inc., and the Pacific Stock Exchange, Inc. to introduce industry index options in addition to one already trading. At that time the Commission decided to defer action on those proposals. The Commission will now consider whether to approve certain of these proposals. For further information, please contact Alden Adkins at (202) 272-2843.

The following additional items will be considered at a closed meeting scheduled for Tuesday, March 6, 1984, following the 10:00 a.m. open meeting:

Formal order of investigation.

Institution and settlement of administrative proceedings of an enforcement nature.

Commissioner Cox, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alternations 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.

March 5, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6300 Filed 3-5-84; 4:58 pm]

BILLING CODE 8010-01-M

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SYNTHETIC FUELS CORPORATIONS

Meeting of the Board of Directors.

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held at the time, date and place specified below by telephone conference call. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant of Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

I. Call to Order (11:00 a.m. EST)
II. Approval of Minutes
III. Contracting Policy
IV. Report of Compensation Committee
  Retention of Employees
V. Other Matters
VI. Resolution to Close Meeting

Closed Session

VII. Project-Specific Actions and Status Reports
  First Colony Project
  Northern Peat Energy Project
  Arkansas Lignite Conversion Project
  Enpex
  Hop Kern River Project

TIME AND DATE: March 15, 1984, 11:00 a.m. (EST).

PLACE: U.S. Synthetic Fuels Corporation, 2121 K Street NW., Room 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822-6336.

United States Synthetic Fuels Corporation.

Robert W. Gambino,

Group Vice President-Corporate.

March 6, 1984.

[FR Doc. 84-6341 Filed 3-6-84; 12:14 pm]

BILLING CODE 0000-00-M

federal register

Thursday
March 8, 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; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 421

[OW-FRL 2289-1]

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes effluent limitations guidelines and standards limiting the discharge of pollutants into navigable waters and into publicly owned treatment works (POTW) by existing and new sources that conduct particular nonferrous metals manufacturing operations. The Clean Water Act and a consent decree require EPA to issue this regulation.

This regulation establishes effluent limitations guidelines based on "best practicable technology" (BPT) and "best available technology" (BAT), new source performance standards (NSPS) based on "best demonstrated technology", and pretreatment standards for existing and new indirect dischargers (PSES and PSNS, respectively).

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on March 22, 1984. This regulation shall become effective April 23, 1984.

The compliance date for the BAT regulations is as soon as possible, but in any event, no later than July 1, 1984. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operations. The compliance date for pretreatment standards for existing sources (PSES) is March 9, 1987.

Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Address questions on the final rule to Mr. James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention Nonferrous Metals Manufacturing Rules (WH-552). The basis for this regulation is detailed in four major documents. See Supplementary Information (under "XIV. Availability of Technical Information") for a description of each document. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-4600). Technical information may be obtained by writing Mr. James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382-7126. Additional economic information may be obtained by writing Ms. Debra Maness, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382-5397.

The Record for the final rule will be available for public review not later than May 14, 1984, in EPA's Public Information Reference Unit, Room 2904 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall (202) 382-7126.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Legal Authority
II. Scope of This Rulemaking
III. Summary of Legal Background
IV. Methodology and Data Gathering Efforts
V. Control Treatment Options and Technology Basis for Final Regulations
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VI. Economic Considerations
  A. Compliance Costing Methodology
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  A. Air Pollution
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VIII. Pollutants and Subcategories Not Regulated
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XIV. Availability of Technical Information
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XVI. Appendices
  A. Abbreviations, Acronyms, and Other Terms Used in This Notice
  B. Pollutants Selected for Regulation by Subcategory
  C. Toxic Pollutants Not Detected
  D. Toxic 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

This regulation is being promulgated under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217), also called "the Act". It is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

II. Scope of This Rulemaking

This final regulation, which was proposed on February 17, 1983 (48 FR 7032), establishes effluent limitations guidelines and standards for existing and new nonferrous metals manufacturing facilities. The nonferrous metals manufacturing category is comprised of plants that process ore concentrates and scrap metals to recover and increase the metal purity contained in these materials. Depending on the metal and the desired purity, hydrometallurgical, pyrometallurgical, or liquid-liquid ion exchange operations may be used to purify and upgrade metal values. 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 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 point source category in which the metal is being used as a raw material.

Because of the diversity of the nonferrous metals category, EPA has divided it into separate segments (nonferrous metals manufacturing phase I, nonferrous metals manufacturing phase II, and nonferrous metals forming) in order to devote immediate resources to regulation of the phase I plants, which generate the largest quantities of toxic pollutants.

The regulatory strategy for phase I nonferrous metals manufacturing addresses 12 subcategories: primary aluminum, copper smelting, copper electrolytic refining, lead, zinc, columbium-tantalum, and tungsten; secondary aluminum, silver, copper, lead; and metallurgical acid plants. Nonferrous metals manufacturing phase II, containing an additional 19 primary metals and metal groups, 10 secondary metals and metal groups and bauxite refining, will be considered separately and will be proposed shortly. 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 (see Section VIII of this preamble). These metals were excluded from regulation either because the manufacturing processes do not use water or because they are regulated by toxic pollutant limitations and standards in other categories (ferroalloys and inorganic chemicals). Other portions of the nonferrous metals industry are addressed by separate effluent limitations and standards. Interim final and final rules for aluminum forming were promulgated on October 24, 1983 (48 FR 49126). Final rules for copper forming were promulgated on August 15, 1983 (48 FR 36942). Proposed regulations for metal molding and casting were issued on November 15, 1982 (47 FR 51512). The forming of metals other than aluminum and copper is addressed in a proposed regulation for nonferrous metals forming recently published in the Federal Register.

III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" [Section 101(a)]. To implement the Act, EPA was to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the court. This Agreement required EPA to develop a program and adhere to a schedule in promulgating effluent limitations guidelines, new source performance standards, and pretreatment standards for 65 "priority" pollutants and classes of pollutants for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified* 12 ERC 1833 (D.D.C. 1979), modified by Orders dated August 25, 1982, October 26, 1982, August 2, 1983, and January 6, 1984.

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" pollutants. In addition, to strengthen the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA is to set a number of different kinds of effluent limitations. These are discussed in detail in the preamble to the proposed regulation and in the Development Document. They are summarized briefly below:

1. Best Practicable Control Technology (BPT)

BPT Limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and nonwater quality environmental impacts (including energy requirements). We balance the total cost of applying the technology against the effluent reduction.

2. Best Available Technology (BAT)

BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and nonwater quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

3. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments to the Clean Water Act added Section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease an additional conventional pollutant on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation but replaces BAT for control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires the BCT limitations be established 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 to achieve similar reduction 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 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA 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 promulgating BCT limits for plants in the nonferrous phase I category at this time. We will await establishing nationally applicable BCT limits for this industry until promulgation of the final methodology for BCT.

4. New Source Performance Standards (NSPS)

NSPS are based on the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

5. Pretreatment Standards for Existing Sources (PSES)

PSES are designed to prevent discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that pollutants pass through a POTW if the nationwide average percentage of pollutants removed by a well operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulations, which serve as the framework for the pretreatment regulations, are found at 40 CFR Part 403. These regulations were recently upheld substantially in *NAMF et al.* v. *EPA*, Nos. 79–2256 et al. (3rd Cir., September 20, 1983).

6. Pretreatment Standards for New Sources (PSNS)

Like PSES, PSNS are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

IV. Methodology and Data Gathering Efforts

The methodology and data gethering efforts used in developing the proposed regulation were summarized in the "Preamble to the Proposed Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (48 FR 7032, February 17, 1983), and described in detail in the Development Document for Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category.

After proposal, the Agency gathered additional data to clarify comments and to provide further support for the regulation. The Agency performed additional analysis of new and existing data. These additional data and activities are described in two "Notices of Data Availability and Request for Comment" (48 FR 50906, November 4, 1983 and 48 FR 52604, November 21, 1983) and are discussed briefly below. The data are also described in substantial detail in the appropriate sections of the General Development Document and the supplements. The supporting information and additional data are in the public record supporting this final rule.

We did add DMR data from an integrated secondary lead and battery manufacturing plant to the existing data base to evaluate whether the proposed attainable concentrations for lead by lime and settle treatment are achievable by nonferrous industry plants. The expanded data set now consists of 204 effluent lead data points. Statistical analysis of the data confirmed that the proposed long-term mean for lead, computed using the Combined Metals Data Base (CMDB), is achieved by this plant, and so can be achieved by these plants throughout the category. At the same time, the data illustrated that the proposed variability factors from the CMDB used to determine the one-day maximum and monthly averages for lead were too low. Accordingly, as discussed in section VII of the Development Document, we are establishing different one- and 10-day treatment performance values for lead, reflecting these different variabilities.

In addition to collecting data from industry, the Agency also developed additional information by conducting its own bench-scale and pilot tests. To fully respond to comments, the Agency performed bench-scale and pilot work primary aluminum, wastewaters. The treatment technologies tested were cyanide precipitation and lime, settle and filter treatment on toxic organic pollutants. The Agency's pilot scale treatability study of primary aluminum wastewaters indicates that the proposed nickel, antimony, fluoride, and TSS treatment performances are not achievable when certain heavily polluted waste streams associated with cathode reprocessing operations are treated apart from more dilute streams (a configuration that occurs at certain primary plants). Data obtained from the study have been incorporated into the technical record, compliance costs, and the promulgated regulation.

In addition, since proposal, the Agency made engineering visits to five nonferrous metals manufacturing plants. Analytical data gathered at these plants were used to further characterize wastewaters generated in the primary zinc, metallurgical acid plant, secondary lead, and primary tungsten subcategories. We also used the analytical data to revise compliance costs and pollutant removal estimates. The Agency also gathered data collection portfolios (dcp's) from plants not in the Agency's data base at the time we issued the proposed regulation. In a few instances where the Agency was aware of major modifications since receiving the 1977 dcp, plants were asked to resubmit the dcp so that the Agency could update its data base.

New data obtained by the Agency since proposal have been carefully analyzed and, where appropriate, changes have been made to the regulation. Flow allowances for a number of waste streams have been revised as discussed in Section V. Mass limitations have also been provided for several waste streams not receiving allowances at proposal. The lime and settle treatment effectiveness values for

the pollutant lead and the treatment effectiveness value for regulated pollutant parameters for certain plants in the primary aluminum subcategory have also been revised.

The Agency has revised the compliance costs for the nonferrous metals manufacturing category by computing plant-by-plant costs. In addition, pollutant removal estimates were recalculated for each subcategory. We carefully reviewed comments before making revisions and changes in data. The costing methodology used to cost these plants is discussed in Section VIII of the General Development Document. The economic impact analysis was also revised to respond to comments on the methodology, to reflect current financial conditions in the industry, and to include the revised compliance costs.

Under the authority of Section 308 of the Clean Water Act, the Agency requested specific additional information and data from 44 commenters to clarify and support their individual comments. The Agency's request for information asked each commenter to provide specific information supporting their particular comments. The additional data and information received related primarily to wastewater sources not specifically considered by the proposed regulation; to costs of compliance; and to the classification and disposal costs of solid wastes generated by wastewater treatment. We received flow and production data for additional waste streams as well as information on treatment and characteristics of these streams. A brief description of the data solicited for each subcategory is presented below.

Primary Aluminum

We requested additional information through Section 308 information request in the primary aluminum subcategory concerning the use of potline scrubbing and its impact on product quality; alternate in-line fluxing methods and their impact on product quality; anode bake plant air pollution control; cathode manufacturing; cathode reprocessing; supporting documentation for comments questioning compliance costs; and additional waste streams not considered at proposal.

Secondary Aluminum

Additional data and information collected in the secondary aluminum subcategory pertained to water use practices for shot, ingot conveyor, and stationary casting; and attainable concentrations for ammonia steam stripping treatment.

Primary Copper

We requested additional information through Section 308 information requests in the primary copper subcategories to clarify comments concerning by-product recovery; water use for air pollution control; 100 percent reuse of spent electrolyte; water use for occupational health requirements; and operating characteristics of existing wastewater treatment systems.

Primary Zinc

We requested additional information through Section 308 information requests to clarify comments concerning additional waste streams; stormwater; and operating characteristics of existing wastewater treatment systems. We also requested information to determine how compliance with the Clean Air Act, OSHA standards, and RCRA have affected water usage in the subcategory.

Primary Lead

We requested additional information through Section 308 information requests to clarify comments concerning additional waste streams; stormwater; and operating characteristics of existing wastewater treatment systems. We also requested information to determine how compliance with the Clean Air Act, OSHA standards, and RCRA have affected water usage in the subcategory.

Primary Tungsten

In the primary tungsten subcategory, Section 308 information requests were made for performance data to evaluate ammonia steam stripping technology.

Primary Columbium-Tantalum

We requested additional information through Section 308 information requests to clarify comments concerning solid waste disposal existing regulatory flows; performance of ammonia steam stripping; and supporting documentation for comments regarding compliance costs.

Secondary Lead

Additional data collected in the secondry lead subcategory through section 308 information requests consisted to treatment performance data; water use for occupational health requirements; solid waste disposal; supporting documentation for comments about compliance costs; and furnace SO_2 control.

Secondary Silver

We made one section 308 information request in the secondary silver subcategory to gather information on the use of photographic papers as a raw material.

Secondary Copper

We requested additional information through Section 308 information requests in the secondary copper subcategory concerning recycle of casting contact cooling water.

V. Control Treatment Options and Technology Basis for Final Regulations

A. Summary of Category

The nonferrous metals manufacturing category includes plants producing primary metals from ore concentrates and plants recovering secondary metals from recycled metallic wastes (aluminum cans, lead batteries, etc.). There are 307 plants in the phase I subcategories which EPA estimates employ 61,000 people and annually generate raw wastes containing approximately 11 million pounds of toxic pollutants. There are 80 (26 percent) direct dischargers that currently discharge 225,000 kg/yr of toxic pollutants and there are 85 (28 percent) indirect dischargers that currently discharge an additional 59,400 kg/yr of toxics. There are 142 plants in this category (46 percent) that do not discharge process wastewater.

In developing this regulation, it was necessary to determine whether different 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 subcategories is provided below, with particular emphasis on the sources of wastewater 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 promulgating discharge limitations for each of the wastewater sources identified below. The limitation for an individual plant would then be the sum of all limitations for those wastewater sources actually present at

the plant. (See discussion of building blocks in Section VIII below.)

Primary Aluminum

There are 31 primary aluminum reduction plants in the United States. The majority of plants are located near sources of abundant and inexpensive hydroelectric power (the east, southeast and northwest regions), since considerable amounts of electrical energy are required to produce aluminum. Twenty-four plants are direct dischargers and the remaining seven do not discharge wastewater; none are indirect dischargers.

Industry data indicate that 27 of the 31 plants (85 percent) produce less than 200,000 tons per year each. Median production is in the 100,000 to 150,000 tons per year range. All primary aluminum produced in the United States is manufactured by the electrolytic reduction of alumina via the Hall-Heroult Process.

The sources of process wastewater receiving an allowance in the primary aluminum plants are listed below, along with the pollutants typically found in each:

(1) *Anode and cathode paste plant wet air pollution control* wastewater results from wet scrubbers used to control process emissions from the paste plant; it contains toxic organic pollutants and suspended solids.

(2) *Anode bake plant wet air pollution control* wastewater results from wet scrubbers used to control process emissions from the bake plant; it contains toxic organics, oil and grease, and suspended solids.

(3) *Anode contact cooling and briquette quenching* water is used to quench the anodes after they are formed; the wastewater contains toxic organics and suspended solids.

(4) *Cathode reprocessing* wastewater results from the recovery of cryolite from spent potliners. Cathode reprocessing also serves as a hazardous waste treating operation by treatment spent potliners to remove cyanide, and to reduce the volume of hazardous waste. This wastewater contains toxic metals, cyanide, toxic organics, and suspended solids.

(5) *Pot soaking* wastewater results from soaking or repair of the electrolytic cells to remove the carbon liners; the wastewater contains fluorides, cyanide, toxic organics, and suspended solids.

(6) *Potline wet air pollution control* wastewater results from wet scrubbers used to control process emissions immediately above the electrolytic cells; the wastewater contains fluoride, toxic metals, and suspended solids. It may contain toxic organics in plants using Soderberg electrolytic cells.

(7) *Potline SO_2 wet air pollution control* wastewater results from wet scrubbers used to control SO_2 emissions from the electrolytic cells; the wastewater may contain fluoride and toxic metals at all plants and organics at Soderberg plants.

(8) *Potroom wet air pollution control* wastewater results from wet scrubbers used to control process emissions in the buildings housing the electrolytic cells; the wastewater contains fluoride and suspended solids.

(9) *Degassing wet air pollution control* wastewater results from wet scrubbers used to control emissions from degassing; the wastewater contains suspended solids.

(10) *Direct chill, stationary, shot and continuous rod casting contact cooling* water is used to cool the aluminum as it is cast. Wastewater from plants using direct chill casting may contain oil and grease when lubricants are used.

Secondary Aluminum

Of the 47 secondary aluminum plants operating in the United States, the majority are located in the eastern region, and most are in urban areas near raw materials and markets. Most of the facilities are less than 25 years old, reflecting the relatively recent development of this industry. Industry data indicate that the majority of facilities produce between 5,000 and 20,000 tons of aluminum per year. Most plants use a demagging process and almost all cast molten aluminum. Twenty-three of these facilities achieve zero discharge through evaporation and recycle. Ten plants are direct dischargers and 14 are indirect dischargers.

Refining scrap into aluminum involves a two-step process: scrap pretreatment and smelting/refining. Secondary aluminum raw materials include: old sheet and castings, new clippings and forgings, borings and turnings, residues, aluminum cans, and high run.

The sources of wastewater receiving an allowance in the secondary aluminum plants are listed below, along with the pollutants typically found in each:

(1) *Scrap drying wet air pollution control* wastewater results from the drying of aluminum scrap to remove cutting oils and water. This wastewater contains total suspended solids and aluminum.

(2) *Scrap screening/milling* wastewater results from washing contaminants from scrap aluminum and contains total suspended solids, aluminum and toxic metals.

(3) *Dross washing* wastewater is generated from the leaching or residues with water to remove contaminants. This wastewater contains toxic metals, aluminum, ammonia and suspended solids.

(4) *Demagging wet air pollution control* wastewater is the scrubber liquor resulting from the removal of magnesium from molten aluminum. Toxic metals, fluroide and suspended solids characterize the wastewater.

(5) *Direct chill, ingot conveyor, and stationary casting contact cooling* water results from casting the molten aluminum into ingot, bars, or shot. This wastewater contains oil and grease, and suspended solids.

(6) *Delacquering wet air pollution control* wastewater results from the removal of paint and lacquer from the surface of aluminum scrap. This wastewater contains oil and grease phenols, and suspended solids.

Primary Copper Smelting

Primary copper smelting occurs at 19 smelting operations located primarily in the southwest. Of these 20 facilities, four were built in the past 20 years, while seven of them were built at least 80 years ago. On an average, the plant production from these facilities is 200,000 tons of smelter copper. There is one direct discharger, no indirect dischargers, and 18 zero dischargers. Smelting of copper ore concentrates involves a four-step process: roasting, smelting, converting, and casting of fire-refined copper.

The principal sources of wastewater in the primary copper smelting plants are listed below, along with the pollutants typically found in each:

(1) *Slag granulation* wastewater results from conditioning slag tapped from the furnaces. Wastewater from this operation contains inpurities found within the slag, toxic metals, and suspended solids.

(2) *Casting wet air pollution control* wastewater results from the control of particulate matter produced in the casting furnace and contains dissolved toxic metals and suspended solids.

Wastewater discharges from roaster, converter and smelting furnace wet air pollution control are included as a part of the metallurgical acid plant.

Primary Electrolytic Copper Refining

Primary electrolytic copper refining occurs at 14 refining and electrowinning facilities located along maritime centers and in the southwest near smelters. Three of these facilities are direct dischargers while 11 achieve zero discharge. The average age of these

facilities is approximately 30 years, and the average production is approximately 115,000 tons per year of cathode copper.

Further refining of copper is necessary if it is to be used in electrical applications. By using electrolysis, the copper can be refined to a purity of 99.98 percent or greater, and the precious metals contained as impurities in the copper can be recovered. Fire refined blister copper from the smelting operation, sulfuric acid, and copper sulfate are the principle raw materials used in electrolytic refining.

The sources of wastewater receiving an allowance in primary electrolytic copper refining are listed below, along with the pollutants typically found in each:

(1) *Anode-cathode rinse water* results from rinsing anodes and cathodes when they are removed from the electrolytic cells. Characteristics of the rinse water include a lo pH due to the sulfuric acid rinsed from the anodes or cathodes. The rinse water also contains dissolved toxic metals.

(2) *Spent electrolyte* after electrowinning and nickel sulfate removal may be discharged, although in most cases it is recycled back to the electrolytic tank house. This waste stream contains dissolved toxic metals and is characterized by a low pH due to electrolyte medium.

(3) *Casting contact cooling* wastewater results from the contact cooling of metal castings and contains dissolved toxic metals and suspended solids.

(4) *Casting wet air pollution* wastewater results from the control of particulate matter produced in the casting furnace and contains dissolved toxic metals and suspended solids.

Secondary Copper

Of the 31 secondary copper processing plants in the United States, the majority are located in or near major industrial cities in the Great Lakes and New England states, where most of the raw materials are generated and collected. The industry is fairly well established; the average plant age falls between 30 and 40 years, somewhat older than the average for plants in the primary copper industry. The average production of secondary copper plants is only about one-tenth of the average of primary copper plants. Only five plants of the 31 plants listed in this subcategory are direct dischargers while six of these plants are indirect dischargers. Zero discharge of process wastewater is achieved by 20 plants.

Depending on the type of raw materials and the desired end product, the manufacturing process consists of three distinct operations: pretreatment of scrap, smelting and refining. Most plants, however, do not go beyond the smelting process.

The principal sources of wastewater generated by secondary copper plants are listed below, along with the pollutants typically found in each:

(1) *Slag milling and classification* wastewater results from milling and classifying slag (when used as a raw material) prior to smelting, and is characterized by the presence of suspended solids, copper, lead and zinc.

(2) *Smelting wet air pollution control* wastewater is typically acidic and contains copper; it may also contain varying concentrations of other metals, due in part to differences in the metallic contents of the raw material and the fluxes used.

(3) *Casting contact cooling* wastewater results when the water used in ingots or anode cooling is discharged without recycle. This stream is characterized by the presence of suspended solids and toxic metals.

(4) *Spent electrolyte*, a solution of sulfuric acid and copper sulfate, is usually recycled or sold; when discharged, however, the strongly acidic wastewater contains copper.

(5) *Slag granulation* wastewater results when molten slag is impacted with a high pressure water jet. This stream contains toxic metals.

Primary Lead

Four of the six plants in the Primary Lead Subcategory are direct discharges. Two are indirect discharges. Three of these plants are located near the rich lead ore deposits in Missouri, while the rest are spread throughout the west. Four plants were built before World War I, another in 1920, and the final two in 1968 in Missouri. EPA data show that plant production ranges from 100,000 to 250,000 tons per year while average annual plant production is about 150,000 tons.

The process used in lead production has changed very little in the last 75 years. Primary lead production can be divided into six distinct steps; sintering, reduction (blast furnace), dross removal, softening and refining, and casting.

The principal sources of wastewater in the primary lead industry are listed below, along with the pollutants typically found in each:

(1) *Slag granulation* wastewater results when molten blast furnace slag is impacted with a high pressure water jet. Toxic metals, especially lead, are present in this waste stream.

(2) *Zinc fuming furnace scrubber water* is generated by wet scrubbers used to contain particulates and volatilized metals (especially zinc) produced by fuming the blast furnace slag.

(3) *Dross reverberatory furnace scrubber water* is a potential discharge associated with the wet scrubbers which are used to contain particulates and fumes from the reverberatory furnaces. Toxic metals and suspended solids are present in this wastewater.

(4) *Dross reverberatory furnace granulation* wastewater is used to prepare speiss and matte from the dross reverberatory furnace for resale. Metals and suspended solids characterize this stream.

(5) *Hard lead refining wet air pollution control* wastewater results from air pollution control equipment on furnaces used to refine antimonial, or "hard," lead from the softening step. Metals, particularly lead and antimony, and suspended solids are present.

(6) *Hard lead refining slag granulation* wastewater is used to granulate slag from the hard lead refining blast furnace. Toxic metals and suspended solids characterize this stream.

(7) *Materials handling wet air pollution control* wastewater results from the scrubbing of particulate matter from transfer points, conveyors, and crushing operations.

(8) *Handwash* wastewater is generated to reduce occupational lead exposures. Wastewater from handwashing contains treatable concentrations of lead and other toxic metals.

(9) *Respirator wash* wastewater is generated during washing of the respirators used to reduce occupational lead exposures. Wastewater from respirator wash contains toxic metals, most notably lead.

(10) *Laundry* wastewater is generated during laundering of uniforms to reduce occupational lead exposures. Wastewater from laundries contain lead and other toxic metals.

(11) *Facility washdown* wastewater results from floor and equipment washing to control fugitive lead emissions. This wastewater source is characterized by presence of lead and suspended solids.

Wastewater discharges associated with sintering wet air pollution control are included as a part of the metallurgical acid plant.

Primary Zinc

There are six primary zinc plants in the United States. The primary zinc industry is well established; the average plant age is about 50 years. Zinc production is not confined to any particular geographic location. Four

plants are located east of the Mississippi river and two plants are located in the southwest (Texas and Oklahoma). The average plant has a production of 100,000 to 200,000 tons per year. Three of the plants are direct dischargers, one is an indirect discharger, and the remaining two are classified as zero dischargers.

There are two zinc production processes; pyrolytic and electrolytic. The first step in each process is roasting. Roasting converts the sulfur present in the zinc concentrates to sulfur dioxide. The sulfur dioxide is then converted to sulfuric acid at an acid plant located on-site with the zinc plants.

The principal sources of wastewater in the primary zinc industry are listed below, along with the pollutants typically found in each:

(1) *Zinc reduction furnace wet air pollution control* wastewater results from conditioning off-gases from the reduction furnaces, and contains zinc, cadmium, and several other toxic metals at treatable concentrations.

(2) *Preleach* wastewater results from leaching of zinc concentrates to reduce the amount of magnesium present in the electrolytic circuit. The leachate contains zinc and other toxic metals.

(3) *Electrolyte bleed* watewater results from blowdown of electrolyte to reduce the amount of magnesium present in the electrolytic circuit. The leachate contains zinc and other toxic metals.

(4) *Leaching wet air pollution control* wastewater results from the use of contact scrubbers to control acidic leaching emissions. The scrubbing liquor contains various toxic metals.

(5) *Cathode and anode washing* wastewater results from periodic washing of the cathodes and anodes used in the electrolytic zinc process. Cathode and anode washing wastewater contains toxic metals and suspended solids.

(6) *Casting wet air pollution control* wastewater results from cleaning the gaseous emissions associated with the casting melting furnace, and contains toxic metals and suspended solids.

(7) *Casting contact cooling* wastewater results from the contact cooling of metal castings and contains toxic metals.

(8) *Cadmium plant* wastewater results from byproduct cadmium recovery and contains toxic metals.

Wastewater discharges associated with roasting wet air pollution control and sintering wet air pollution control are included as a part of the metallurgical acid plant.

Metallurgical Acid Plants

Metallurgical acid plants produce sulfuric acid from sulfur dioxide air emissions at primary copper, lead, or zinc facilities. There are 19 metallurgical sulfuric acid plants in the United States. Of these, eight are direct dischargers, two are indirect dischargers and 9 achieve zero discharge. Ten metallurgical acid plants are located on-site with primary copper smelting plants, three are on-site at primary lead plants, and six are on-site at primary zinc plants. All but one of the plants associated with copper smelting are located in Texas or west of Texas, and all except one of these are zero dischargers. Two of the acid plants associated with lead are located in Missouri and are both direct discharge acid plants. The other acid plant is located in Montana and achieves zero discharge. The six zinc-related acid plants, four direct dischargers and two indirect dischargers, are located between Texas and Pennsylvania. There are insufficient data to ascertain the age of acid plants independently of the base metal plants associated with them. Acid plants have been added as a result of air pollution abatement measures at some of the existing primary metal production facilities. The average production capacity for metallurgical acid plants is 100,000 to 300,000 tons per year of 100 percent sulfuric acid. The production capacities range from 50,000 to 850,000 tons per year.

Metallurgical acid plants produce sulfuric acid from the air emissions of pyrometallurgical operations. By producing acid, the acid plants not only clean the smelter emission of many tons per day of sulfur oxides, but they also produce a marketable sulfuric acid product.

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 antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc, and total suspended solids.

Primary Tungsten

Of the 16 primary tungsten plants in the United State, four are direct dischargers, six are indirect dischargers, and six are zero dischargers. Only two primary tungsten plants have been built in the last 30 years; most were built around the time of World War II. EPA data show that plant production ranges from 100 to 4,000 tons per year while the average yearly production is approximately 1,000 tons.

The processes used at a primary tungsten production facility depend largely on the raw material used and the final product desired. The three basic primary tungsten processing steps which an individual plant may utilize are chemical separation of impurities, purification, and oxide and metal recovery.

The principal sources of wastewater in the primary tungsten industry are listed below, along with the pollutants typically found in each:

(1) *Tungstic acid* rinsewater is generated when water is used to wash the insoluble tungstic acid product of leaching. This stream is characterized by high acidity as well as the presence of toxic metals and suspended solids.

(2) *Acid leach wet air pollution control* wastewater results from air pollution controls used to control HC1 fumes from acid leaching, and is characterized by low pH (2 to 5) and contains toxic metals and suspended solids.

(3) *Alkali leach* wash water results from the filtering and washing of alkaline leaching products (i.e., Na_2WO_4). This stream contains toxic metals and suspended solids.

(4) *Ion-exchange raffinate* is a waste stream from the liquid ion-exchange process used to convert Na_2WO_4 to ammonium paratungstate (APT). Organics are present in this stream due to the use of organic compounds as an ion-exchange medium. This stream is also characterized by the presence of toxic metals and suspended solids.

(5) *Calcium tungstate precipitation* wash water results from the precipitation of calcium tungstate from a sodium tungstate solution to which calcium chloride has been added. The resulting waste stream is characterized by the presence of toxic metals.

(6) *The crystallization and drying of APT* may generate water as the APT crystals are precipitated from the mother liquor. Additionally, wet air pollution control methods may be applied to control ammonia fumes. The wastewater associated with this stream is characterized by the presence of ammonia.

(7) *APT conversion to oxides wet air pollution control* wastewater results from air pollution control devices on the

rotary furnaces used to convert APT to tungsten oxides and contains ammonia and toxic metals.

(8) *APT conversion to oxides water of formation* wastewater results from the water formed when APT is reduced to oxides. The wastewater source is characterized by the presence of ammonia.

(9) *Reduction to tungsten wet air pollution control* wastewater results from wet scrubbers on the reduction furnace. Toxic metals and suspended solids are found in this waste stream.

(10) *Reduction to tungsten water of formation* is produced in the reduction furnace when the reduction of oxides to metal frees oxygen to combine with the hydrogen in the furnace. The characteristics of this stream are similar to those of the reduction scrubber waters.

(11) *Tungsten powder leach and wash* wastewater results from the acid leaching and washing of tungsten powders. This wastewater source is characterized by a low pH.

Primary Columbium-Tantalum

All five of the columbium-tantalum plants were built in the 20-year period just after World War II. The plants are scattered geographically, with half the plants located in New England and the rest in the West and Midwest. EPA data show that average plant production is approximately 450 tons per year, and that all plants discharge wastewater. There are three direct dischargers and two indirect dischargers.

The processes used at a columbium and tantalum production facility depend largely upon the raw material used and the plant's final product. Five basic operations from ore or slag to metal must be performed. These include pulverizing and leaching, separation of columbium and tantalum, purification, precipitation of salts, and reduction of salts to metal.

The principal sources of wastewater in the primary columbium-tantalum subcategory are listed below, along with the pollutants typically found in each:

(1) *Concentrate digestion wet air pollution control* wastewater results from digesting ore concentrates and slags with hydrofluoric acid, and contains suspended solids, fluorides and toxic metals.

(2) *Solvent extraction raffinate* is a product of the two-step extraction process, resulting in the extraction and separation of columbium and tantalum. The raffinate contains impurities from digestion and contains toxic organics, fluorides, toxic metals and suspended solids.

(3) *Precipitation and filtration* wastewater results from precipitation of pure metal salts from the aqueous phase by ammonia addition to form columbium and tantalum oxides, or by hydrofluoric acid and potassium fluoride addition to recover tantalum. These precipitates are filtered and washed, producing effluent streams containing ammonia, fluoride, toxic metals and total suspended solids, potassium fluorides, and chlorides, for the respective processes.

(4) *Precipitation and filtration wet air pollution control* wastewater is produced from scrubbing air emissions during precipitation. The scrubber liquor contains ammonia, fluoride, toxic metals, and total suspended solids.

(5) *Tantalum salt drying* wastewater is produced during the drying of potassium fluoride salts and contains fluorides and total suspended solids.

(6) *Metal oxide calcining wet air pollution control* wastewater are produced as the columbium and tantalum oxide precipitates are dried and calcined to yield purified oxides. The solvents produced reflect the precipitation process employed.

(7) *Reduction of tantalum salt to metal* wastewater is produced from sodium reduction, or extensive washing of the product metal with water and/or acid. The resulting waste streams typically contain dissolved solids and fluoride, sodium chloride and sulfate, and potassium chloride and sulfate. Another reduction process, aluminothermic reduction, is used in plants in the United States; however, the process generates no wastewater.

(8) *Reduction of tantalum salt to metal wet air pollution* control wastewater results from wet scrubbers which control the reduction process emissions; this discharge is similar in pollutant content to the reduction washing stream.

(9) *Consolidation and casting contact cooling* produces no wastewater discharge. One plant surveyed practiced direct contact cooling of metal castings; however, it recycles 100 percent of the water used in this process.

(10) *Tantalum powder wash* wastewater results from the acid leaching of tantalum powders to give the powder certain physical characteristics. This waste is characterized by a low pH and suspended solids.

Secondary Silver

There are 61 plants in the United States that recover silver from photographic and nonphotographic sources. The plants are grouped in three major areas of the country: the Gulf Coast, the Rocky Mountains-Pacific Coast, and the Great Lakes-New England area. EPA data show that a small minority (seven) of secondary silver plants are direct dischargers. Of the remainder, 26 are indirect dischargers and 28 are zero dischargers. Of those plants that discharge wastewater, five plants process only photographic materials, 26 process only nonphotographic materials, and two process both types. The average plant age is between 15 and 24 years.

Over half of the secondary silver plants that reported data produce in excess of 100,000 troy ounces of silver per year; three of these plants produce over 1,000,000 troy ounces of silver per year. Twenty-one plants reported production of less than 50,000 troy ounces per year.

The processes used at a secondary silver production facility depend largely upon the raw materials used and the plant's final product. Secondary silver production processes can be discussed in the context of two sources of raw materials: photographic and nonphotographic materials. The principal raw materials used by plants recovering silver from photographic materials are discarded photographic film and silver-rich sludges and solutions from photographic processing. Waste plating solutions, sterling ware scrap, and electrical component strap are the principal raw materials used in the nonphotographic category.

The principal sources of wastewater in the secondary silver subcategory are listed below, along with pollutants typically found in each:

(1) *Film stripping* wastewater consists of wash water from the screening and rinsing of emulsions which have been stripped from photographic film. This effluent contains toxic organics and metals, as well as cyanide, suspended solids, and oil and grease.

(2) *Film stripping and precipitation of film stripping solutions wet air pollution control* wastewater is a result of air emissions from film stripping operations. Pollutants found in this wastewater include toxic organics and metals, cyanide, and suspended solids.

(3) *Precipitation and filtration of film stripping solution* wastewater consists of discharged silver-free solution from the silver preciptiation-filtration process, and contains toxic organics, toxic metals, and suspended solids.

(4) *Precipitation and filtration of photographic solutions* wastewater results from the precipitation of silver from photographic hypo solutions. The presence of toxic organics, toxic metals, ammonia, chloride, suspended solids and oil and grease characterize this wastewater.

(5) *Precipitation and filtration of photographic solutions wet air pollution control* wastewater consists of scrubber liquor from the precipitation and filtration of photographic solutions, and contains toxic organics and toxic metals. Suspended solids and ammonia may also be present.

(6) *Electrolytic refining* wastewater is a product of silver refining, after the metal has been roasted and cast into electrodes. This effluent consists of spent electrolyte solution and contains toxic organics, toxic metals, ammonia, phenols, fluoride, cyanide, suspended solids and oil and grease.

(7) *Furnace wet air pollution control* wastewater results from the scrubbing of roasting and melting furnace off-gases. Suspended solids may be present in this wastewater, along with toxic organics and toxic metals.

(8) *Leaching* wastewater is a product of the leaching of nonphotographic silver sludges and copper matte associated with he melting of electrical component parts. This stream contains toxic organics and metals, ammonia, fluoride, phenols, cyanide, suspended solids, and oil and grease.

(9) *Leaching and precipitation of nonphotographic solutions wet air pollution control* wastewater is the effluent from scrubbers employed to reduce air emissions from leaching operations. The scrubber liquor is characterized by toxic organics and metals, phenols, cyanide, suspended solids, and oil and grease.

(10) *Precipitation and filtration of nonphotographic solutions* wastewater consists of the spent solutions left after silver is precipitated from leachates, waste plating solutions and melted silver scrap. Wash water from filtration may also be included in this effluent which contains toxic organics and metals, ammonia, cyanide, chloride, fluroide, phenols, suspended solids, and oil and grease.

(11) *Floor and equipment washdown* wastewater results from the washing of floors and equipment. This wastewater source has many of the same characteristics as the precipitation and filtration of nonphotographic solutions wastewater source.

Secondary Lead

Forty-nine secondary lead plants presently operate in the United States, and are located predominantly in or near major urban centers where most of the raw materials are readily available. Thirty-four plants (68 percent) are located west of the Mississippi River, and the remaining 32 percent are located in two bands east of the Mississippi, around the Great Lakes and in the South. Twenty-six plants discharging to a POTW and 15 plants achieving zero discharge are found in all areas, while eight plants discharging directly to receiving waters are found in the East and South. An additional 19 plants remelt and alloy secondary lead, but do not smelt.

The median age of secondary lead plants is within a span of 25 to 44 years. Data gathered from the industry show that for the plants providing sufficient production data, only nine produced over 20,000 tons of lead in 1976. Most secondary lead plants are relatively small operations; two-thirds of the plants produced under 15,000 tons of lead in 1976.

There are three major phases involved in the secondary lead industry: scrap pretreatment, smelting, and refining/casting. However, not all secondary lead plants perform all of these processes.

The principal waste streams that are produced in the secondary lead industry are described below, together with the major pollutants found in each:

(1) *Battery cracking* produces a wastewater stream containing dissolved toxic metals, suspended solids, and oil and grease. It is generated when batteries are broken or shredded and the electrolyte is drained from the battery case and commingled with water to cool the saws used to cut batteries.

(2) *Battery case classification* wastewater results from the classification of lead and battery cases after battery cracking using water as a flotation medium. This wastewater source is characterized by the presence of lead and total suspended solids.

(3) *Lead paste desulfurization* wastewater is generated when the sulfur content of lead paste is reduced using ammonia. Wastewater from this source is expected to contain lead and total suspended solids.

(4) *Smelting furnace wet air pollution control* systems are used to control emissions from this operation, especially particulate matter. The scrubber liquor is characterized by the presence of total suspended solids and lead.

(5) *Kettle wet air pollution control* systems are used to control particulate matter in the off-gases from refining. This waste stream contains total suspended solids and toxic dissolved metals.

(6) *Casting contact cooling* water is frequently recycled and may be totally evaporated. However, a small stream is often blown down to limit the buildup of dissolved solids. This waste stream is characterized by the presence of toxic metals such as antimony, arsenic, thallium, and zinc.

Truck washing wastewater results from washing trucks that are used to haul scrap batteries. Wastewater from truck wash contains suspended solids, lead, and other toxic metals.

(8) *Hand wash* wastewater results from washing employee hands to reduce occupational lead exposures. This wastewater contains lead and other toxic metals.

(9) *Respirator wash* wastewater results from washing respirators to reduce occupational lead exposures. This wastewater source is characterized by the presence of lead and other toxic metals.

(10) *Laundry* wastewater results from the laundering of employee uniforms to reduce occupational lead exposures. Laundry wastewater contains lead and other toxic metals.

(11) *Facility washdown* wastewater results from washdown of floors and equipment to control fugitive lead emissions. This wastewater source principally contains lead and suspended solids.

(12) *Laboratory* wastewater results from the quality assurance testing of refined lead. Laboratory wastewater contains lead and other toxic metals.

B. Control and Treatment Technologies and Treatment Effectiveness

1. Control and Treatment Technologies

Before proposing the nonferrous metals manufacturing regulation, EPA considered a wide range of control and treatment options including both in-process changes and end-of-pipe treatment. These options are discussed in detail in the preamble to the proposed nonferrous metals manufacturing regulation (48 FR 7032). For the most part, the end-of-pipe model treatment technology proposed for each subcategory has been selected as the basis for the final rule. This technology is hydroxide precipitation (with additions of iron or polyelectrolyte coagulant aids as necessary) and sedimentation ("lime and settle") followed by multimedia filtration as a polishing step, with flow reductions where appropriate. In three subcategories (primary copper, secondary lead, and secondary silver), we proposed alternative limitations and standards—one alternative based on lime and settle technology and the other on lime, settle, and filter—due to concerns as to economic achievability of the added filtration step. After revising the compliance costs and economic analysis for these subcategories, the Agency has determined that the requirement of multimedia filtration is

economically achievable, and is basing the final regulation on this technology. The control and treatment technologies used as the basis for the final limitations and standards are described below.

As a result of public comment and solicitation of additional information, we are adding sulfide precipitation as a part of the model technology in four subcategories, adding activated carbon as a part of the model technology in another subcategory, but removing activated carbon from one subcategory where we had previously proposed it. In-process controls and preliminary treatment in the final rule thus are based on flow reduction techniques and preliminary treatment of specific waste streams for the control of cyanide, oil and grease, and ammonia. Preliminary treatment for the removal of polynuclear aromatic hydrocarbons has been eliminated from the proposed technology basis in the primary aluminum subcategory. Through pilot-scale work, the Agency has determined these toxic organic pollutants are effectively controlled by lime, settle, and multimedia filtration technology. Preliminary treatment for the removal of total phenols using activated carbon was added to the secondary aluminum subcategory.

End-of-pipe treatment thus includes: chemical precipitation of metal ions using hydroxides or carbonates, removal of precipitated metals by settling, pH control, and filtration. Sulfide precipitation has also been included as an end-of-pipe treatment technology for four subcategories. These treatment technologies are described in detail in Section VII of the General Development Document.

2. Treatment Effectiveness

The treatment effectiveness of these technologies has been evaluated by observing their performance on nonferrous metals manufacturing and other similar wastewaters. Each technology is discussed below.

a. Lime and Settle Technology.

1. *The Combined Metal Data Base.* 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 subcategory have been found to be statistically similar in all material respects. A separate study of statistical homogeneity of these wastewaters is part of the record for this rulemaking.

With the exception of the primary aluminum (under certain conditions), primary lead, primary zinc, primary copper, and metallurgical acid plant subcategories, we regard the combined metals data base as the best available measure for establishing the concentrations of pollutants attainable with hydroxide precipitation and sedimentation. Our determination is based on an analysis which found that the untreated pollutant concentrations are generally homogeneous across subcategories within the nonferrous category and that the nonferrous untreated pollutant concentrations pooled across subcategories are generally homogeneous with the CMDB untreated pollutant concentrations pooled across categories. A report of this homogeneity analysis is also a part of the record for this rulemaking.

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 and variability will be identical.

(2) Homogeneity: EPA examined the homogeneity among nonferrous subcategories, as well as between the pooled nonferrous subcategories and the combined metals data base. Homogeneity is the absence of statistically discernible differences among mean pollutant concentrations observed in a set of data. The purpose of these analyses was to check the Agency's engineering judgment that the untreated wastewater characteristics observed in the nonferrous category were similar to those observed in the combined metals data base. Establishment of similarity of raw wastes through a statistical assessment provides further support to EPA's assumption that lime and settle treatment reduces the toxic metal pollutant concentrations in untreated nonferrous wastewater to concentrations achieved by the same technology applied to the wastewater from the categories in the combined metals data base. In general, the results of the analysis showed that the nonferrous subcategories are homogeneous with respect to mean pollutant concentrations across subcategories. Comparison of the untreated nonferrous metals manufacturing data combined across subcategories and the combined metals data also showed good agreement.

(3) Nonferrous Metals Manufacturing Data Base: EPA sampled nine nonferrous plants with lime precipitation and sedimentation. For the six plants with well-operated systems, we combined the EPA short-term sampling data with any available plant self-monitoring data and compared their long-term mean performance with the long-term mean performance calculated from the combined metals data base performance.

These nonferrous metals manufacturing plants are achieving a long-term mean performance that equals or betters the combined metals data base for five of six metals and TSS. These nonferrous metals plants exceed the 0.12 mg/l mean for lead by only 0.01 mg/l. (Additional discussion regarding revised variabilities for lead is found later in this section.)

(4) Commenters from most subcategories failed to present any data showing that they were unable to achieve limits based on the CMDB. In those subcategories where the commenters submitted data, the Agency studied the data carefully and, where appropriate, developed alternative limitations or made modifications to the CMDB limitations and variabilities.

Although we are continuing to use the CMDB treatment effectiveness values and variabilities for most of the nonferrous subcategories, we have reevaluated and changed certain values within the CMDB. In particular, the Agency revised the variability of lime and settle technology for the pollutant lead. After proposal, the Agency collected an additional two useable effluent samples from an integrated secondary lead and battery manufacturing plant which the Agency judges to have a state-of-the-art lime and settle treatment system. These data verified plant supplied data containing 199 days of daily lead concentrations measured in the raw and treated wastewater for their lime and settle treatment system. When the 201 data points were combined with the three data points previously used in the CMDB and analyzed statistically, the long-term mean 0.12 mg/l as proposed

was verified, but the one-day maximum and monthly average increased.

Commenters from the primary lead, primary zinc, primary copper, and metallurgical acid plant subcategories submitted extensive self-monitoring. In addition, we solicited design and operating parameters for the treatment systems from which the data were collected. Of the seven plants submitting data, the Agency has determined that data from three of the plants should not be used to establish treatment effectiveness because of design or operational deficiencies. Another plant submitting data is from the primary copper subcategory and was found to be operating its treatment system at pH 12 to optimize arsenic removal. At pH 12, metals removal for pollutants other than arsenic decreases due to the increased solubility of metals at higher pH levels. Therefore, the Agency believes effluent data from this plant are not appropriate to determine treatment performance for other plants in the category without this problem. After examining the arsenic values of the raw materials used by plants in the copper smelting subcategory, the Agency believes this one plant is the only discharger experiencing arsenic concentrations frequently over 100 mg/l in the raw wastewater. However, three of the remaining plants may be properly designed and, of these, the two primary zinc plants appear to have problems complying with the proposed zinc limitations (possibly due to extremely high influent zinc concentrations or to ammonia interferences) while another plant, from the primary lead subcategory, appears to have difficulty meeting the proposed limit for cadmium and lead. Although there were indications that these plants might not be operating optimally—the coefficient of variation for treated effluent was higher than for influent, the Agency, as a conservative measure, assumed that additional treatment with sulfide precipitation would be necessary for plants in these subcategories to meet the limitations.

The data from the three acceptable plants have been summarized and are presented in a memorandum that is included in the administrative record for this regulation.

Therefore, sulfide precipitation has been added to the technology basis for BAT in these four subcategories (primary copper refining, lead, zinc and metallurgical acid plants). The Agency believes that the combination of lime and settle plus sulfide precipitation will achieve the performance values originally proposed for lime and settle treatment. We believe that sulfide precipitation will enhance the metals removal by providing two stage precipitation and by using sulfide to form a metal sulfide that is more insoluble than the metal hydroxide formed by hydroxide precipitation (see Section VII of the General Development Document). We also have data from one U.S., one Swedish, and one Japanese nonferrous metals plant that we believe support this conclusion. Sulfide precipitation is used to remove arsenic, cadmium, lead, zinc, and other toxic metals at these plants. There are several laboratory studies that have supported the use of sulfide to remove toxic metals. The technology also is demonstrated in wastewater and process applications in the nonferrous metals industry.

The Agency also received extensive effluent monitoring data from the secondary lead subcategory. However, the effluent data were not usable because there is inadequate influent data and, for the most part, did not include effluent total suspended solids measurements. Without extensive influent data, it is not possible for the Agency to examine the raw matrix and check for aberrations from the raw wastewater matrix of the combined metals data base. In addition, one of the plants submitting effluent data discharges wastewater to a percolation pond and may not have the incentive to achieve the same effluent quality as a direct discharger. Without effluent TSS measurements we cannot determine if there is acceptable design and operation of the treatment system. As stated above, the Agency has verified the proposed long-term mean for lead and increased the variability factors for lead based on adding 201 data points from an integrated secondary lead and battery manufacturing plant.

In addition, the Agency has revised the nickel performance for the primary aluminum subcategory. The pilot-scale study conducted by the Agency has demonstrated the proposed nickel performance (as well as antimony, fluoride and aluminum performance that is not directly developed from the CMDB) value from the CMDB is unachievable in primary aluminum wastewaters when cathode reprocessing is operated at the plant. Therefore, the Agency has promulgated two sets of performance standards for the subcategory as explained more fully in the primary aluminum BAT technology basis discussion.

2. Aluminum. We have revised the treatment effectiveness of lime and settle technology for the pollutant aluminum (which was not based on the CMDB) based on analysis of the effluent concentrations of aluminum at three aluminum forming plants and one aluminum coil coating plant with lime and settle wastewater treatment. These plants are from categories included in the combined metals data set, and so the matrices are comparable to the raw wastewater matrices for the nonferrous subcategories (primary and secondary aluminum) where these values are used. A total of 11 data points were available which were used to establish the treatment effectiveness value for aluminum. This aluminum value reflects the aluminum removals achievable when treatment is optimized for removal of toxic metals such as chromium and zinc.

3. Fluoride. The Agency has reevaluated lime and settle technology performance for fluoride removal. The proposed treatment performance for fluoride was transferred from the electrical and electronic component manufacturing (phase I) lime and settle mean performance. Commenters urged the Agency to transfer treatability performance values from the inorganic chemical industry instead. We disagree. The Agency believes the electronics data base more closely reflects the treatability of fluoride in nonferrous metals manufacturing wastewaters because of the type of fluoride present. The fluoride present in inorganic chemicals manufacturing (hydrofluoric acid production) exists as a complex fluoride mineral containing silicates and other compounds that complicate removal by lime precipitation. In nonferrous metals manufacturing and electronics, the fluoride disassociates in water to fluoride ion, which can be readily removed from solution by lime as calcium fluoride.

However, examination of the elecrtronics data has led the Agency to conclude that the raw concentrations of fluoride in nonferrous metals manufacturing wastewaters more closely resemble the higher concentrations found in electrical and electronics phase II rather than phase I (49 FR 55690, December 14, 1983.). Therefore, the Agency believes it is appropriate to use the mean performance and daily maximum variability developed for electronics phase II to establish treatment effectiveness for fluoride removal by line and settle treatment.

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 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 from the combined metals data base because the combined data base provided a better 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. (In fact, no commenter questioned this use of CMDB variability factors.)

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 comparison 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 porcelain enameling plants is justified because porcelain 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 porcelain 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. (In those nonferrous subcategories where sulfide precipitation is the technology basis as well as lime and settle treatment, the influent being filtered would have the same level of pollutants as CMDB influent being filtered. This is because sulfide precipitation following lime and settle treatment is projected to achieve the CMDB treatability levels for these subcategories.)

The proposed treatment performance for fluoride was transferred from the electrical and electronic component manufacturing (phase I) lime and settle mean performance plus a one-third incremental removal by filtration. However, review of the electronics data has convinced the Agency that no substantial additional removal of fluoride will occur from polishing filtration. This is consistent with the fact that the long-term lime and settle performance being used closely approaches the solubility of calcium fluoride in water. The final regulation thus assumes no incremental removal of fluoride from filtration.

c. Ammonia Steam Stripping. This technology is used routinely to reduce ammonia levels. To evaluate treatment effectiveness, EPA (through its contractor) collected chemical analysis data of raw waste (treatment influent) and treated waste (treatment effluent) from one plant in the iron and steel category. These data are 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 these nonferrous subcategories do not contain interfering agents that would reduce ammonia removals.

An arithmetic mean of the treatment effluent data 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 category (phase II), which has raw ammonia levels as high as any in the nonferrous phase I subcategories. Data collected by the plant represent almost two years of daily operations, and support the long-term mean used to establish treatment effectiveness.

Several comments were received stating that ammonia steam stripping performance data transferred from the iron and steel category are not appropriate for the nonferrous metals manufacturing category. Many of the commenters believe plugging of the column due to precipitates will adversely affect their ability to achieve the promulgated steam stripping performance values. In developing compliance costs, the Agency designed the steam stripping module to allow for a weekly acid cleaning to reduce plugging problems. Through Section 308 information requests, the Agency attempted to gather data at plants which stated they could not achieve the proposed limits. However, very little data were submitted to support their claims or document column performance. Therefore, the Agency has retained the proposed performance, which has been validated with steam stripping data from a zirconium-hafnium facility.

Commenters in the secondary aluminum subcategory claim stripped ammonia will have to be disposed of as corrosive hazardous waste. The Agency does not agree with the commenters because ammonia has an intrinsic value. The ammonia can be either sold or given away to be used as a process chemical. In the columbiumtantalum and tungsten subcategories, where ammonia also would be steam stripped, it does not even need to be given away, because ammonia is a process chemical and may be reused as a precipitating agent.

d. Flow Reduction. Flow reduction is a significant part of the overall pollutant reduction technology. Because of this, the Agency is promulgating mass-based limitations and standards which take into account the significant pollutant removal achieved by flow reduction model technology. Mass-based limits ensure reduction of the total quantity of pollutant discharge. The mass-based limitations and standards established for this category are derived as the product of the regulatory flow and the overall treatment effectiveness. The regulatory flows are based on flow data, normalized to production, supplied by the industry.

Certain other limitations—notably those for cyanide in the primary aluminum subcategory and total phenols in the secondary aluminum subcategory—are based on additional technologies, namely cyanide precipitation and activated carbon absorbtion. These technologies are discussed in sections dealing with these specific subcategories.

C. Technology Basis for Final Regulations

A brief summary of the technology basis for the regulation is presented below. The proposed technology basis is presented in the "Preamble to the Proposed Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (48 FR 7032 (February 17, 1983)) and the

Development Document for Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category.

BPT: BPT limitations already are promulgated for the primary aluminum, secondary aluminum, primary copper smelting, primary electrolytic copper refining, secondary copper, primary zinc, and metallurgical acid plant subcategories. With the exception of the primary lead subcategory, we did not propose to alter these existing limitations. (See 48 FR at 7053.) (We are making a small technical change to these regulations, by rewriting those sections referring to fundmentally different factors variances, to cross-reference applicable regulations instead of having an extended discussion. These changes do not reopen promulgated BPT regulations for purposes of review.) We did propose BPT in those subcategories not previously addressed, namely primary columbium-tantalum, primary tungsten, secondary silver, and secondary lead. We also proposed that lead and zinc metallurgical acid plants be subject to existing limits already applicable to copper acid plants (see 48 FR at 7053). We are now promulgating these BPT limitations as final regulations. These BPT mass limitations are based on end-of-pipe treatment consisting of lime precipitation and settling, and, where necessary, preliminary treatment consisting of ammonia steam stripping. For each subcategory, it is our judgment that the benefits of effluent reduction justify the associated costs. The promulgated BPT limitations and technology basis for each subcategory are discussed in detail below.

Primary Lead

EPA proposed BPT mass limitations for the primary lead subcategory to allow a discharge to prevent dissolved solids from accumulating in slag granulation water circuits. The technology basis for the promulgated BPT limitations is lime and settle; this is the same as the technology basis for the proposed limitations. This technology is demonstrated at two plants in the subcategory.

The Agency has revised one regulatory flow allowance used to develop the proposed BPT mass limitations for the primary lead subcategory. New flow and production data for dross reverberatory slag granulation wastewater were submitted by one plant. The data, which showed the plant had reduced its reported dcp flow, were used to revise the proposed discharge allowance. The Agency has also considered four additional waste streams identified in comments to the proposal. Data solicited by the Agency after proposal were used to determine a BPT flow allowance for materials handling wet air pollution control. This wastewater source is due to compliance with OSHA standards which limit fugitive lead emissions. An additional four building blocks were added for the wastewater sources generated due to industrial hygiene requirements. Based on information and data gathered at two integrated secondary lead and battery manufacturing plants (which have lead concentrations similar to what one would realistically expect to find in the analogous primary lead waste waters), the Agency has determined that floor washing, employee hand wash, respirator wash, and employee uniform laundering generate wastewaters sufficiently contaminated with lead to warrant treatment. We are not providing a discharge allowance for one of these wastewater sources (floor washing) because this operation can use recycled treatment plant effluent. The basis of these flow allowances is presented in Section IX of the primary lead supplemental development document.

Commenters argued that the CMDB treatability values are inappropriate for primary lead plants, and submitted long-term treatment performance data from two primary lead plants operating BPT equivalent (i.e., lime and settle) treatment systems. The performance data submitted to the Agency demonstrated that primary lead wastewaters comprising the combined metals data base. The Agency conducted a statistical analysis on the performance data and studied the design and operating characteristics of the treatment systems from which the data were obtained. The Agency has determined that the performance data from one of the plants are representative of the treatment system and has used treatment effectiveness concentrations obtained from the data to calculate the primary lead BPT mass limitations. Treatment performance from the other plant was not used due to the lack of equalization before lime and settle treatment.

We are eliminating the allowance for net precipitation and catastrophic storms as we did in primary electrolytic copper refining when it was revised in 1980. As explained previously we do not believe this allowance is necessary because of the relatively small surface area impoundments that would be used to comply with these limitations. We do not believe any costs will result from this change. Plants using impoundments for other purposes, such as stormwater collection, may need to receive net precipitation allowances from permit authorities on a case-by-case basis.

The pollutants selected for specific BPT limitation are lead, zinc, TSS, and pH. These pollutants were selected because they are present in the largest quantities in the raw wastewater.

Because the technology installed at several plants is more extensive than BPT, implementation of the promulgated BPT limitations will not remove any additional toxic metals or TSS over estimated current discharge on a total subcategory basis. However, there will be removals at individual plants. Removals from raw wastewater are an estimated 3,900 kg/yr of toxic metals and 261,000 kg/yr of TSS. We project a capital cost of $211,000 and an annual cost of $56,000 for achieving the proposed BPT limitations. One of the three direct discharges does not currently have installed BPT technology.

Primary Tungsten

We are promulgating BPT limitations for the primary tungsten subcategory based on lime precipitation and sedimentation technology to remove metals and solids and to control pH, and ammonia steam stripping to remove ammonia. The end-of-pipe treatment technology basis for BPT limitations being promulgated is the same as that for the proposed limitations. Ammonia steam stripping is practiced at three plants (one of four direct dischargers) and lime precipitation and sedimentation technology is in place at four of 10 plants (three of four direct dischargers).

In the proposed limitations, the toxic pollutants selected for control were lead, selenium, and zinc. Analytical data gathered since proposal at a primary tungsten plant have demonstrated that selenium is not a toxic pollutant found on a subcategory-wide basis. Therefore, we have eliminated selenium as a control parameter, and are selecting the following pollutants for limitation at BPT: lead, zinc, ammonia, TSS, and pH.

The Agency has chosen not to regulate toxic organic pollutant parameters on a subcategory-wide basis for the primary tungsten subcategory. Primary tungsten plants may use an organic solvent in a liquid-liquid ion exchange process to extract tungsten from digested concentrates. In the pollutant reduction removals calculated prior to proposal, it was estimated that the subcategory generates 70 kg/yr toxic organic pollutants. The Agency believes the toxic organic pollutants in the primary tungsten subcategory are present only in trace amounts and thus

are not regulated on a subcategory-wide basis. However, it is possible that toxic organic pollutants may be present in larger concentrations at an individual plant than the Agency's sampling data indicate. Therefore, the permitting or control authority should check for the presence of toxic organic pollutants on a case-by-case basis and determine the need for treatment. Section VII of the General Development Document provides information of the treatability of these pollutants using activated carbon adsorption.

Additional data gathered by the Agency through engineering site visits, data collection portfolios, and Section 308 requests, were used to revise the flow allowances proposed for the primary tungsten subcategory. Besides recalculating the existing flow allowances, two additional wastewater sources were provided discharge allowances: APT coversion to oxides water of formation and tungsten powder acid leach and wash wasterwater.

Implementation of BPT limitations will not remove any toxic metals from current discharge rates; however, it will remove 141,000 kg/yr of ammonia and 6,260 kg/yr of TSS over estimated current discharge. Removals from raw wastewater are an estimated 4,800 kg/yr of toxic metals, 141,000 kg/yr of ammonia, and 50,300 kg/yr of TSS. Although we have developed BPT limitations and costs assuming that wastewater will be centrally treated with ammonia stripping followed by lime, settle, and filter treatment for metals, it is possible that several plants could achieve more stringent limits and save compliance costs by removing metals from tungsten acid rinse and acid leach wet air pollution control and then combining these waste streams with any other process streams for ammonia removal. By not assuming that waste streams will be mixed in a central treatment system until after metals are removed, individual permits may be able to eliminate allowances for metals in the six waste streams not containing metals and also eliminate the cost of lime, settle, and filter technology for those six processes. We project $642,000 in capital costs ands $637,000 in annual costs for achieving the promulgated BPT. These costs represent wastewater treatment equipment not in place.

Primary Columbium-Tantalum

We are promulgating BPT limitations for the primary columbium-tantalum subcategory based on lime precipitation and sedimentation to control toxic metals, TSS, pH and fluoride, and preliminary treatment with steam stripping to reduce ammonia concentrations. The end-of-pipe treatment technology bais for the BPT limitations being promulgated is the same as that for the proposed limitations. Lime and settle technology is currently demonstrated by all three primary columbium-tantalum direct dischargers. Ammonia steam stripping is practiced by two of the plants. The pollutants specifically regulated at BPT are lead, zinc, ammonia, fluoride, TSS, and pH.

The Agency has chosen not to regulate toxic organic pollutant parameters on a subcategory-wide basis for the primary columbium-tantalum subcategory. Primary columbium-tantalum plants may use an organic solvent in a liquid-liquid ion exchange process to extract columbium-tantalum from digested concentrates. In the pollutant reduction removals calculated prior to proposal, it was estimated that the subcategory generates 170 kg/yr toxic organic pollutants. The Agency believes the toxic organic pollutants in the primary columbium-tantalum subcategory are present only in trace amounts and thus are not regulated on a subcategory-wide basis. However, it is possible toxic organic pollutants may be present in larger concentrations at an individual plant than the Agency sampling data indicate. Therefore, the permitting or control authority should check for the presence of toxic organic pollutants on a case-by-case basis and determine if they require treatment.

In light of comments received, the Agency reexamined the regulatory flows proposed for the primary columbium-tantalum subcategory. The production normalizing parameter for concentrate digestion wet air pollution control, solvent extraction raffinate, solvent extraction raffinate wet air pollution control, and precipitation and filtration of metal salts has been changed from the product of each operation to the mass of concentrate produced at each plant. This change will account for the difference in columbium and tantalum metal values for the different raw materials processed. In addition, the Agency is providing new mass limitations for precipitation and filtration wet air pollution control, tantalum fluoride salt drying, and tantalum powder wash wastewater. Along with the addition of these waste streams, the Agency has also reevaluated the appropriate flow allowances for calcining of columbium-tantalum oxides wet air pollution control, reduction of tantalum salt to metal air pollution control, and reduction of tantalum salt wastewaters. Recalculation of regulatory flows for these waste streams was based on data obtained from the data collection portfolios and Section 308 information requests. A complete discussion of the flow allowances is presented in Section IX of the primary columbium-tantalum supplemental development document.

BPT will result in the removal of an estimated 17,900 kg/yr of toxic pollutants, 594,000 kg/yr of conventional pollutants, 226 kg/yr of flouride, and 88,000 kg/yr of ammonia from current discharge levels. The estimated capital investment cost of BPT is $680,000 and the estimated annual cost is $777,000. These costs represent wastewater treatment equipment not currently in place.

Secondary Silver

EPA is promulgating BPT limitations for the secondary silver subcategory based on lime precipitation and sedimentation to remove toxic metals, control pH, and remove TSS and preliminary treatment with steam stripping to reduce ammonia concentrations. The end-of-pipe treatment technology basis for the BPT limitations being promulgated is the same as that for the proposed limitations. Lime and settle treatment technology is currently in place at five direct discharging facilities. No comments were submitted pertaining to the achievability of the proposed ammonia limitation at secondary silver plants. The pollutants specifically regulated at BPT are copper, zinc, ammonia, TSS, and pH. Specific effluent mass limitations have been developed for each of these pollutants.

The Agency has collected data on secondary precious metals facilities through data collection portfolios (dcp) so that it may propose mass limitations for the secondary precious metals subcategory (in nonferrous metals manufacturing phase II). Many of the plants in the subcategory overlap with the secondary silver subcategory. Review of these dcp's, and the dcp's specifically collected for the secondary silver subcategory, has led the Agency to revise the regulatory flows. Accordingly, the wastewater streams from film stripping and precipitation and filtration of film stripping wet air pollution control have been combined into one building block. Leaching wet air pollution control and precipitation of nonphotographic solutions wet air pollution control wastewater sources have also been combined into one building block. In addition, the mass limitations proposed for casting contact cooling water and casting wet air pollution control have been eliminated.

Analytical data collected at a secondary precious metals plant demonstrate casting contact cooling water is not sufficiently contaminated to warrant treatment. Casting wet air pollution control limitations have been eliminated because the Agency believes this limitation is duplicated by the furnace wet air pollution control limitations (these operations are identical). A flow allowance is not provided for floor and equipment washdown based on reuse of recycled treatment effluent as facility washdown water. In developing compliance cost estimates, the Agency sized treatment equipment to allow for this flow.

Cyanide was not chosen as a regulated pollutant parameter on a subcategory-wide basis for the secondary silver mass limitations. However, secondary silver plants process plating solutions, which may contain cyanide, to recover silver contained in the solution. Cyanide is present due to its use as a process chemical in plating operations. The permitting authority should check for the presence of cyanide in this waste stream and develop discharge limitations if necessary. A discharge allowance can be developed by locating the flow allowance for precipitation and filtration of nonphotographic solutions at BPT and BAT in Sections IX and X, respectively, of the secondary silver supplemental development document. Treatment performance for cyanide precipitation is presented in Section VII of the General Development Document. The discharge allowance (or mass limitation) is the product of the flow allowance and the treatment performance.

The BPT effluent limitations should remove estimated 409 kg/yr of toxic pollutants, 664,000 kg/yr of ammonia, and 7,320 kg/yr of TSS from current discharge levels. The estimated capital investment cost of BPT is $110,000 and the estimated annual cost is $211,000. These costs represent wastewater treatment equipment not currently in place.

Secondary Lead

EPA is promulgating BPT limitations for the secondary lead subcategory based on lime precipitation and sedimentation to remove toxic metals and TSS, and to control pH. The end-of-pipe treatment technology basis for the BPT limitations being promulgated is the same as that for the proposed limitations. This treatment currently is in place at 24 of 50 plants. The pollutants and pollutant parameters controlled at BPT are antimony, arsenic, lead, zinc, TSS, and pH.

In light of the comments received on the proposed flow allowances, the Agency reviewed existing flow and production information from data collection portfolios and solicited additional information through Section 308 requests. The Agency also performed engineering site visits at two integrated secondary lead and battery manufacturing plants. These additional data have been used by the Agency to develop flow allowances for five waste streams not considered at proposal. Three of these waste streams—handwash, respirator wash, and laundries—result from occupational hygiene needs. Flow allowances have also been developed for truck washing and for laboratories. The Agency also considered whether to grant allowances to two other wastestreams, from facility washdown and battery case classification, but determined not to because treated effluent can be used as makeup water for these two operations. Compliance costs include the larger size equipment needed to accommodate these streams. Lastly, kettle wet air pollution control, a building block not allocated a discharge allowance at proposal, is now provided a discharge allowance based on data gathered through Section 308 requests indicating that a periodic discharge is needed. A complete discussion of the flow allowances provided for the secondary lead subcategory is presented in Section IX of the secondary lead supplemental development document.

BPT will result in the removal of an estimated 5,940 kg of toxic pollutants and 53,310 kg of conventional pollutants per year from current discharge levels. The estimated capital investment cost of BPT is $1.6 million and the estimated annual cost is $684,000. These costs represent wastewater treatment equipment not currently in place.

In the proposed limitations, ammonia was given a discharge allowance of zero to prevent the discharge of kettle scrubber liquor. Data gathered through Section 308 requests have shown that those plants previously thought to be recycling kettle scrubber liquor 100 percent do actually have a periodic discharge. Ammonia in secondary lead wastewaters is the result of its use as a wastewater treatment chemical. It is the Agency's understanding that ammonia is used because it reduces the amount of sludge generated and produces a sludge more amenable for reuse as a raw material than lime sludges. Effluent data from a secondary lead plant were found to have ammonia in its treated effluent at an average concentration of 6,500 mg/l showing that ammonia can be present in treatable concentrations. In developing plant-by-plant costs, the Agency has examined the costs of substituting neutralization with caustic for neutralization with ammonia. These costs are justified by the reduction in ammonia discharges. In addition, neutralization with caustic will still produce a sludge acceptable for recycling. Therefore, the zero discharge requirement for ammonia as proposed is included in the promulgated regulation.

BAT: The general end-of-pipe technology basis for the promulgated BAT mass limitations is based on the model BPT technology plus in-process flow reduction and multimedia filtration following lime and settle treatment. Sulfide precipitation is also included as the technology basis for the primary lead, primary zinc, and metallurgical acid plant subcategories, and for one primary copper plant. Preliminary treatment technology includes ammonia steam stripping and cyanide precipitation were required. In the secondary aluminum subcategory, activated carbon perliminary treatment was promulgated for the control of phenols resulting from delacquering operations. Catastrophic storm allowances for rainfall on surface impoundments are provided for two subcategories. As explained in Section VI below, we find that the costs of achieving limitations based on these model technologies are economically achievable for each subcategory.

The complexity and cost of analyses for toxic pollutants found in the nonferrous metals manufacturing category wastewaters has prompted EPA to develop an alternative method of controlling toxic pollutants. Instead of establishing specific effluent limitations for each of the toxic metals found in the category's raw wastewaters above treatable concentrations, the Agency is establishing effluent limitations for certain toxic metals as "indicator" pollutants. The data available to EPA show that control of the selected "indicator" pollutants will result in the substantial removal of other toxic pollutants found in the wastewaters but not specifically limited. By establishing specific limitations and standards for only the "indicator" pollutants, the Agency will reduce the difficulty, cost, and delays of pollutant monitoring and analyses that would result if pollutant limitations were established for each toxic pollutant. However, permit writers are free to write limits for indicated pollutants, in addition to the guideline limitations on indicator pollutants, in appropriate situations such as when indicated pollutants are present at a

particular plant in higher concentrations than indicator pollutants. (Permit writers may consult the development documents for a list of all pollutants present in order to determine whether such additional limitations are necessary.)

The selected technology basis and regulated pollutant parameters are discussed below for each subcategory.

Primary Aluminum

a. Technology Basis. EPA is promulgating BAT mass limitations for the primary aluminum subcategory based on end-of-pipe lime precipitation, sedimentation, and multimedia filtration. Preliminary treatment of cyanide is based on cyanide precipitation. In-process flow reduction through recycle is also included. This technology basis differs from the technology basis we proposed in that effluent limitations based on at-the-source requirements for toxic organics using activated carbon have been eliminated. This is because we have determined that these organics are effectively removed by centralized lime, settle, and filter treatment.

b. *Flow Reduction.* In response to the proposed primary aluminum mass limitations, the Agency received numerous comments on the proposed flow allowances for the subcategory. The Agency evaluated these comments carefully and solicited additional information through section 308 information requests. With the exception of potline wet air pollution and continuous rod casting contact cooling water, the flow allowances were revised to reflect comments and new data. A complete discussion regarding the flow allowances used to calculate the promulgated mass limitations is presented in Section X of the primary aluminum supplemental development document. Based on the comments received, the Agency has expanded the definition of anode contact cooling water and anode paste wet air pollution control. Anode contact cooling water has been expanded to include the cooling of briquettes used as anodes in Soderberg plants. Anode paste plant wet air pollution control has been expanded to cover wet scrubbers used to control air pollution emissions during cathode paste mixing. Commenters demonstrated to the Agency that these operations, as expanded, are very similar to the processes for which the original flow allowances were provided.

The anode bake plant wet air pollution control flow allowance has been revised to account for the differences in furnace types and scrubber types, which were shown to affect water usage for this operation. Briefly, separate flow allowances have been promulgated for open and closed top anode bake furnaces, for tunnel kilns, and for the different scrubber types used for closed top furnaces. A complete discussion of the promulgated flow allowances for this operation is presented in Section X of the primary aluminum supplemental development document. The Agency also performed this type of analysis for potline scrubbing, but there was no apparent correlation between cell technology, scrubber type, and production normalized water usage. We thus are not providing separate flow allowances, varying by cell and scrubber types, for this unit operation.

The Agency is providing an additional flow allowance for potline SO_2 wet air pollution control. Wet scrubbers are needed to control potline sulfur emissions. The flow allowance is developed from flow and production information solicited from two plants that operate this type of scrubber. In addition, the Agency has revised the zero discharge requirement for degassing wet air pollution control. Product quality constraints and extensive retrofit costs of installing alternate in-line fluxing methods dictates a scrubber allowance so that furnace fluxing practices can continue.

Data gathered through Section 308 requests indicate that the Agency originally overstated the flow allowance required for cathode reprocessing wastewaters. Plants operating potline wet scrubbers and cathode reprocessing commingle the two streams together to recover the cryolite as fluoride. Discharge from cryolite recovery is then returned to the potline circuit and used as scrubber liquor. Thus, the bleed from cathode reprocessing is accomplished with the potline scrubber bleed. Since there is no independent discharge from cathode reprocessing, the flow allowance provided is for the potline scrubber bleed. (Plants with cathode reprocessing were included in determining the potline scrubber flow allowances.) A cathode reprocessing flow allowance is provided in the regulation, but it only applies to those plants operating dry potline scrubbers (and so not using wet scrubber bleed as makeup for cathode reprocessing). The Agency has also changed the production normalizing parameter for cathode reprocessing from aluminum produced to cryolite recovered. In this way, a plant may obtain spent potliners from another facility (a situation that sometimes occurs) and still be able to comply with the promulgated mass limitations.

c. *Toxic Pollutants to be Limited and Treatment Effectiveness.* The Agency received numerous comments requesting that antimony not be limited. Based on the analytical data gathered before proposal and during the pilot-scale treatment performance work, the Agency has identified antimony as a pollutant that occurs frequently above treatable concentrations in certain waste streams. Therefore, the mass discharge of antimony is limited in the promulgated guidelines.

Treatment performance data gathered during the pilot-scale study demonstrated the plants operating cathode reprocessing operations and using the wastewater as makeup for potline scrubber liquor cannot achieve the performance values proposed for antimony, nickel, and fluoride. The Agency believes this is due to the matrix differences resulting from cathode reprocessing. The cathode reprocessing wastewater, and subsequently the potline scrubber liquor, contain dissolved solids levels in the 5 to 6 percent range. Therefore, the Agency is promulgating separate mass limitations for those primary aluminum plants that operate cathode reprocessing and commingle resulting wastewater with potline scrubber liquor. However, to receive these alternate limitations for antimony, nickel, and fluoride (cyanide does not vary) the plant may not dilute potline scrubber liquor blowdown or cathode reprocessing wastewater with any process or nonprocess wastewater source. If the potline scrubber blowdown is diluted with other wastewaters, the Agency believes the complexity of the matrix decreases and thus the concentrations of the combined metals data base (as well as the transferred antimony and flouride concentrations) can be achieved. In fact, our statistical analysis of untreated wastewater data shows primary aluminum wastewater to be significantly less contaminated than wastewater from the plants in the combined metals data base.

The variability factors used to determine the mass limitations for the alternate potline scrubber blowdown and cathode reprocessing are transferred from the combined metals data base. The CMDB contains more data points than the pilot-scale study and thus is a better source for determining variability for lime and settle treatment. Commenters to the November 4, 1983 notice did not challenge this use of the CMDB variability factors.

The Agency's pilot-scale treatment performance studies revealed that the

performance limits for cyanide precipitation are not transferable from coil coating to primary aluminum wastewater. We believe that the cathode reprocessing operations, the only primary aluminum unit operation to generate cyanide, discharge much higher concentrations of cyanide than observed in coil coating and impair treatment by also discharging extremely high dissolved solids concentrations (5 to 6 percent) that interfere with precipitation chemistry. We therefore are adopting the treatment effectiveness for cyanide achieved from the Agency's pilot study on these wastewaters. This mean also was shown, in data submitted by a primary aluminum facility, to be achievable by ion exchange technology applied to cyanide-contaminated groundwater. In developing variability factors for cyanide precipitation technology, we will continue to use the mean variability from the combined metals data base because only two data points were generated by the treatability study. Commenters to the November 4, 1983 notice did not question this use of the CMDB variability factors.

In the November notice the Agency indicated that it might promulgate a limit for cyanide which need to be monitored after preliminary treatment and before treatment in the lime, settle, filter, and discharge to receiving waters. (We refer to this type of requirement as an "at-the-source" limit.) An at-the-source limit would be appropriate if there were a risk that cyanide could be diluted to below levels detectable at the end of the pipe as a result of mixing with wastewaters that do not contain cyanide. We do not think this is very likely to occur because the waste streams containing cyanide-cathode reprocessing wastewater and potline scrubber wastewater—have very high flows. These streams would have to be diluted at roughly a 100 to 1 ratio for cyanide to the undetected, an unlikely result. Permit writers should investigate, however, whether this degree of dilution might occur at an individual plant (for example, if stormwater is being centrally treated), in which case they should require monitoring at the source to ensure treatment and removal of cyanide.

The final regulation thus is written so that only the potline wet scrubber and cathode reprocessing building blocks receive a cyanide mass limitation. This effectively precludes dilution because it does not make economic sense for a plant to treat its entire flow when it can pretreat these cyanide-containing streams. (The Agency thus developed compliance costs based on cyanide preliminary treatment.) In addition, as explained above, a mass allowance is provided for cathode reprocessing only if this operation is not conducted in conjunction with potline wet scrubbing. Where cathode reprocessing is operated along with wet potline scrubbing, an allowance is provided only for the potline scrubber because only a single flow is associated with both operations.

Many commenters questioned whether activated carbon technology was needed to control toxic organic pollutants, arguing that these pollutants are treatable with lime, settle, and filter technology. The Agency has performed pilot-scale work on potline scrubber blowdown and cathode reprocessing wastewater at a primary aluminum facility since proposal. Analytical data gathered during the study indicate that the toxic organic pollutants present in primary aluminum wastewaters are controllable through lime, settle, and multimedia filtration treatment technology. The toxic organics, present as polynuclear aromatic hydrocarbons, are only silghtly soluble in water, and thus are treatable using sedimentation and filtration techniques. Removals by this technology exceed 99 percent of all toxic organics present. In addition, the most toxic of the polynuclear aromatic hydrocarbon—including the carcinogen benzo(a)pyrene—are removed to the limit of quantification by this technology. For these reasons, we do not believe it is warranted to establish more stringent effluent limitations based on activated carbon to remove the small amounts of these less toxic polynuclear aromatic hydrocarbons remaining after application of lime, settle, and filtration technology.

We also proposed at-the-source limitation for toxic organic pollutants. Such limitations are no longer appropriate because toxic organics would not be pretreated, but rather are removed by centralized lime, settle, and filter treatment.

d. *Compliance Costs and Pollutant Removal Estimates.* We estimate that implementation of the promulgated BAT limitations will result in the removal of 13,000 kg/yr of toxic metals, 60,000 kg/yr of cyanide, 1,605,000 kg/yr of fluoride, 75,700 kg/yr of toxic organics, and 667,000 kg/yr of aluminum over estimated current discharge. The final BAT effluent mass limitations will remove 6,300 kg/yr of toxic metals, 990 kg/yr of toxic organics, and 4,300 kg/yr of aluminum over the intermediate BAT option considered, which lacks filtration. Both options are economically achievable and filtration as an end-of-pipe treatment technology is demonstrated at one primary aluminum facility. We believe that the incremental removal justifies selection of filtration as part of BAT model technology. The estimated cost of compliance is $16 million for capital investments (1982 dollars) and annual costs of $7.1 million. These cost represent treatment not already in place.

Secondary Aluminum

EPA is promulgating BAT effluent limitations for the secondary aluminum subcategory based on end-of-pipe lime, sedimentation, and filtration technology. This is the same technology basis as that proposed. Flow reduction is also included in the technology basis through reuse and recycle of casting contact cooling water. One additional treatment step applies to plants discharging wet scrubber water from delacquering furnace operations (an operation that removes paint and other surface coating from aluminum scrap). The Agency received comments requesting a flow allowance for delacquering wet air pollution control operations, and a flow allowance is necessary. Data solicited by the Agency through Section 308 requests demonstrated the presence of 4-AAP phenols in this wastewater source at treatable concentrations. The Agency has examined the costs and pollutant removal associated with the activated carbon to reduce the mass of phenols currently discharged. The Agency has determined that this technology is economically achievable and demonstrated in the iron and steel (cokemaking) category as a phenols removal technology. The treatment performance used for activated carbon to develop mass limitations for phenol is based on the attainable quantification limit of 0.010 mg/l. (See Section VII of the General Development Document.) The Agency believes this value is achievable, when adequate quantities of carbon are used. For cost estimation purposes, we used a carbon loading rate of 1.46 pounds per thousand gallons. This rate is obtained from several sources including the Agency's pilot-scale study at a primary aluminum plant, experimental work performed by the Agency's Industrial Environmental Research Laboratory, and the technical literature. Although this is a rough estimate of the cost, it has allowed the Agency to evaluate the economic impacts, and determine that activated carbon pretreatment for delacquering scrubber blowdown is economically achievable.

The Agency is promulgating at-the-source requirements—i.e., requiring that compliance be demonstrated and

monitoring conducted—for phenol because of the possibility of significant dilution. (See generally 48 FR at 7056, explaining the rationale for at-the-source requirements in more detail.) The plants known to currently operate delacquering scrubbers are principally primary aluminum and aluminum forming plants, which generate much larger volumes of process wastewater than the delacquering operations. The pollutants specifically regulated at BAT are those proposed—lead, zinc, aluminum, ammonia—plus phenol.

In response to comments and the lack of any demonstrated zero dischargers, the Agency is promulgating a flow allowance for ingot conveyor casting. However, this allowance is only intended for those plants that do not operate chlorine demagging operations. Those plants which have demagging will not receive an ingot conveyor casting allowance based on the demonstrated 100 percent reuse of the ingot conveyor casting water in demagging air scrubbing operations.

The flow allowances for direct chill casting and demagging wet air pollution control were evaluated and adjusted based on comments received questioning the accuracy of the calculated allowances at proposal. A complete discussion of the flow allowances is provided in Section X of the secondary aluminum supplemental development document.

Implementation of the promulgated BAT limitations will remove an estimated 615 kg/yr of toxic metals, 526 kg/yr of phenols, 90,000 kg/yr of aluminum over estimated current discharge estimates. The final BAT effluent mass limitations will remove 8.2 kg/yr of toxic metals and 36 kg/yr of aluminum over the intermediate BAT option considered, which lacks filtration. Both options are economically achievable. We believe that these incremental—justifies selection of filtration removals—which include removal of an estimated 1.5 kg/yr cadmium as part of BAT model technology. Filtration likewise serves as a safeguard if lime and settle treatment is not operated properly. We also believe that the selection of filters is an appropriate balance to our elimination of previously promulgated no discharge BAT requirements for ingot conveyor casting and dross washing. Providing this allowance for these operations is only justified when the Agency can assure that most of the pollutants contained in these discharges will be removed by treatment. Implementation of the promulgated BAT limitations is expected to result in a capital cost of $1.1 million and an annual cost of $382,000.

Primary Copper Smelting

The Agency is promulgating the proposed BAT in this subcategory to conform BAT to promulgated BPT. The promulgated BPT (a 1980 regulation) is zero discharge, subject to an unlimited discharge allowance for stormwater from a 10-year, 24-hour storm falling on a cooling impoundment. BAT limitations promulgated in 1975 included the same allowance for plants with cooling impoundments (except the storm event is the 25-year, 24-hour storm), and an additional allowance for discharge of net precipitation falling on the impoundment. We are promulgating limitations to eliminate this latter allowance, for the same reasons we eliminated it at BPT. See 45 FR 44926, July 2, 1980. There are no costs associated with this requirement since the discharge allowance already is eliminated at BPT and the change from 10-year to 25-year design storms was required by the 1975 regulation.

Primary Copper Electrolytic Refining

EPA is promulgating BAT effluent limitations based on in-process flow reduction and end-of-pipe treatment technology consisting of lime and settle treatment followed by multimedia filtration. Filtration is not demonstrated in this subcategory, but it is transferred from the primary aluminum, secondary copper, primary zinc, primary lead, secondary lead, and secondary silver subcategories. This was one of the alternatives initially proposed. Our reevaluation of compliance costs and economic achievability indicate that filters are economically achievable, allaying the concerns we expressed at the time of proposal.

The pollutant parameters proposed for limitation were copper, lead, and nickel. We are substituting arsenic for lead as a pollutant parameter. Arsenic is present in spent electrolyte, a building block for which a discharge allowance has been added since proposal. In fact, it is second to copper in mass generated and discharged by this subcategory. Therefore, the promulgated regulation limits three pollutants shown to be present in the largest quantities: copper, nickel, and arsenic.

We have also added arsenic limitations to the other unit operations to allow for central treatment with copper acid plant wastewaters without forcing plants to meet the mass limitations by reducing arsenic concentrations to a level lower than the treatment performance (see Section IX, *supra*).

The proposed flow allowance for spent electrolyte required zero discharge of wastewater pollutants based on 100 percent reuse following electrowinning and nickel sulfate removal. It was demonstrated to the Agency that differences in raw materials affect a plant's ability to operate a nickel sulfate recovery system and subsequently reuse the black acid as electrolyte. Low concentrations of nickel in anode copper dramatically affect nickel sulfate recovery systems and electrolytic refining. To operate a nickel sulfate recovery system at a plant that has low levels of nickel, blowdown of spent electrolyte would have to be decreased so that the nickel values increased. However, this would concentrate other impurities which are detrimental to the electrolytic process. Therefore, the Agency has provided a discharge allowance for spent electrolyte to control nickel concentrations and other contaminants in the electrolytic circuit.

Extensive effluent data submitted to the Agency by an integrated copper refiner and smelter have indicated that the proposed arsenic mass limitations based on lime and settle treatment, may not be achievable for this plant. The Agency believes that the larger arsenic values in the plant's ore contribute significant quantities of arsenic to the treatment system. Arsenic concentrations in excess of 100 mg/l are common at this plant, making the combined metals data base inappropriate. The Agency believes that the mass limitations as proposed for the primary electrolytic copper refining subcategory and metallurgical acid plant subcategory are achievable for this plant by adding sulfide precipitation to the model treatment technology. The Agency thus has determined that the combination of sulfide precipitation, lime and settle, and multimedia filtration will achieve the mass limitations promulgated and has included this technology in its compliance cost estimates for this one plant.

We estimate that the promulgated BAT will remove 17,900 kg/yr of toxic metals over current discharge estimates. The final BAT effluent mass limitations will remove 770 kg/yr of toxic metals over the intermediate option considered, which lacks filtration. Both options are economically achievable. We believe that the incremental removal justifies selection of filtration as part of BAT model technology. Implementation of the promulgated BAT limitations is expected to result in a capital cost of $275,000 and an annual cost of $111,000. We are not including any cost for

elimination of the catastrophics form and net precipitation allowances based on its elimination from BPT in 1980.

Secondary Copper

EPA is amending the promulgated BAT in this subcategory to eliminate the discharge allowance for net precipitation on impoundments. We do not believe this change results in any costs because plants will not have a significant flow from the relatively small surface area ponds used in this subcategory. Alternatively, plants can eliminate the need for ponds by use of cooling towers. This alternative was included in 1975 when we promulgated BPT and BAT for this subcategory. Our proposal to eliminate the net precipitation allowance and assume no compliance costs did not result in any public comments.

Primary Lead

The Agency has amended the proposed BAT technology basis for primary lead plants operating acid plants to include sulfide precipitation. The technology basis thus consists of in-process flow reduction through recycle and end-of-pipe lime and settle, sulfide precipitation (followed by sedimentation), and multimedia filtration technology. Extensive treatment performance data submitted to the Agency from a plant in this subcategory suggest that the proposed BAT mass limitations may not be achievable. The principal reason for not being able to attain the filtration performance data is the inability to achieve the combined metals data lime and settle values. However, the Agency believes the addition of sulfide precipitation, in conjunction with multimedia filtration, will achieve the treatment performance values as proposed wastewaters. (Sulfide precipitation technology is discussed fully in Section VII of the General Development Document.) Sulfide precipitation is currently demonstrated at a primary molybdenum plant with a metallurgical acid plant, and at a cadmium plant in the primary zinc subcategory. For those plants only generating wastewater to meet industrial hygiene requirements, the technology basis does not include sulfide precipitation since these waste streams are not so contaminated as to require the additional treatment.

The pollutant parameters limited specifically are lead and zinc. These two pollutants were found in the greatest quantities in the raw wastewater.

In the final rule, we have moved the proposed flow allowances for the granulating system from blast furnace slag granulation to dross furnaced speiss granulation. The Agency made this change so that the plant achieving zero discharge of blast furnace slag granulation would not receive an allowance they do not need, and yet still provide an allowance for the plant that has demonstrated the need for a granulating allowance. The methodology and the basis for revisions of flow allowances discussed for BPT are also applicable for BAT.

We estimate that the promulgated BAT limitations will remove 387 kg/yr of toxic metals over current discharge estimates. The final BAT effluent mass limitations will remove 160 kg/yr of toxic metals over the intermediate BAT option considered, which lacks filtration. Both options are economically achievable. We believe that the incremental removal justifies selection of filtration as part of BAT model technology. In addition, filtration as an end-of-pipe treatment technology is demonstrated by one facility in the primary lead subcategory. Estimated capital cost for achieving the promulgated BAT is $215,000, and the annualized cost is $77,000.

Primary Zinc

The Agency has amended the proposed BAT technology basis for the primary zinc subcategory to include sulfide precipitation. The complete technology basis thus consists of in-process flow reduction through recycle and end-of-pipe lime and settle, sulfide precipitation (followed by sedimentation), and multimedia filtration technology. Extensive treatment performance data submitted to the Agency by a plant in the subcategory demonstrate that the proposed BAT mass limitations may not be achievable. The principal reason for not being able to attain the filtration performance data is the inability to achieve the combined metals data lime and settle values. However, the Agency believes for the reasons given in Section V.B above that the addition of sulfide precipitation, in conjunction with multimedia filtration, will achieve the treatment performance values as proposed. Sulfide precipitation is currently demonstrated at a primary molybdenum plant with a metallurgical acid plant, and at a cadmium plant in the primary zinc subcategory.

We used data and information submitted through comments and solicited through Section 308 requests, as well as information obtained in an engineering site visit to a primary zinc plant, to revise the flow allowances for this subcategory. In the proposed mass limitations, a flow allowance was provided for leaching of zinc concentrates. We have withdrawn this allowance and promulgated flow allowances for preleach and electrolyte bleed in its place. The Agency believes these revised flow allowances more accurately reflect operating practices at electrolytic zinc plants. The Agency has also revised the flow allowance for anode and cathode wash water based on an engineering site visit. The flow allowances are discussed in detail in Section X of the primary zinc supplemental development document.

The pollutants specifically limited under BAT are cadmium, copper, lead, and zinc. These toxic metals are present in the largest quantities in raw wastewaters.

We estimate that application of the BAT effluent mass limitations will result in the removal of an estimated 3,540 kg/yr of toxic pollutants above the estimated current discharge rate. The final BAT effluent mass limitations will remove 1,260 kg/yr of toxic metals over the intermediate BAT option considered, which lacks filtration. Both options are economically achievable. We believe that the incremental removal justifies selection of filtration as part of BAT model technology. In addition, filtration is demonstrated at one primary zinc facility. The estimated capital investment cost of the promulgated BAT is $457,000 and the estimated annualized cost is $154,000.

Metallurgical Acid Plants

The Agency has amended the proposed technology basis for one copper acid plant and for all acid plants associated with zinc and lead smelting to include sulfide precipitation. The complete technology basis for this subcategory thus consists of in-process flow reduction through recycle and end-of-pipe lime and settle, sulfide precipitation (followed by sedimentation), and multimedia filtration technology. Extensive treatment performance data submitted to the Agency by copper, lead, and zinc acid plants demonstrate that the proposed BAT mass limitations are not achievable largely due to inability to achieve the combined metals data lime and settle values. However, for the reasons already explained, the Agency believes that addition of sulfide precipitation, in conjunction with multimedia filtration, will achieve the treatment performance values as proposed. Sulfide precipitation is currently demonstrated at a primary molybdenum plant with a metallurgical acid plant, and at a cadmium plant in the primary zinc subcategory.

The flow allowance proposed for the metallurgical acid plants subcategory has remained unchanged. The pollutants specifically limited under BAT are arsenic, cadmium, copper, lead, and zinc, the toxic metals present in the largest quantities in acid plant raw wastewaters.

Application of the BAT mass limitations will result in the removal of 14,700 kg/yr of toxic pollutants above estimated current discharge rates. The final BAT effluent mass limitations will remove 7,590 kg/yr of toxic metals over the intermediate BAT option considered, which lacks filtration. Both options are economically achievable. We believe that incremental removal justifies selection of filtration as part of BAT model technology. In addition, filtration is demonstrated at two metallurgical acid plant facilities. The estimated capital investment cost of BAT is $2.9 million and the annualized cost is $1.0 million.

Primary Tungsten

We are promulgating BAT limitations for this subcategory based on ammonia steam stripping, lime precipitation and sedimentation, in-process flow reduction, and multimedia filtration. Flow reductions are based on 90 percent recycle of scrubber effluent. The end-of-pipe and pretreatment technology basis for BAT limitations being promulgated is the same as that for the proposed limitations. In addition, the treatment performance concentrations, upon which the mass limitations are based, are equal to values used to calculate the proposed mass limitations. Ammonia steam stripping is demonstrated at three primary tungsten facilities. Filtration is not demonstrated within the subcategory; however, it is demonstrated in six phase I subcategories at 23 plants.

Revision of the proposed flow allowances is consistent with the changes made for the promulgated BPT limitations. The difference between the promulgated BTP and BAT flow allowances are due to flow reduction of scrubber liquors at BAT. Sections IX and X of the primary tungsten supplemental development document present the methodology and data used to calcuate the BAT flow allowances.

The pollutants specifically limited under BAT are lead, zinc, and ammonia. These pollutants were selected because they were present in the largest quantities in the raw wastewater.

Implementation of the promulgated BAT limitations will remove annually an estimated 5,140 kg of toxic pollutants, which is 318 kg of toxic metals over the estimated BPT discharge. Ammonia steam stripping is estimated to remove 2,280 kg/yr of ammonia over estimated BPT discharges and 144,000 kg/yr of the ammonia generated. The Agency estimates there will be no additional removal of toxic metals at BAT over current discharge estimates as was discussed in the description of the BPT technology basis. Although we have developed BAT limitations and costs assuming that wastewater will be centrally treated with ammonia stripping followed by lime, settle, and filter treatment for metals, it is possible that several plants could achieve more stringent limits and save compliance costs by removing metals first from tungsten acid rinse and acid leach wet air pollution control and then combining these streams with any other process streams for ammonia removals. By not assuming that waste streams will be mixed in a central treatment system until after metals are removed, individual permits may be able to eliminate allowances for metals in the six waste streams not containing metals and also eliminate the cost of lime, settle, and filter technology for those six processes. Estimated capital cost for achieving BAT is $773,000, and annualized cost is $684,000.

Primary Columbium-Tantalum

For BAT, EPA is promulgating mass limitations based on lime precipitation and sedimentation with ammonia steam stripping with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction and the use of filtration as an effluent polishing step. The end-of-pipe and pretreatment technology basis for BAT limitations being promulgated is the same as that for the proposed limitations. Ammonia steam stripping is currently demonstrated at two columbium-tantalum facilities. Filtration is not demonstrated within this subcategory, but is transferred from six nonferrous metals subcategories where it is demonstrated in 23 plants. With the exception of limits for fluoride, the treatment performance concentrations upon which the mass limitations are based are equal to the values used to calculate the proposed mass limitations. The mass limitations for fluoride have been revised for the same reasons as in the primary aluminum subcategory.

Revision of the proposed flow allowances is consistent with the changes made for the promulgated BPT limitations. The differences between the promulgated BPT and BAT flow allowances are due to flow reduction of scrubber liquors at BAT. Sections IX and X of the primary columbium-tantalum supplemental development document present the methodology and data used to calculate the BAT flow allowances.

The pollutants specifically limited under BAT are lead, zinc, ammonia, and fluoride. These pollutants were present in the largest quantities in columbium-tantalum raw wastewater.

We estimate that application of BAT will remove 61,400 kg of toxic metals and 1,920,000 kg of nonconventional pollutants annually over current discharge rates. BAT will result in the estimated removal of 283 kg/yr of toxic pollutants and 1,980 kg/yr of nonconventional pollutants over the estimated BPT discharge. The final BAT effluent mass limitations will remove 57 kg/yr of toxic metals over the intermediate BAT option considered, which lacks filtration. Both options are economically achievable. We believe that the incremental removal justifies selection of filtration as part of BAT model technology. The estimated capital investment cost of BAT is $830,000 and the estimated annual cost is $825,000.

Secondary Silver

EPA is promulgating BAT effluent mass limitations based on lime precipitation and sedimentation and ammonia steam stripping with additional reduction in pollutant discharge with the use of filtration as an effluent polishing step. The end-of-pipe and pretreatment technology basis for BAT limitations being promulgated is the same as one of the alternatives proposed. We expressed concerns at proposal about this option's economic achievability, but after revising the compliance costs and the economic analysis, we have determined that filtration as an end-of-pipe treatment technology is economically achievable. There also were no comments claiming this option was not economically achievable. The treatment performance concentrations upon which the mass limitations are based are equal to values used to calculate the proposed mass limitations. Filtration is currently demonstrated at 11 secondary silver plants.

Revision of the proposed flow allowances is consistent with the changes made for the promulgated BPT limitations. Sections IX and X of the secondary silver supplemental development document present the methodology and data used to calculate the BAT flow allowances.

The pollutants specifically limited under BAT are copper, zinc, and ammonia. We have selected copper, zinc, and ammonia because they are

present in the largest quantities in secondary silver raw wastewater.

Cyanide was not chosen as a regulated pollutant parameter on a subcategory-wide basis in the secondary silver mass limitations. However, secondary silver plants process plating solutions, which may contain cyanide, to recover silver contained in the solution. Cyanide is present due to its use as a process chemical in plating operations. The permitting authority should check for the presence of cyanide in this waste stream and develop discharge limitations if necessary. A discharge allowance can be developed by locating the flow allowance for precipitation and filtration of nonphotographic solutions at BPT and BAT in Sections IX and X, respectively, of the secondary silver supplemental development document. Treatment performance for cyanide precipitation is presented in Section VII of the General Development Document. The discharge allowance (or mass limitation) is the product of the flow allowance and the treatment performance.

We estimate that application of the promulgated BAT would remove 31,000 kg of toxic metals and 664,154 kg of ammonia annually compared to current discharge rates. The BAT effluent mass limitations will remove 132 kg of toxic pollutants per year above the estimated BPT discharge. We believe that incremental removal justifies selection of filtration as part of BAT model technology. In addition, filtration is demonstrated at 11 secondary silver facilities. The estimated capital investment cost of BAT is $278,000 and the annualized cost is $276,000.

Secondary Lead

For BAT, EPA is promulgating effluent mass limitations based on lime precipitation and sedimentation with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction and the use of filtration as an effluent polishing step. Wastewater flow reduction is based on recycle of smelter scrubber water, casting contact cooling water, facility washdown, kettle scrubber water, and battery case separation wastewater. The end-of-pipe treatment technology basis for BAT limitations being promulgated is the same as one of proposed limitations. We expressed concerns at proposal about this option's economic achievability, but after revising the compliance costs and the economic analysis, we have determined that filtration as an end-of-pipe technology is economically achievable. The Agency has revised the compliance costs and economic analysis. Results of the analysis indicate filtration as an end-of-pipe polishing step is economically achievable. The treatment performance concentrations upon which the mass limitations are based are equal to values used to calculate the proposed mass limitations.

Revision of the proposed flow allowances is consistent with the changes made for the promulgated BPT limitations. Sections IX and X of the secondary lead supplemental development document present the methodology and data used to calculate the BAT flow allowances.

The pollutants specifically limited under BAT are antimony, arsenic, lead, zinc, and ammonia. These pollutants were selected since they were present in the largest quantities in raw wastewater. Ammonia is not given a discharge allowance as discussed previously under BPT.

Implementation of the promulgated BAT would remove 25,700 kg/yr of the toxic metals present in the raw waste. The promulgated BAT effluent mass limitations will result in the estimated removal of 350 kg/yr of toxic pollutants above the estimated BPT discharge. No significant incremental removal occurs at the intermediate option. We believe that incremental removal over BPT justifies selection of filtration as part of BAT model technology. In addition, filtration is demonstrated at seven secondary lead plants. The estimated capital investment cost of BAT is $1.86 million and the estimated annual cost is $0.7 million.

NSPS: EPA is promulgating NSPS for the nonferrous metals manufacturing category based on flow reduction and end-of-pipe treatment which consists of lime precipitation, settling, and filtration. Also included in the technology basis, where necessary, is preliminary treatment consisting of oil skimming, ammonia steam stripping, cyanide precipitation, sulfide precipitation and activated carbon adsorption. For each subcategory, this model technology represents the best demonstrated technology. We have evaluated the costs associated with NSPS in each subcategory where NSPS is more stringent than BAT and find that these costs will not pose a barrier to entry by new sources in any of these subcategories.

In developing NSPS, the Agency considered the amount of water used per unit production for each wastewater stream. Many of the new source flow allowances promulgated are equivalent to the BAT allowances. However, in some instances new source performance standards are based on additional flow reduction based on the use of dry scrubbing and in-process changes that reduce water consumption requirements. The promulgated NSPS for each subcategory is discussed below.

Primary Aluminum

EPA proposed NSPS for the primary aluminum subcategory based on the proposed BAT plus additional flow reduction through dry potline scrubbing and elimination of potroom scrubbing. Although this technology is demonstrated, information submitted through comments and gathered by Section 308 requests indicates that two possible problems for new sources could be created by the proposed NSPS, one with respect to continued utilization of certain cell technologies, the other regarding ability to produce certain high purity alloys.

Dry potline scrubbing and elimination of potroom scrubbing for new sources would effectively require center-worked prebake or horizontal stud Soderberg cell technology. This is because the other major cell technologies, the side-worked prebake and vertical Soderberg cell, must use wet scrubbers to control fluoride emissions due to hooding constraints. EPA's NSPS for new "green field" primary aluminum sources are based on these facilities using center-worked prebake and horizontal stud Soderberg cells, or achieving the effluent limitations that are associated with the use of prebake cells. This is an environmentally more acceptable process (particularly in terms of net effluent reductions) because fluoride emissions can be fully contained without the use of wet scrubbers while capturing and returning the fluoride to the manufacturing process. See Senate Committee on Public Works, *A Legislative History of the Clean Water Act*, 93d Cong. 1st Sess., Vol. 1 at 172 (new source performance standards are to reflect "levels of pollution control which are available through the use of improved production processes").

An issue arises, however, as to whether major expansions of capacity at existing Soderberg plants are to be classified as new sources or as major modifications subject to BAT. Dry scrubbing on vertical Soderberg potline or potroom emissions may not be feasible, as a practical matter. However, use of horizontal stud Soderberg technology with dry potline and no potroom scrubbing is demonstrated. Therefore, construction of new sources or major expansions do not receive a discharge allowance for potline or potroom scrubbing.

Commenters raised an issue regarding application of proposed NSPS to all new sources. They argued that plants using dry scrubbing will need to use recycled alumina from dry scrubbing as raw material. Certain high purity alloys, however, cannot be made with recycled alumina (due primarily to iron contamination) but require virgin ore. The argument is that new prebake sources producing high purity alloys would thus be at a competitive disadvantage if they must install dry scrubbing technology because of a requirement to use more virgin alumina per ton of product.

The Agency believes this problem to be hypothetical and unlikely to occur in actuality. Prebake plants with dry scrubbing can avoid contamination of these alloys by segregating production of metal produced from virgin ore from metal produced from alumina recycled from dry scrubbers. Although this may allow only a relatively small (10 to 20) percentage of a plant's production to be dedicated to certain high purity alloys, we are unaware of any plant that devotes large percentages of its production capacity to these specific alloys. Thus, all existing plants that produce these high purity alloys and have dry scrubbers appear to be operating without competitive constraint. We therefore do not believe that new sources will suffer adverse competitive impact as a result of a dry scrubbing requirement. If a prospective new source is able to demonstrate that: (1) It will dedicate too much capacity to high purity alloys to utilize all of its recyclable alumina; (2) it is unable to market its excess recyclable alumina; and (3) the costs of purchasing excess virgin ore and reprocessing alumina through the Bayer process are so high as to pose a barrier to entry, the Agency will entertain rulemaking application to amend NSPS. Since no demonstration has been made, and the possibility appears very remote, we are not altering the proposed NSPS.

Our promulgated NSPS will eliminate discharge of toxic organic and metals associated with potline and potroom scrubber discharge, but will not require any significantly different cost of compliance for new or existing sources.

In the proposed limitations for BAT and NSPS, degassing wet air pollution control was not given a discharge allowance based on alternate in-line fluxing and filtering techniques, which reduce chlorine fuming and eliminate the need for wet scrubbers. Comments received stating that the retrofit costs of installing alternate in-line fluxing to replace furnace degassing were quite extensive. Commenters also stated that specifications cannot be met for certain alloys using in-line fluxing and filtering technology alone.

The Agency contacted each facility known to use alternate in-line fluxing and filtering methods was contacted through Section 308 authority to determine if any of the alloys mentioned in the comments are currently manufactured or capable of being manufactured with alternate in-line fluxing and filtering. Five plants reported they were either manufacturing or capable of manufacturing at least four of the 10 alloys identified. Collectively, it appears all 10 alloys can be manufactured using alternate in-line fluxing and filtering techniques without furnace fluxing. As described previously, a BAT discharge for this operation is provided because of the extensive retrofit costs required to install in-line fluxing and filtering. New sources, on the other hand, will not incur these costs. Therefore, degassing wet air pollution is not provided a discharge allowance for new sources. This technology is readily available to all facilities in the subcategory and will not pose a barrier to entry.

Secondary Aluminum

With the exception of dross washing, we are promulgating NSPS for the secondary aluminum subcategory equivalent to the BAT technology. Dross washing is not provided a discharge allowance in the NSPS due to the demonstration of dry milling in the subcategory. In the 1974 development document for secondary aluminum, it is stated that 17 of the 23 plants process residues (drosses) practice dry milling to eliminate wastewater. Impact mills, grinders, and screening operations are used to remove the metallic aluminum values from the nonmetallic values. Dry milling is not required for existing sources due to the extensive retrofits of installing mills, grinders, and screening operations. New sources, however, have the ability to install the best equipment without the costs of major retrofits. Therefore, dry milling is considered appropriate for new sources. For the remaining waste streams, the Agency believes that BAT, as promulgated, is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the secondary aluminum subcategory.

Primary Copper Smelting

EPA is promulgating NSPS for the primary copper smelting subcategory as zero discharge without a catastrophic storm discharge allowance. New smelting facilities can be constructed using cooling towers to cool and recirculate casting contact cooling water and slag granulation wastewater, so that large surface area cooling impoundments are unnecessary. Thus, the allowance for the catastrophic precipitation discharge allowed at BAT is eliminated based on the availability of demonstrated cooling tower technology. The costs associated with constructing and operating a cooling tower system are not significantly greater than those for cooling impoundments and as such, the Agency does not believe that the promulgated NSPS will constitute a barrier for entry of new facilities. As a result of this modification, the discharge of toxic metals during months of net precipitation will be eliminated.

Primary Electrolytic Copper Refining

EPA is promulgating NSPS for this subcategory equal to BAT. The Agency believes that BAT as promulgated is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the primary electrolytic copper refining subcategory.

Secondary Copper

EPA is promulgating NSPS for the secondary copper subcategory equal to zero discharge. We thus are eliminating the allowance for catastrophic stormwater discharge provided at BAT. New sources can be constructed using demonstrated cooling tower technology. The cost of constructing and operating a cooling tower system is not significantly greater than of a cooling impoundment, and as such, we believe that NSPS does not constitute a barrier to entry for new plants.

Primary Lead

We are promulgating NSPS that prohibits the discharge of all process wastewater from primary lead smelting, except for these industrial hygiene streams provided an allowance at BAT and for which an allowance remains necessary. Zero discharge of all other streams can be achieved by the demonstrated complete recycle and reuse of slag granulation wastewater or through slag dumping. In addition to the flow reductions included in BAT, we believe new plants can be designed to eliminate discharge from the dross reverberatory furnace slag granulation process at no significant additional cost by 100 percent recycle of this waste stream. Elimination of the materials handling wet air pollution control waste

stream is based on dry scrubbing to control fugitive lead emissions during materials handling. Therefore, we believe NSPS does not present any barrier to entry for new plants, since no retrofit costs are associated with dry scrubbing.

Comments were received asking that NSPS for the primary lead subcategory be held in reserve because new sources would be built using hydrometallurgical processes instead of the conventional pyrometallurgical processes. The Agency believes that the effluent reductions achievable by pyrometallurgical sources represent Best Demonstrated Technology. New hydrometallurgical processes should therefore have to meet limitations associated with this technology. In fact, there are no existing hydrometallurgical plants and it is not at all clear if there will be any new sources using this process. If such a (hypothetical) facility could demonstrate that it could not achieve better effluent reductions than pyrometallurgical sources, the Agency will consider amending NSPS. However, no such demonstration has been made.

Primary Zinc

EPA is promulgating NSPS for the primary zinc subcategory equal to BAT. The Agency believes that BAT as promulgated is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the primary zinc subcategory.

Metallurgical Acid Plants

EPA is promulgating NSPS for the metallurgical acid plants subcategory equal to BAT. The Agency believes that BAT as promulgated is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the metallurgical acid plants subcategory.

Primary Columbium-Tantalum

EPA is promulgating that NSPS for the primary columbium-tantalum subcategory equal to BAT. The Agency believes that BAT as promulgated is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the columbium-tantalum subcategory.

Primary Tungsten

We are promulgating NSPS equal to BAT. The Agency believes that BAT as promulgated is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the primary tungsten subcategory.

Secondary Silver

EPA is promulgating NSPS for the secondary silver subcategory equal to BAT. The Agency believes that BAT as promulgated is the best demonstrated technology. Additional flow reduction and more stringent treatment technologies are not demonstrated or readily transferable to the secondary silver subcategory.

Secondary Lead

EPA is promulgating NSPS for the secondary lead subcategory equal to the technology basis of BAT, but we are requiring additional flow reduction over BAT levels by using dry scrubbing to control emissions from kettle refining. Existing wet scrubbers are used to control emissions and prevent baghouse fires caused by sparking when sawdust and phosphorus are applied to the surface of the metal while in the kettle. Dry scrubbers can be used for this purpose if spark arrestors and settling chambers are installed to trap sparks. According to the Secondary Lead Association, this is a demonstrated and viable technology option. Dry scrubbing is not required at BAT because of the extensive retrofit costs of switching from wet to dry scrubbing. This NSPS requirement will not present any barrier to entry of new plants. NSPS will reduce the discharge of toxic metals from new secondary lead plants.

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 promulgating pretreatment standards, the Agency examined 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 a well-operated POTW, achieving secondary treatment, the Agency compares the percentage of a pollutant removed by POTW with the percentage removed by direct dischargers applying the best available technology economically achievable. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTW meeting secondary treatment requirements, is less than the percentage removed by direct dischargers complying with BAT effluent limitations guidelines for that pollutant. (See generally, 46 FR 9415–16 (January 28, 1981).)

EPA is promulgating PSES based on the application of technology equivalent to BAT, which consists of end-of-pipe treatment comprised of lime precipitation and settling followed by multi media filtration. Sulfide precipitation is also part of the model technology in two subcategories. Preliminary treatment for the control of cyanide, ammonia, and phenolics, where needed, is also a part of the model technology. In each case, we find that PSES is necessary to prevent pollutant pass-through. We find, in addition, that promulgated PSES is economically achievable for each subcategory.

The pass-through analysis performed by the Agency at proposal has been revised based on the revised pollutant removal estimates. In addition, the Agency has established removal rates of arsenic, antimony, and fluoride in well-operated POTW. At proposal, the Agency assumed that these pollutants were not effectively controlled by a POTW and that they would pass through. Data obtained from the 40-plant POTW study (the Agency's standard source for POTW removal efficiencies), show that arsenic and antimony will be reduced by a well-operated POTW by 65 and 60 percent, respectively. Limited data available to the Agency indicate complete pass through of fluoride occurs under most normal POTW operating conditions. For the remaining pollutants, the average percentage removed nationwide by well-operated POTW meeting secondary treatment requirements has remained unchanged since proposal. A discussion of pollutant pass-through for each subcategory is presented in subsequent paragraphs.

The PSES set forth in this final rule are expressed in terms of mass per unit of production rather than as concentration standards. Regulation on the basis of concentration is not appropriate for this category because flow reduction is a significant part of the model technology for pretreatment. Mass-based standards are necessary to assure that the effluent reduction

benefits associated with this flow reduction are obtained. (See 48 FR at 7051 and the supplemental development documents for a fuller explanation.) Although we proposed alternative mass-based and concentration-based PSES for two subcategories, concentration-based PSES are no longer appropriate because, in each of these subcategories, we have revised the flow allowances since proposal and the flow reductions now specified justify mass-based PSES.

Primary Aluminum

We are not promulgating pretreatment standards for existing sources for the primary aluminum smelting subcategory since there are no existing indirect dischargers.

Secondary Aluminum

We are promulgating PSES equal to BAT for this subcategory. It is necessary to adopt PSES to prevent pass-through of lead, zinc, phenol, and ammonia. (We are not regulating aluminum at PSES because it does not pass through or interfere with POTW operation. See 48 FR at 7064.) The toxic pollutants are removed by well-operated POTW on an average of 53 percent (lead—49 percent, zinc—65 percent, phenol—96 percent, and ammonia—0 percent), while BAT technology removes approximately 98 percent of each pollutant. With respect to ammonia, most POTW in the United States are not designed for nitrification. Hence, aside from incidental removal, most if not all of the ammonia introduced into POTW from secondary aluminum operations will pass through into receiving waters without treatment.

The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration, with phenols preliminary treatment by activated carbon where necessary. Monitoring and compliance for the phenols limitation is to be conducted and demonstrated at-the-source, for the same reasons as for direct dischargers. See also 46 FR at 9442 (January 28, 1981) (dilution by pretreaters prohibited as substitute for treatment). Flow reduction for the selected technology option over current discharge rates represents a 75 percent reduction in flow. The achievable concentrations used to develop the mass limitations for PSES are identical to those used to develop the BAT limitations.

Implementation of the promulgated PSES limitations would remove an estimated 11,300 kg/yr of toxic pollutants, 96 kg/yr of ammonia, and 212 kg/yr of phenol, over estimated current discharge. Removals over estimated raw discharge are approximately 11,300 kg/yr of toxic pollutants 212 kg/yr of phenol and 96 kg/yr of ammonia. The final PSES mass limitations will remove 12 kg/yr of toxic metals over the intermediate PSES option considered, which lacks filtration. Both options are economically achievable, and both prevent pass-through. We therefore are selecting PSES equal to BAT. The estimated capital cost for achieving PSES is $2.2 million, and the annual cost of $0.8 million.

The Agency proposed alternative concentration-based standards in this subcategory because flow reduction was not an integral part of the model treatment technology. However, with the addition of ingot conveyor casting based on 90 percent recycle for plants without demagging wet scrubbers and 100 percent casting water reuse for those plants operating demagging scrubbers, the Agency is promulgating mass-based standards to assure that the effluent reduction benefits associated with the flow reduction are achieved.

Primary Copper Smelting

We are not promulgating pretreatment standards for existing sources for the primary copper smelting subcategory since there are no existing indirect dischargers.

Primary Electrolytic Copper Refining

We are not promulgating pretreatment standards for existing sources for the primary copper electrolytic refining subcategory because there are no existing indirect dischargers.

Secondary Copper

EPA promulgated PSES for the secondary copper subcategory on December 15, 1976 (41 FR 48650). The 1976 PSES allow a continuous discharge of process wastewater subject to specific limitations based on treatment with lime precipitation and sedimentation. BPT and BAT for this subcategory, promulgated in 1975, are also based on lime precipitation and sedimentation; however, they also include cooling towers and holding tanks for the purpose of achieving no discharge of process wastewater. We therefore proposed that PSES be amended to be zero discharge so as to be equivalent to promulgated regulations for direct dischargers. PSES also is necessary to prevent pass-through of copper, lead, nickel, and zinc based on our comparison of BAT (100 percent removal) with well-operated POTW removals (copper—58 percent, lead—48 percent, nickel—19 percent, and zinc—65 percent).

Comments received by the Agency claimed that 100 percent recycle was not feasible because of product quality constraints. We know of no reason this should be true (especially since direct dischargers already are operating under this requirement). The Agency also solicited additional information on this point through a Section 308 request; however, no data were submitted to substantiate the commenters' claim. The data submitted by the commenter, however, indicate that the casting referred to in the original comments is continuous rod casting. Continuous copper rod casting is principally a copper forming or foundry operation because the copper is formed immediately after casting. Casting of products at copper forming facilities will be regulated under the Metal Molding and Casting (foundries) Point Source Category where continuous rod casting will receive a discharge allowance.

Implementation of the PSES would remove an estimated 9,400 kg/yr of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 9,500 kg/yr of toxic pollutants. The estimated capital cost for achieving the promulgated PSES is $654,000, and the annual cost is $160,000. At proposal, the Agency did not anticipate any compliance costs because the 1976 PSES appeared to require technology that would enable facilities to achieve zero discharge (as well as achieve the 1976 promulgated PSES). However, this treatment equipment is not uniformly in place. Therefore, the costs shown above represent treatment not in place that is required to achieve zero discharge.

Primary Lead

We did not propose pretreatment standards for existing sources for the primary lead subcategory because there were no existing indirect dischargers at proposal. However, with the addition of flow allowances for wastewaters generated due to occupational hygiene needs, three plants previously considered as zero discharge operations now have discharges. Specifically, these wastewater sources are employee handwash, respirator wash, laundering of employee uniforms, and facility washdown. Therefore, the Agency is promulgating PSES standards for this subcategory equivalent to BAT technology to prevent the pass-through of arsenic, cadmium, lead, and zinc. It is feasible and less expensive for these three plants to segregate this wastewater and recycle it to slag or speiss granulation, which is currently zero discharge at these plants. These flows are a small percentage (less than 5 percent) of the process waters, and

therefore, their addition will have a negligible effect on the water balance. Therefore, our compliance costs estimates are based on segregation and recycle (or evaporation) rather than treatment. The toxic pollutants are removed by well-operated POTW on an average of 52 percent (cadmium—38 percent, copper—58 percent, lead—48 percent, arsenic—65 percent), while we estimate PSES will remove 100 percent.

Implementation of the promulgated PSES limitations will remove an estimated 117 kg/yr of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 117 kg/yr of toxic pollutants. Capital cost for achieving PSES is $38,000, and annual cost is $5,000. These costs represent the cost of segregating these waste streams.

Primary Zinc

We did not propose pretreatment standards for the primary zinc subcategory. We now are promulgating PSES equal to BAT because we have learned that one primary zinc plant previously thought to be a zero discharger is actually an indirect discharger. Promulgation of PSES for primary zinc will prevent the pass through of cadmium and zinc. Cadmium and zinc are removed by a well-operated POTW at an average rate of 52 percent (cadmium—38 percent, zinc—65 percent), while the BAT technology removes approximately 84 percent. The BAT limitations also limit copper and lead. However, as shown in the supplemental development document, the Agency has determined that these pollutants will not pass through, so they are not limited at PSES for this subcategory.

Implementation of the PSES limitations would remove an estimated 207 kg/yr of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 685,000 kg/yr of toxic pollutants. The final PSES effluent mass limitations will remove 650 kg/yr of toxic metals over the intermediate PSES option considered, which lacks filtration. Both options are economically achievable and both prevent pass-through. We therefore are selecting the BAT-equivalent option. (Filtration as an end-of-pipe treatment technology also is currently demonstrated by one plant in the subcategory.) The estimated capital cost for achieving PSES is $122,000, and the annual cost is $38,000.

Metallurgical Acid Plants

We are promulgating PSES equal to BAT for this subcategory. Promulgation of PSES for the metallurgical acid plant subcategory will prevent pass-through of cadmium and zinc. These pollutants are removed by POTW on an average of 52 percent (cadmium—38 percent, zinc—65 percent), while the BAT technology removes an estimated 84 percent.

We estimate that the final PSES limitations will remove 330 kg/yr toxic pollutants over the intermediate option, which lacks filtration. Since both options are economically achievable and both prevent pass-through, we are promulgating PSES equal to BAT. Implementation of the promulgated PSES will result in an estimated capital cost of $161,000 and annual cost of $55,000.

We did not propose PSES for metallurgical acid plants even though there is one existing indirect discharging metallurgical acid plant. At proposal, it was estimated that this plant currently discharged less pollutants than would be allowed under PSES because its wastewater discharge rate was much less than that allowed. The revised removal estimates, however, indicate that the PSES technology will remove 367 kg/yr of toxic metals over current discharge estimates.

Primary Tungsten

We are promulgating PSES equal to BAT for this subcategory. It is necessary to promulgate PSES to prevent pass-through of lead, zinc, and ammonia. These toxic pollutants are removed by a well-operated POTW at an average of 40 percent (lead—48 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 78 percent. The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. Flow reduction for the selected technology represents a 68 percent reduction in flow over current discharge rates.

Implementation of the promulgated PSES limitations would remove annually an estimated 339 kg of toxic pollutants over estimated current discharge, and an estimated 63,000 kg of ammonia. Removals over estimated raw discharge are approximately 3,400 kg of toxic pollutants and 63,320 kg of ammonia. The final PSES effluent mass limitations will remove 91 kg/yr of toxic metals over the intermediate PSES option considered, which lacks filtration. Both options are economically achievable, and pass-through occurs at both options. We believe the incremental removal justifies selection of filtration as part of PSES model technology as does the need to base PSES on BAT-equivalent technology. The estimated capital cost for achieving PSES is $568,000, and annual cost is $308,000.

Primary Columbium-Tantalum

We are promulgating PSES equal to BAT for this subcategory. It is necessary to promulgate PSES to prevent pass-through of lead, zinc, fluoride, and ammonia. These toxic pollutants are removed by well-operated POTW at an average of 28 percent (lead—48 percent, zinc—65 percent, fluoride—0 percent, and ammonia—0 percent), while BAT technology removes approximately 99.7 percent. The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. Flow reduction for the selected technology represents an 80 percent reduction in flow over current discharge rates.

Implementation of the promulgated PSES limitations would remove an estimated 18,330 kg/yr of toxic pollutants over estimated current discharge, an estimated 290,466 kg/yr of ammonia, and an estimated 111,200 kg/yr of fluoride. Removals over estimated raw discharge are approximately 18,590 kg/yr of toxic pollutants, 290,460 kg/yr of ammonia, and 400,175 kg/yr of fluoride. The final PSES effluent mass limitations will remove 57 kg/yr of toxic metals over the intermediate PSES option considered, which lacks filtration. Both options are economically achievable and both prevent pass-through. We thus are selecting PSES equal to BAT. The estimated capital cost for achieving PSES is $1.0 million, and annual cost is $0.5 million.

Secondary Silver

We are promulgating PSES equal to BAT for this subcategory to prevent pass-through of copper, zinc, and ammonia. These toxic pollutants are removed by 65 percent in a well-operated POTW on an average of 49 percent (copper—58 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 97 percent. The technology basis for PSES is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. Flow reduction for the selected technology represents a 23 percent reduction in flow over current discharge rates.

Cyanide has not been chosen as a regulated pollutant parameter on a subcategory-wide basis for secondary silver. However, these plants process plating solutions, which may contain cyanide, to recover silver contained in the solution. Cyanide is present due to

its use as a process chemical in plating solutions. The control authority should check for the presence of cyanide in this waste stream and develop discharge limitations if necessary. This issue is discussed in greater detail in the BPT discussion for secondary silver.

Implementation of the promulgated PSES limitations would remove an estimated 1,971 kg/yr of toxic pollutants over estimated current discharge, and an estimated 42,900 kg/yr of ammonia. Removals over estimated raw discharge are approximately 4,259 kg of toxic pollutants and 42,900 kg of ammonia. The final PSES effluent mass limitations will remove 13 kg/yr of toxic metals over the intermediate PSES option considered, which does not include filtration. Both options are economically achievable, and both prevent pass-through. Filtration is currently demonstrated by eight indirect discharging secondary silver plants. We therefore are promulgating PSES equal to BAT. The estimated capital cost for achieving PSES is $630,000, and the annual cost is $317,000.

Secondary Lead

We are promulgating PSES equal to BAT for this subcategory. It is necessary to promulgate PSES to prevent pass-through of antimony, arsenic, lead, zinc, and ammonia. These pollutants are removed by well-operated POTW at an average of 48 percent (antimony—60 percent, arsenic—65 percent, lead—48 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 80 percent. A zero discharge limitation for ammonia is being promulgated as discussed under BPT earlier. The technology basis for PSES thus is lime precipitation and sedimentation, wastewater flow reduction and filtration. Flow reduction for the selected technology represents a 38 percent reduction in flow over current discharge rates.

Implementation of the promulgated PSES limitations would remove annually an estimated 15,531 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 46,500 kg of toxic pollutants. The final PSES effluent mass limitations will remove 620 kg/yr of toxic metals over the intermediate PSES option considered, which lacks filtration. Both options are economically achieveable and both prevent pass-through. Filtration is currently demonstrated by five indirect discharging secondary lead plants. We therefore are adopting PSES equal to BAT. The estimated capital cost for achieving PSES is $4.3 million, and the annual cost is $1.5 million.

PSNS: EPA is promulgating PSNS based on end-of-pipe treatment and in-process controls equivalent to that used as the basis for PSNS. The flow allowances for NSPS are also the same as those for NSPS. As discussed under PSES, pass-through of the regulated pollutants will occur without adequate pretreatment and, therefore, pretreatment standards are required. We are promulgating mass-based PSNS for all subcategories to assure that the effluent reduction benefits associated with flow reduction technologies are obtained in new plant designs. For each subcategory, we find that the effluent reduction benefits achieved reflect those achievable with the best demonstrated technology, and that the costs of achieving these reductions will not pose a barrier to entry for new sources. The promulgated PSNS limitations for each subcategory are discussed below.

Primary Aluminum

The technology basis for promulgated PSNS is identical to NSPS. We are promulgating limitations for benzo(a)pyrene, cyanide, nickel, and fluoride to prevent pass-through. Nickel is removed by a well-operated POTW at a rate of 19 percent while the POTW removal of cyanide is 56 percent. Limitations for antimony have not been established because it was shown that a well-operated POTW removes 60 percent and the Agency estimates the model BAT treatment technology will remove 55 percent. Fluoride is limited for PSNS because it passes through POTW. Pass-through data are not available for benzo(a)pyrene; however, pass-through data for five other polynuclear aromatic hydrocarbons do not exceed 83 percent, while BAT technology removes approximately 99 percent.

Secondary Aluminum

The technology basis for the promulgated PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass through as at PSES, for the same reasons. We know of no demonstrated technology that is better than PSES technology because the only other flow reduction technology available is neither demonstrated nor clearly transferable to this subcategory. Because PSNS does not increase costs compared to PSES or BAT, we do not believe PSNS will prevent entry of new plants.

Primary Copper Smelting

The technology basis for promulgated PSNS is identical to NSPS, which is zero discharge of all process wastewater, with no allowance for catastrophic stormwater discharge. We do not believe there are any incremental costs associated with PSNS. Consequently, we do not believe that PSNS will prevent entry of new plants. PSNS will prevent the pass-through of copper, arsenic, and nickel. A well-operated POTW will remove these pollutants on an average of 47 percent (copper—58 percent, arsenic—65 percent, and nickel—19 percent). PSNS technology in comparison will remove 100 percent of these toxic pollutants.

Primary Copper Electrolytic Refining

The technology basis for promulgated PSNS is identical to BAT and NSPS. We know of no economically feasible, demonstrated technology that is better than BAT. All process wastewater discharge is eliminated at BAT except casting contact cooling water and spent electrolyte. Casting contact cooling water blowdown is minimized through the use of 90 percent recycle in a cooling tower circuit. PSNS prevents the pass-through of copper, arsenic, and nickel, which are the regulated pollutants. A well-operated POTW will only remove these pollutants at an average of 47 percent (copper—58 percent, arsenic—65 percent, and nickel—19 percent). The model BAT technology was shown to remove 92 percent of these metals. Because PSNS does not increase costs compared to PSES or BAT, we do not believe PSNS will prevent the entry of new plants.

Secondary Copper

The technology basis for promulgated PSNS is identical to NSPS, PSES, and BAT, which is zero discharge of all process wastewater (including no allowance for catastrophic stormwater discharges). PSNS is necessary to prevent pass-through of copper, lead, nickel, and zinc based on our comparison of BAT (100 percent removal) with well-operated POTW removals (copper—59 percent, lead—48 percent, nickel—19 percent, and zinc—65 percent). Because PSNS does not increase costs compared to PSES or BAT, we do not believe that PSNS will prevent the entry of new plants.

Primary Lead

The technology basis for promulgated PSNS is identical to NSPS. We know of no demonstrated technology that provides better pollutant removal than PSNS technology. PSNS prevents the pass-through of lead and zinc. A well-operated POTW removes these pollutants on an average of 57 percent (lead—48 percent and zinc—65 percent).

NSPS technology will remove in excess of 80 percent of these two toxic metals. The Agency believes the elimination of the process wastewater sources can be accomplished without additional cost beyond BAT-equivalent costs. Therefore, we believe that PSNS will not prevent the entry of new plants.

Primary Zinc

The technology basis for PSNS is identical to NSPS, BAT, and PSES. The same pollutants pass through as at PSES, for the same reasons. We know of no demonstrated technology that provides better pollutant removal than NSPS and BAT technology. The NSPS and BAT flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater.

Metallurgical Acid Plants

The technology basis for PSNS is identical to NSPS, PSES, and BAT. PSNS prevents the pass-through of arsenic, cadmium, copper, lead, and zinc, which are the regulated pollutants. We know of no demonstrated technology that provides better pollutant removal than PSES technology. The acid plant blowdown allowance at PSES is based on 90 percent recycle. 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 Tungsten

The technology basis for promulgated PSNS is identical to NSPS, PSES, and BAT. 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. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of sedimentation basins for wet scrubbing wastewater. Because PSNS does not include any additional costs compared to NSPS and PSES, we do not believe it will prevent entry of new plants.

Primary Columbium-Tantalum

The technology basis for promulgated PSNS is identical to NSPS, PSES, and BAT. 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. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of lime precipitation and sedimentation to remove fluoride for wet scrubbing wastewater. Because PSNS does not include any additional costs compared to NSPS and PSES, we do not believe it will prevent entry of new plants.

Secondary Silver

The technology basis for promulgated PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass through as at PSES, for the same reasons. We know of no demonstrated technology that is better than PSES technology. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of sedimentation basins for wet scrubbing wastewater. Because PSNS does not include any additional costs compared to NSPS and PSES, we do not believe it will prevent the entry of new plants.

Secondary Lead

The technology basis for promulgated PSNS is identical to NSPS. The same pollutants pass through as at PSES, for the same reasons. We know of no demonstrated technology that is better than NSPS technology. The PSNS flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. Dry scrubbing is also included for kettle air pollution control for the reasons provided in NSPS. Because PSNS does not include any additional costs compared to NSPS, we do not believe it will prevent the entry of new plants.

VI. Economic Considerations

A. Compliance Costing Methodology

The Agency has, to some extent, revised its cost estimation methodology for the nonferrous metals manufacturing category between proposal and promulgation of this final rule. These revisions have reflected a more detailed engineering analysis of each plant so that estimated costs better represent the actual cost to each plant for compliance with the regulations contained herein. This means of estimating costs is very similar to that used at proposal, except that costs are evaluated for each individual plant so as to account for actual treatment in place and for regulatory flows. These changes respond to comments that the Agency had failed to account properly for compliance costs at individual plants.

First, we developed a computer model that, using production and flow data that are specific to each plant, performs material balances for the plant's wastewater treatment processes. These material balances form the basis for design of each process in the system. The resulting designs are then used as input to a cost estimation routine that calculates investment as well as operation and maintenance (O&M) costs for each component in the treatment system. The model then adds 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. In response to comments, the design data base used in the model relies more heavily on actual practice in this category than did the data base used for proposal. Similarly, the cost data base is more up-to-date and relies more heavily on actual equipment vendor quotes than the data base used for proposal.

Other changes in methodology also affect the total compliance cost estimates for this category. First, at proposal, the Agency retained costs for equipment already installed by a plant (i.e., treatment-in-place). For promulgation, the Agency has revised this procedure to 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. (The only exception is when equipment is in place and is required by the existing regulation. In this situation annual costs already were assessed when the existing regulation was promulgated.) This revision more properly accounts for the costs that would be incurred by the plant to achieve the limitations set forth in this rule.

Second, the procedure for calculating flows to the treatment system has been revised. For each regulatory option and waste water source, the Agency has established a flow allowance. At proposal, the actual flow reported by a plant for each of these sources was used as the basis for cost estimation, regardless of the relationship of each flow to the corresponding regulatory flow from that source. At promulgation, the actual wastewater flow 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 do not

currently achieve the regulatory flow allowances. (Costs for installation and operation of equipment necessary to achieve these flow reductions are, of course, included.)

Third, several cost and design assumptions differ between the two methodologies. Among the most significant of these, all made in response to comment, are the following: (1) the dollar base has changed from 4th quarter 1976 to March of 1982; (2) the amortization includes changes in interest rate and recovery period; and (3) no excess capacity was included at proposal while 20 percent excess is used for promulgation.

B. General Cost Assumptions for the Nonferrous Metals Manufacturing Phase I Category

The following general assumptions apply to cost estimation in all subcategories:

(1) Unless otherwise specified, all wastewater treatment sludges are considered to be nonhazardous.

(2) 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 4-inch piping (with valves, pipe racks, and elbows) for each stream. Where a common stormwater-process wastewater system appeared to be used at the plant the segreagation costs were estimated on the basis of 500 feet of 4-inch piping (with valves, pipe racks, and elbows). Stormwater is segregated by including costs for installation of 300 feet of 2-foot diameter underground concrete pipe to route stormwater around the treatment system.

(3) 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.

(4) Where a plant has wastewater sources from two nonferrous phase I subcategories (e.g., metallurgical acid plant blowdown and primary zinc 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 no undergo flow reduction. Thus is only the acid plant blowdown from a combined zinc and metallurgical acid plant undergoes flow reduction, all incremental costs are assigned to the metallurgical acid plant subcategory, and the compliance costs estimated for the primary zinc 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 cost calculated remains the same.)

(5) In most cases, where a plant has wastewater sources from the nonferrous phase I category and a category other than nonferrous manufacturing (for example, aluminum forming) we calculated the costs of segregating these different wastewaters. (The only exception, described below, is for three secondary lead operations occurring at battery manufacturing plants where we estimated costs for combined treatment.) 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 (described more fully below) where the Agency was knowingly conservative in estimating compliance costs.)

The cost estimation methodology for each subcategory is discussed in greater detail in the following paragraphs.

Primary Aluminium

Costs are estimated for three treatment options in the primary aluminuim subcategory: preliminary treatment consisting of cyanide precipitation and oil skimming, flow reduction, lime, and settle; preliminary treatment, flow reduction, lime, settle, and multimedia filtration; and preliminary treatment, flow reduction, lime, settle, multimedia filtration, and activated carbon adsorption. Six major assumptions were made in estimating plant compliance costs for each treatment option:

(1) Compliance costs for oil/water separation, flow reduction via cooling towers, and lime and settle are necessary to meet the previously promulgated BPT regulation for certain waste streams. These costs are not included in the current compliance costs if the treatment is in place and of sufficient capacity. If additional capacity is required to treat waste streams not considered in the promulgated BPT regulation, the cost for this capacity is included in the compliance cost estimate.

(2) In our consideration of activated carbon adsorption as an end-of-pipe technology, each plant is analyzed to determine whether separate or combined treatment of the organic-bearing and organic-free waste streams is economically justified. The least costly configuration is then used to estimate compliance costs.

(3) Sludge generated by lime and settle treatment is assumed to be a hazardous waste when polynuclear aromatics are removed.

(4) Cyanide precipitation is included as a preliminary treatment step on cyanide-bearing wastewaters only. These waters originate only in cathode reprocessing facilities used by four plants. We included hazardous waste disposal costs for the sludges generated by cyanide precipitation.

(5) Capital and annual costs for plants discharging in both the primary and secondary aluminum subcategories are based on a combined treatment system and were apportioned to each subcategory on a flow-weighted basis.

(6) Capital and annual costs for plants discharging in both the primary aluminum subcategory and the aluminum forming category are based on separate treatment systems since the respective regulations are based on different technologies and control different pollutants. Segregation costs are included to separate the wastewaters.

Secondary Aluminum

Costs are estimated for two treatment options in the secondary aluminum subcategory: preliminary treatment consisting of oil skimming, flow reduction, lime, and settle; and oil skimming, flow reduction, lime, settle, and multimedia filtration. Activated carbon adsorption is included as a preliminary treatment step for delacquering wet air pollution control. Six major assumptions were made in estimating the compliance costs for these options:

(1) Annual costs (except for amortized investment) for lime and settle treatment are incurred to comply with the promulgated BPT regulation. These costs are not included in the current regulation if lime and settle treatment is in place.

(2) Chemical precipitation costs are based on lime addition except for plants that currently utilize sodium hydroxide or soda ash. In these cases, sodium hydroxide addition is assumed for cost estimation.

(3) Activated carbon adsorption is included as a preliminary treatment step for delacquering scrubber blowdown to control phenolics. Analytical data supplied to the Agency indicate TSS concentrations are small enough not to

cause plugging, so pretreatment prior to entering the column is unncessary.

(4) Ammonia steam stripping is included as a preliminary treatment step for waste streams that contain ammonia. Since the stream requirements for such treatment may exceed the excess steam generation capacity of a given plant, a steam generation unit is included in the costs.

(5) The ingot conveyor casting contact cooling water is routed to the demagging scrubbing operation (if this operation was present), and the costs of this routing are included. When demagging is not practiced at the plant, compliance costs are based on 90 percent recycle through cooling towers.

(6) Capital and annual costs for plants discharging in both the secondary and primary aluminum subcategories are based on a combined treatment system and are apportioned to each subcategory on a flow-weighted basis.

Primary Copper Electrolytic Refining

Costs are estimated for two treatment options: flow reduction with lime and settle, and flow reduction with lime and settle and multimedia filtration. Costs for sulfide precipitation and filter treatment were also determined for one primary copper plant which discharges acid plant blowdown and copper refinery wastewater. However, the costs associated with sulfide precipitation on the total flow were attributed entirely to the metallurgical acid plant subcategory because the refinery wastewater contributes only a small fraction of the combined discharge. Three major assumptions made in estimating the costs of treatment options for plants in the primary copper subcategory are detailed below:

(1) Zero discharge of the anode and cathode rinse waste stream is accomplished via in-plant process modifications. As such, no compliance costs are attributable to this regulation.

(2) Because the compliance costs only represent incremental costs that primary copper refineries may be expected to incur in complying with this regulation, operation and maintenance costs for in-place treatment used to comply with the previously promulgated BPT regulation for this subcategory are not included in a plant's total cost of compliance for this regulation.

(3) Capital and annual costs for the plant discharging wastewater in both the primary copper and metallurgical acid plant subcategories are attributed to each subcategory on a flow-weighted basis.

(4) No cost is included for direct discharges to comply with elimination of net precipitation allowances for primary copper plants. This requirement was included in modified BPT limitations promulgated in 1980.

Secondary Copper

Costs for direct dischargers are estimated for two treatment options: lime and settle; and flow reduction with lime and settle to achieve 100 percent recycle of all treated water in the plant. Major assumptions made in estimating the costs of treatment options for plants in the secondary copper subcategory are detailed below:

(1) Monitoring costs are not included for 100 percent recycle since the option is zero discharge.

(2) Where equipment of sufficient treatment capacity is in place, annual costs are not included since these were incurred by the existing PSES regulation. However, costs for cooling towers, which were not included under promulgated PSES are included for this regulation.

(3) No cost is included for direct dischargers to comply with elimination of net precipitation allowances.

Primary Lead

Costs are estimated for two treatment options: flow reduction, lime and settle; and flow reduction, lime, settle, and multimedia filtration. Costs for sulfide precipitation and settle treatment are also estimated for those primary lead plants which reported a discharge of acid plant blowdown. However, the costs associated with sulfide precipitation are attributed to the metallurgical acid plant subcategory because the lead smelter contributes only a small portion of the total discharge. Four major assumptions made in estimating the costs of treatment options for plants in the primary lead subcategory are detailed below:

(1) Regulatory flow allowances were developed for three waste streams attributable to industrial hygiene requirements: handwash, respirator wash water, and laundering of uniforms. These discharges are routed to lime and settle treatment along with other process waste streams (and the treatment system size is increased to accommodate this increased flow) unless the data indicated that a plant does not discharge process wastewater. In the latter case, it is assumed the plant can combine industrial hygiene waste streams with process wastewaters and still achieve zero discharge. This assumption is based on the fact that industrial hygiene wastewaters are a small percentage of the overall plant water use. Regulatory flows of industrial hygiene and other waste streams were used for cost estimation if a plant's actual discharge flow was unknown.

(2) Recycle of treated water for use as plant washdown water is accomplished via a 1,000 gallon tank, recycle piping, and a pump.

(3) Because the compliance costs only represent incremental costs that primary lead plants may be expected to incur in complying with this regulation, operation and maintenance costs for in-place treatment used to comply with the promulgated BPT regulation for this subcategory are not included in a plant's total cost of compliance for this regulation. However, a flow-weighted fraction of the annual cost was retained to represent treatment of the industrial hygiene and washdown flows, which are not covered by the promulgated BPT regulation.

(4) Capital and annual costs for plants discharging wastewater in both the primary lead and matallurgical acid subcategories are attributed to each subcategory on a flow-weighted basis. The entire cost for washdown recycle is attributed to the primary lead subcategory.

(5) No cost is included for direct dischargers to comply with elimination of net precipitation allowances.

Primary Zinc

Costs are estimated for two treatment options: flow reduction, lime, and settle; and flow reduction, lime, settle, sulfide precipitation and settle, and multimedia filtration. Four major assumptions made in estimating the costs of treatment options for plants in the primary zinc subcategory are detailed below:

(1) Zero discharge of the leaching scrubber water is accomplished by 100 percent recycle through a holding tank.

(2) Sludge generated by the sulfide precipitation and settle process is considered hazardous waste for disposal purposes.

(3) Because the compliance costs need only represent incremental costs which primary zinc plants may be expected to incur in complying with this regulation, annual costs for in-place treatment used to comply with the promulgated BPT regulation for this subcategory are not included in a plant's total cost of compliance for this regulation.

(4) Capital and annual costs for plants discharging wastewater in both the primary zinc and metallrgical acid subcategories are attributed to each subcategory on a flow-weighted basis.

Metallurgical Acid Subcategory

Costs were estimated for two treatment options: flow reduction, lime, and settle; flow reduction, lime, and

settle followed by sulfide precipitation, settle, and multimedia filtration. Sulfide and filter is used at one primary copper plant prior to lime, settle and filter treatment. Four major assumptions made in estimating the costs of treatment options for plants in the metallurgical acid subcategory are detailed below:

(1) Flow reduction of the acid plant blowdown is accomplished using cooling towers.

(2) Sludge generated by the sulfide precipitation and sedimentation (or filter) process is considered hazardous waste for disposal purposes.

(3) Because the compliance costs represent incremental costs an acid plant may be expected to incur in complying with this regulation, annual costs for in-place treatment used to comply with promulgated BPT regulations in the primary zinc and primary lead subcategories are also not included in this regulation.

(4) The cost of treating acid plant blowdown from acid plants in the primary copper, primary zinc, and primary lead subcategories is determined by flow-weighting appropriate costs. The entire cost of cooling towers for flow reduction of the acid plant blowdown is attributed to the metallurgical acid subcategory. Costs for sulfide precipitation and settle (or filter) are attributed to the metallurgical acid subcategory for primary lead plants. Sulfide precipitation costs are apportioned between the primary zinc or primary copper refining and metallurgical acid subcategories on a flow-weighted basis.

Primary Tungsten

Costs are estimated for three treatment options: lime and settle; flow reduction with lime and settle; and flow reduction with lime and settle and final effluent polishing with multimedia filtration. Ammonia steam stripping is included for preliminary treatment of ammonia-laden streams. Five major assumptions are made in cost estimation for this subcategory:

(1) For ammonia steam stripping, the design value for pH is 11.5 and the design effluent concentration of ammonia is 32.0 mg/l.

(2) Ammonia steam stripping steam requirements may exceed the excess steam generation capacity at any given plant. Therefore, a steam generation unit is included in the steam stripping costs.

(3) The lime dosage to the ammonia steam stripping process is based on the influent pH and the concentration of ammonia.

(4) Costs for plants discharging less than 50 gallons per week of total flow are based on contract hauling of the entire discharge.

(5) Costs for ammonia removal for streams of less than 50 liters per hour (none of which are air pollution control streams) are estimated based on aeration and agitation in the chemical precipitation batch tank. Cost included a ventilation hood.

Primary Columbium-Tantalum

Costs are estimated for three treatment options in the primary columbium-tantalum subcategory: lime, and settle; flow reduction, lime, and settle; and flow reduction, lime settle, and multimedia filtration. Ammonia steam stripping is included for preliminary treatment of ammonia-laden wastewater. Four major assumptions were made in estimating the compliance costs for these options and are presented below:

(1) Several plants utilized sodium hydroxide addition for wastewater treatment. This type of treatment is not considered to be equivalent to lime addition due to the need to remove fluoride in the wastewater as calcium fluoride. We therefore included compliance costs for treating with lime for these plants.

(2) Ammonia steam stripping steam requirements may exceed the excess steam generation capacity at any given plant. Therefore, a steam generation unit is included in the steam stripping costs.

(3) Due to the large volume of wastewater treatment sludge generated by some plants in this subcategory, the costs of developing and maintaining nonhazardous sludge disposal sites are used instead of the normal contract hauling.

(4) We included the cost of segregation and treatment for one plant that currently commingles its wastewater and gangue. These costs eliminate any conceivable need for sludge disposal as a radioactive waste.

Secondary Silver

Costs are estimated for three treatment options: lime and settle; flow reduction, lime, and settle; and flow reduction, lime, settle, and multimedia filtration. Preliminary treatment with steam stripping is included for ammonia-laden streams. Four major assumptions made in estimating the costs of treatment options for plants in the secondary silver subcategory are detailed below:

(1) Since 23 of the plants whose compliance costs are estimated overlap with other nonferrous manufacturing subcategories or categories, costs are apportioned to each subcategory on a flow-weighted basis.

(2) Although a discharge allowance for floor wash is not necessary, a flow of 1 liter of floor wash per troy ounce is used for cost estimation purposes for each plant on the basis of total production of all precious metals (including silver) that results in precipitation and filtration wastewater. Since acceptable floor wash water may be obtained from recycling treated wastewater, costs are estimated for a holding tank after chemical precipitation and settling to recycle water for floor wash use under all options.

(3) Sodium hydroxide addition was used throughout the secondary silver subcategory in estimating costs for chemical precipitation since it is likely that most plants will recycle treatment plant sludges for additional metal recovery.

(4) When a plant reported recycle of treatment plant sludges, capital and annual costs for sludge handling (vacuum filtration and contract hauling) are not included. Where the sludge disposal method is reported as contract hauling, or is unknown, contract hauling costs are included assuming nonhazardous disposal.

Secondary Lead

Costs are estimated for three treatment options: lime and settle; lime, settle, and flow reduction; and lime, settle, and flow reduction followed by multimedia filtration. Five major assumptions made in estimating the costs of treatment options for plants in the secondary lead subcategory are detailed below:

(1) For plants having existing treatment of insufficient capacity, the required capital costs are based on providing the incremental capacity needed and annual costs are based on operation of a single system at the expanded capacity.

(2) Information available to the Agency is not detailed enough to determine if all industrial hygiene waste streams, truck wash and floor wash, are present at each plant. Therefore, where we had no information on these wastewater sources, we assume all of these are present at the regulatory flow rate. Although a discharge allowance for floor wash is not necessary, we are including extra treatment capacity to accommodate this need. Acceptable floor wash water may be obtained from recycling treated wastewater. Therefore, costs are included for a holding tank after chemical precipitation and settling to recycle water for floor wash use under all options.

(3) Lime addition is used in most cases throughout the secondary lead

subcategory in estimating costs for chemical precipitation. However, if a plant currently uses ammonia, soda ash, or caustic as the chemical precipitant, the costs are based on caustic addition.

(4) Annual costs for contract hauling are not included when sludge from existing treatment is recycled either to a smelter or back to a process. If a plant has a lagoon for sedimentation and sludge storage, the investment costs for sedimentation and vacuum filtration are not included since these technologies would probably not be installed to comply with the effluent limitations. However, operation and maintenance costs for these technologies (and contract hauling) were included as an estimate of the cost likely to be incurred by the plant to ultimately dispose of the sludge. All sludges produced through wastewater treatment are considered to be nonhazardous in estimating costs. However, our cost for solid waste disposal is equivalent to hazardous waste disposal. In addition, we performed a sensitivity analysis in which sludge disposal costs were doubled without an increase in plant closures.

(5) Compliance costs for three plants that are integrated with battery manufacturing operations are estimated only for multimedia filtration of the amount of wastewater associated with secondary lead operations. The treatment configuration costed assumes filtration of an amount of wastewater equal to the secondary lead flow, following centralized lime and settle treatment of combined flows. We adopted this method of costing because the plants are battry manfacturing plants, and the wastewater from the manufacturing operations is very large in comparison to the secondary lead wastewater flow. Therefore, all other compliance costs will be attributed to the battery manufacturing regulation.

C. Specific Instance of Conservative Costing

In developing compliance costs, we made several assumptions that are conservative and may lead to some overestimation of compliance costs in certain subcategories. Each of these assumptions is discussed below.

(1) In the four subcategories where BPT or PSES have not been previously promulgated, the annual costs for each treatment step in each option were always retained even though a plant may be currently operating part or all of the treatment steps. We believe this assumption is conservative because a facility will continue to operate and incur annual costs of its treatment system regardless of this regulation because of NPDES permits or municipal pretreatment requirements.

(2) In those instances where sludge is disposed of on site, stored in a lagoon, or disposal practices are unknown, we included annual costs for vaccum filtration and contract hauling. This assumption is conservative because these plants will not experience sludge disposal costs as high as we have assumed. This regulation does not prescribe sludge disposal practices and, therefore it is unlikely that current disposal practices will change for most subcategories. Since contract hauling is in general more expensive than onsite disposal, we believe our costs are higher than most plants will actually experience.

(3) Many of the plants in the nonferrous metals manufacturing category are integrated facilities. For these plants, we costed segregation of wastewater and developed compliance costs only for nonferrous metals manufacturing wastewaters. We believe this procedure may result in overestimation of costs because this approach does not consider the economies of scale of combined treatment.

Overall wastewater treatment costs are likely to be reduced when co-treatable wastewaters are combined for treatment rather than treating them separately.

(4) Hazardous waste disposal was costed for wastewater treatment sludges generated from the treatment of polynuclear aromatic hydrocarbons and cyanide in primary aluminum, in addition to all sludges generated from sulfide precipitation and sedimentation. This is a conservative assumption because wastewater treatment sludges at primary smelters and refiners are currently exempted from RCRA by administrative interpretation of statute.

(5) For the secondary lead subcategory, each plant recovering lead from scrap batteries was assumed to generate handwash, respirator wash, laundering of uniforms, truck wash, and facility washdown. Data (dcp) available to the Agency do not indicate the presence of these flows at most plants. Therefore, we include costs for additional treatment capacity for these waste streams based on our assumption that these flows are not currently treated (unless specific plant data indicated otherwise). This assumption does not consider that these waste streams are generated in response to OSHA standards promulgated after our Section 308 data were received. It is quite likely that, where these discharges are necessary, plants have accommodated these discharges by expanding treatment capacity, identifying recycle opportunities, or reducing flow from other operations. Therefore, our costs for expanding treatment capacity are probably unnecessary.

(6) In the secondary silver subcategory, each facility with precipitation and filtration wastewaters also is assumed to have floor wash based on our conclusion that efficient operation of secondary silver recovery includes recapture of silver from small plants. Although data (dcp) available to the Agency do not indicate the presence of floor wash at most plants, additional capacity is included in the costs for this waste stream. This approach probably includes costs for many plants that do not have this wastewater source and other plants that accommodate the discharge in existing treatment.

Caustic is used instead of lime to develop compliance costs for hydroxide precipitation in the secondary silver subcategory so that wastewater treatment sludges can be recycled. This assumption is conservative because not every plant in the subcategory will generate sludges that contain enough precious metal value to warrant recycle. Lime will probably be used at many plants due to the cost difference between lime and caustic.

(7) Combined treatment for all primary tungsten plants is included in our costs based on preliminary treatment with ammonia steam stripping followed by lime, settle, and filter treatment. Several of the waste streams that contain ammonia at treatable concentrations do not contain toxic metals. Therefore, using lime and settle treatment on all wastewaters is conservative because not all streams need this treatment. Individual plants could reduce treatment costs by treating those streams that need lime and settle treatment first, and then combine this effluent with all other wastewaters requiring ammonia steam stripping.

(8) We believe segregation costs for non-scope wastewaters at many plants may be overstated. New piping and installation costs are developed for each regulated process waste stream present when it appears a combined sewer is used to convey wastewater to treatment. We believe this assumption is conservative because a plant will not necessarily abandon its current sewer system and install piping for waste streams covered by this regulation. In many cases, other practices such as storm drainage diversion or eliminating nonprocess discharge sources may be less expensive.

In one specific instance, we developed compliance costs for a primary columbium-tantalum facility that we believe the plant may not incur. Wastewater treatment capital costs are included for this plant so that wastewater treatment sludge can be segregated from undigested gangue, which plant comments claim is a low-level radioactive waste. The plant presently uses a sedimentation pond to store wastewater treatment sludges and reportedly cannot dispose of them because of their radioactivity. If wastewater treatment sludges are separated from undigested gangue, the Agency believes the treatment sludges are nonhazardous and can be disposed of using conventional methods. (Even if contaminated, no federal regulations apply to land disposal of low level radioactive wastes.) However, this plant may find it less expensive to switch raw material sources or take other action to eliminate these costs.

(9) We assumed presence of all industrial hygiene streams at primary and secondary lead facilities in costing treatment equipment size, even though these streams are not uniformly present.

D. Analyses and Reports

The economic impact assessment is presented in *Economic Impact Analysis of Effluent Limitations and Standards for the Nonferrous Metals Manufacturing Industry, Phase I,* EPA 440/2–84–004. This document details the investment and annual compliance costs for the industry as a whole and for each metal covered by the regulation. The report assesses the impact of effluent control costs in terms of production cost changes, price changes, plant closures, employment effects, and balance of trade effects. These impacts are presented for each regulatory option. Compliance costs are based on engineering estimates of the capital and operating costs for the effluent control systems described earlier in this preamble. Costs are incremental above the effluent control equipment already installed. Operating and maintenance costs are included where there is treatment-in-place that is not required by an existing regulation. Operating and maintenance costs where treatment-in-place is mandated by existing regulations were not included in the compliance costs. Cost estimates include such associated costs as solid waste disposal.

EPA has also conducted an analysis of the incremental removal cost per pound equivalent for each of the technology-based options. Pound equivalents are calculated by multiplying the number of pounds of a pollutant by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper) divided by the water quality criterion for the pollutant being evaluated. The use of pound equivalents gives relatively more weight to removal of the more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. The results of this analysis are presented in "Cost-Effectiveness Analysis of Effluent Limitations and Standards for the Nonferrous Metals Manufacturing Industry, Phase I." This analysis is included in the record of this rulemaking.

E. Costs and Impacts

EPA has identified 148 manufacturing facilities that will incur costs to comply with this regulation; 65 are direct dischargers and 83 are indirect dischargers. There are also 152 facilities in this industry that do not discharge wastewater. Total investment requirements for existing dischargers are estimated to be $34 million, and total annual costs are $15 million, including depreciation and interest. These costs are expressed in 1982 dollars. The major economic impacts associated with these costs are two potential plant closures, five production line closures, and an employment loss of 62. These impacts are projected for the secondary silver subcategory. The potential production loss associated with these closures represents an insignificant portion of total production capacity for that subcategory. The changes to production costs and prices are expected to be small in all subcategories, ranging from less than 1 to 1.5 percent. Balance of trade effects are not significant. The Agency concludes, therefore, that the regulation is economically achievable.

In order to measure the potential economic effects, EPA divided the industry into 10 separate metal groups. For purposes of the economic analysis, primary copper smelters, refiners, and acid plants at the same site are treated as one economic subcategory because they are a single economic entity. Similarly, primary lead smelters and associated acid plants are one economic subcategory, and primary zinc smelters and associated acid plants are one economic subcategory.

The methodological approach used in the economic analysis at proposal was the focus of many public comments. Commenters argued that major assumptions from that report were incorrect, and that the conclusions of the analysis were invalid due to a flawed methology. In addition, many public comments claimed the report did not reflect accurate financial conditions. In response to these comments, the Agency revised the economic impact analysis. Much of the financial information for various metals was updated to account for the recent economic recession. Further, in response to comments, the revised analysis does not rely on the assumptions used in the proposal report, and instead includes many of the assumptions urged by the commenters.

The methodology in the revised analysis first uses a screening analysis to identify plants that will not incur substantial compliance costs. This approach has two major differences from proposal. First, as explained above, compliance cost estimates are generated on a plant-specific basis, which accounts for treatment-in-place and for regulatory flows. Second, we revised the perspective of the screening analysis to identify plants that will not have a significant impact, as opposed to identifying plants that will incur high impacts. The screening analysis is based on a comparison of a plant's annual compliance costs to its estimated revenues. The threshold value for the screen was lowered from 5 percent to 1 percent to correspond to the change in perspective and in response to comments.

For the plants that had screening analysis results greater than 1 percent, we conducted a plant closure analysis. This part of the analysis is based on the same conceptual framework as referenced in the proposed report (see also 48 FR 7069 explaining how plant closure analysis is conducted), but the specific tests have been revised to correspond to the more current financial information. As at proposal, we used two plant closure tests: a net present value test and a liquidity test. The net present value part of the analysis focuses on long-term profitability; the viability of the plant is judged by a comparison of its cash flows to its liquidation value. The liquidity test addresses short-term viability and focuses on affordability during the first few years of compliance.

The Agency's assumptions at proposal concerning projected prices were the source of many comments, and the issue of price pass-through was closely related. In the revised analysis, projected prices are based on an average of prices over the last five years, which takes into account the depressed prices of the early 1980's, includes a complete business cycle for most metals, and reflects the expected

and ongoing economic recovery. With respect to price pass-through, the revised closure analysis is based on the assumption of zero pass-through; that is, plants are assumed to absorb all of the compliance cost. This assumption is conservative in that the analysis is based on the most extreme situation: the entire increase to production cost is assumed to affect the plant's profit situation. The extreme was chosen to avoid overlooking potential impacts and is responsive to comments.

We also calculated other economic impacts as part of the analysis, even though they were not specifically included in the plant closure tests. These impacts included changes to cost of production, increase in price (based on an assumption of full pass-through, even though the opposite assumption was used for the plant closure tests), changes to return on investment, and comparison of compliance investment costs to average annual capital expenditures.

As part of revising the analysis, we made an effort to update information on financial conditions in order to base the impacts on more accurate projections. We consolidated the economic subcategories into groups of metal processes (e.g., manufacturing primary metals or reclamation of precious metals) and collected financial information for these processes on an economic group basis. These procedures and their limitations are described in detail in the report. The major assumption underlying the use of these economic groups is that an individual plant will have characteristics similar to its group. In some cases, as a check on this assumption, we conducted sensitivity analyses to assess the impact of these assumptions on the report's conclusions.

In the preamble to the proposed rules, the Agency identified three subcategories in which changing market structure required a re-evaluation of assumptions regarding profitability. These subcategories are secondary silver, secondary lead, and primary copper.

In the secondary silver subcategory, the Agency was concerned that toll processors and their position in the silver market was not adequately characterized. The Agency solicited comments on forming a separate subcategory for toll operations. We received none. Further analysis of the tolling segment indicates that a separate subcategory is not necessary. The impacts associated with compliance costs can be assessed without making an adjustment for ownership. In the revised economic analysis, income is estimated in the same manner for all plants.

With respect to the plant closures that were projected at proposal, the Agency solicited comments on establishing different limitations for small producers. While we did not receive any comments on this issue, the Agency has specifically addressed the effects on small plants in the revised economic analysis. The results again project a small number of plant and production line closures. These results are not considered to be substantial, and the regulation is considered to be economically achievable for both small and large plants.

For the secondary lead subcategory, the Agency was concerned about market shifts, and we solicited comments on prices, profitability, and capacity. Industry's comments addressed each of these parameters. We have considered the information in these comments and incorporated it, where possible, in the revised economic analysis. This included, for example, industry and plant-specific information as well as descriptions of types of plants. Further, several plants participated in a data-gathering effort that included case studies. Thus, the economic conditions of the industry during recent years have been incorporated in the analysis. Many of these concerns were also addressed by performing sensitivity analyses, which varied the assumptions on compliance costs, prices, and group financial data. Hence, the Agency's concerns at proposal have been addressed in this final rulemaking.

Market shifts and falling prices in the copper refining segment were also of concern to the Agency for their effect on properly assessing the economic impact of effluent guideline costs. Through additional data gathering efforts and industry's comments, we believe we have adequately assessed conditions in this industry segment. The revised economic analysis is based on economic conditions that incorporate the recent recession and its low copper prices.

BPT. New or amended BPT limitations are being promulgated for five subcategories: primary lead, secondary lead, secondary silver, primary tungsten, and primary columbium-tantalum. In these subcategories, 25 direct dischargers are expected to incur compliance costs. Investment costs are estimated to be $3.3 million, and total annualized costs are $2.4 million. Price changes for these subcatetories are small, ranging from less than one-tenth to 1 percent. One potential plant closure in the secondary silver subcategory is associated with these costs; it represents a very small portion of the subcategory's production.

BAT. New or amended BAT limitations are being promulgated for all subcategories except primary copper smelting and secondary copper with 65 plants expected to incur compliance costs. Total investment costs are $24.8 million and total annualized costs are $11.4 million. The price increases associated with these costs are small, ranging from less than one-tenth to 1.4 percent. There are no additional plant closures beyond the one identified at the BPT-level of costs.

PSES. New or amended pretreatment standards are being promulgated for primary lead, primary zinc, secondary aluminum, secondary copper, secondary lead, secondary silver, primary columbium-tantalum, and primary tungsten. Total investment costs for 83 indirect dischargers are $9.7 million, and total annualized costs are estimated to be $3.7 million. The price increases associated with PSES costs are small—less than 1 percent in all subcategories. In the secondary silver subcategory, the compliance costs are projected to result in one plant closure and five production line closures. In the case of the projected line closures, secondary silver production represents a limited portion of the facilities' total production capacity. Most of these plants produce a variety of metals; in some cases, the facility's production consists primarily of other nonferrous metals—those covered by the Phase II portion of this category and outside the scope of this regulation. The one facility identified as a plant closure does conduct secondary silver recovery as a major portion of the total metals production at the facility. Nevertheless, since the plant represents a very small amount of total secondary silver production we believe that PSES is economically achievable for the subcategory as a whole.

NSPS/PSNS. New source limitations are being promulgated for all subcategories. The technology basis for NSPS and PSNS is the same as for BAT with the exception of additional flow reductions in some subcategories. The additional flow reductions are based on reduced or zero discharge of certain waste streams. For some phases of processing, the equipment can be either water-using or non-water-using. The flow reductions can be achieved at a new facility by means of the non-water-using equipment. There is no incremental cost associated with these additional flow reductions, and therefore, new plants will not be operating at a cost disadvantage relative to existing manufacturers. The

regulations for new sources are not expected to discourage entry into the industry or result in any differential economic impacts to new sources.

F. 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 group, small entities were defined on the plant level, using number of employees as the variable to divide each subcategory by size. The actual number of employees used to define small varies by subcategory. Using these definitions, the regulation affects 36 small plants, which is 24 percent of all plants incurring costs. We evaluated potential impacts on small business from the standpoint of projected closures, annual costs compared to revenues, and increases in costs of production. We also performed additional economic sensitivity analyses for those subcategories that contain the most small businesses. In all cases, we found that this regulation will not result in a significant adverse impact on a substantial number of small businesses. While this conclusion obviates the need for a formal Regulatory Flexibility Analysis, the small business analysis included in the report is extensive and supports the conclusion that the regulation is economically achievable.

G. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. The regulation for nonferous metals manufacturing, Phase I 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 final rulemaking satisfies the requirements of the Executive Order for a non-major rule. The Agency's regulatory strategy considered both the cost and the economic impacts of the regulation.

H. SBA Loans

The Agency is continuing to encourage small plants to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Business Loan Program. Eligibility for SBA programs varies by industry. Generally, a company must be independently owned, not dominant in its field, the employee size ranges from 250 to 1,500 employees (dependent upon industry), and annual sales revenue 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 Desselle who may be reached at (202) 382–5373.

VII. Nonwater Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. this regulation was circulated to and reviewed by EPA personnel responsible for nonwater quality programs. While it is difficult to balance pollution problems against each other and against energy use, we believe that this regulation will best serve often competing national goals.

The following nonwater quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. Air Pollution

Imposition of BPT, BAT, and PSES will not create any substantial air pollution problems because the wastewater treatment technologies required to meet these limitations and standards do not cause air pollution. The promulgated technology basis for the control of ammonia is steam stripping. The Agency chose steam stripping over air stripping because air stripping simply transfers the ammonia from one media to another.

The technology basis for NSPS and PSNS in a few instances requires scrubbing and dry slag dumping. The Agency does not anticipate these technologies causing any air quality problems. A few commenters stated that dry slag dumping would increase ambient levels of lead creating industrial hygiene and air pollution problems. It is the Agency's belief that new sources can properly hood and ventilate dry slag dumping areas and control lead emissions through dry means such as cyclones and baghouses. Furthermore, the efficiency of baghouses is well documented, and their use instead of wet scrubbers will not add to industrial hygiene or air quality problems.

B. Solid Waste

EPA estimates that BPT will contribute an additional 22,000 kkg (24,000 tons) per year of solid wastes over that which is currently being generated by the nonferrous metals manufacturing category. BAT and PSES will increase these wastes by approximately 675,000 kkg (770,000 tons) per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants.

If these wastes are identified as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to point of final disposition. EPA's generator standards require generators of hazardous wastes to meet containerization, labeling, recordkeeping, and reporting requirements. In addition, if nonferrous metals manufacturers dispose of hazardous wastes offsite, 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)). 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 Parts 264 and 265.

Wastes which are not hazardous must be disposed of in a manner that will not violate the open dumping prohibition of section 4005 of RCRA. The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of additional wastes generated as a result of these reqirements. For more details, see Section VIII of the technical development document.

The Agency considered the solid wastes that would be generated at nonferrous metals manufacturing plants by the suggested treatment technologies and believes in most instances that they are not hazardous under section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is made based on the recommended technology of lime precipitation. By the addition of a small excess of lime during treatment (for which we added compliance costs), the potential for leaching toxic metals is reduced, since metal hydroxides are relatively impervious to acidic and neutral leaching media. Similar sludges, specifically toxic metal bearing sludges generated by other industries such as the iron and steel industry, passed the EP toxicity test by a substantial margin and have been delisted (i.e., no longer are specifically listed as hazardous) as a result. See, e.g., 45 FR 78544 (November 25, 1980); 46 FR 40154 (August 6, 1981); and 47 FR 52668 (November 22, 1982); and 40 CFR 261.24. A discussion of sludge characteristics for each subcategory is provided below.

Primary Aluminum. Pilot-scale work performed by the Agency since proposal demonstrated that toxic polynuclear aromatic hydrocarbon pollutants found in primary aluminum wastewaters are removable using lime, settle, and filter technology. As a result, the Agency believes lime sludge from this subcategory will be toxic due to presence of these organic contaminants. In addition, sludges generated during cyanide precipitation are expected to be hazardous under RCRA. Consequently, in developing plant-by-plant compliance costs for the primary aluminum subcategory, the Agency considered the sludges generated as hazardous. The costs of hazardous waste disposal were considered in the economic analysis, and they were determined to be economically achievable. (This is a conservative assumption since these sludges are presently subject to a statutory and regulatory exemption from hazardous waste status.)

Secondary Aluminum. Sludge generation in the secondary aluminum subcategory is due to the precipitation of metal hydroxides and carbonates using lime. If a small excess of lime is added during treatment, the Agency does not believe these sludges would be identified as hazardous under RCRA. Disposal of spent carbon is costed as hazardous waste and is determined to be economically achievable.

Primary Copper Electrolytic Refining. The technology basis for one plant in the primary copper electrolytic refining subcategory includes separate sulfide precipitaiton for the control of arsenic. Disposal of sulfide cake from the filter press was costed as hazardous waste and were determined to be economically achieveable.

Secondary Copper. Sludge generation in the secondary copper subcategory is due to the precipitation of metal hydroxides and carbonates using lime. If a small excess of lime is added during treatment, the Agency does not believe these sludges would be identified as hazardous under RCRA.

Primary Lead. The technology basis for the primary lead subcategory includes sulfide precipitation for those plants that operate metallurgical acid plants. The Agency believes sludge generated through sulfide precipitation (followed by sedimentation) will be classified as hazardous under RCRA. The costs of hazardous waste disposal were considered in the economic analysis for this subcategory (even though the waste is now exempt), and they were determined to be economically achievable.

Primary Zinc. The technology basis for the primary zinc subcategory includes sulfide precipitation for the control of zinc, cadmium, and other toxic metals. These sludges differ from primary copper because sulfide precipitation solids are removed in a separate clarifier and not in the filter, where they are backwashed into the lime and settle clarifier. The Agency believes sludge generated through sulfide precipitation (followed by sedimentation) will be classified as hazardous under RCRA. The costs of hazardous waste disposal were considered in the economic analysis for this subcategory (even though the waste is now exempt), and they were determined to be economically achievable.

Metallurgical Acid Plants. The technology basis for the metallurgical acid plants subcategory includes sulfide precipitation for the control of various toxic metals. The Agency believes sludge generated through sulfide precipitation (followed by sedimentation) will be classified as hazardous under RCRA. The costs of hazardous waste disposal were considered in the economic analysis for this subcategory (in spite of the current statutory and regulation exemption), and they were determined to be economically achievable.

Primary Tungsten. Sludge generation in the primary tungsten subcategory is due to the precipitation of metal hydroxides and carbonates using lime. If a small excess of lime is added during treatment, the Agency does not believe these sludges would be identified as hazardous under RCRA.

Primary Columbium-Tantalum. Sludge generation in the primary columbium-tantalum subcategory is due to the precipitation of metal hydroxides and carbonates along with calcium fluoride using lime. If a small excess of lime is added during treatment, the Agency does not believe these sludges would be identified as hazardous under RCRA.

The Agency received comments stating that wastewater treatment sludges generated in the primary columbium-tantalum subcategory would have to be disposed of as low level radioactive waste. There are no RCRA regulations applicable to low level radioactive wastes, so the claim appears exaggerated. The Agency, therefore, requested specific data and information from the commenters so that the comments could be properly evaluated. However, no data or information were submitted to support this claim. In fact, one commenter submitted information and data showing the cost of disposal for gangue, the waste material remaining after the columbium-tantalum values are extracted from the raw material, rather than for wastewater treatment sludge. In any case, the Agency believes the disposal of gangue as a low level radioactive material is an expense of doing business and not attributable to the treatment of wastewaters.

Secondary Silver. Sludge generation in the secondary silver subcategory is due to the precipitation of metal hydroxides and carbonates using lime. If a small excess of lime is added during treatment, the Agency does not believe these sludges would be classified as hazardous under RCRA.

Secondary Lead. The Agency received several comments from the secondary lead subcategory claiming sludges generated through the use of lime as a wastewater treatment chemical were hazardous due to lead. To properly evaluate these comments, the Agency requested specific data and information from the commenters. From the material received, it appears lime sludges at two secondary lead and battery manufacturing plants will fail the EP toxicity test due to lead one-third of the time. The Agency contends these sludges would not have been classified as hazardous under RCRA if a small amount of excess lime was used during wastewater treatment. A third plant, which tests its lime sludges on a batch-by-batch basis, indicated that it disposed of its wastewater treatment sludges as a hazardous material less than 2 percent of the time, indicating that operation of the treatment system affects sludge quality.

It is also the Agency's understanding, based on comments, that one of the facilities disposing of lime sludges as a hazardous waste has entered into an agreement with a local landfill at preferential rates. The Agency contends that if this plant did not have a local disposal site to dispose of its lime sludge as hazardous, it could operate its treatment system using excess lime, which would make the sludges nonhazardous.

The Agency has recalculated the compliance costs for the secondary lead subcategory on a plant-by-plant basis. In the cost model, a contract hauling fee of $90 per ton (as nonhazardous waste) was used in estimating annual costs. The Agency solicited data on sludge disposal costs and only received information from one corporation. Data submitted by the commenter show the contract hauling costs when sludges are disposed of as hazardous wastes ranging from $90 to $110 per ton. This would indicate that the Agency's sludge disposal costs are conservative when lime sludges are disposed of as nonhazardous wastes. In addition, the Agency doubled the contract hauling costs for the secondary lead lime sludges from $90 per ton to $180 per ton and found no significant adverse economic impacts for this subcategory. In any case, we assessed the costs of disposing of these wastes as hazardous and found these costs to be economically achievable.

C. Consumptive Water Loss

Treatment and control technologies that require extensive recyling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. While this regulation assumes water reuse, the overall amount of reuse through evaporative cooling mechanisms is low and the quantity of water involved is not significant. In addition, most nonferrous plants are located east of the Mississippi where water scarcity is not a problem. We conclude that the consumptive water loss is insignificant and that the pollution reduction benefits of recycle technologies outweigh their impact on consumptive water loss.

D. Energy Requirements

EPA estimates that the achievement of BTP effluent limitations will result in a net increase in electrical energy consumption of approximately 10 million kilowatt-hours per year. The BAT effluent technology will increase energy consumption by 14 million kilowatt-hours per year over BPT. To achieve the 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 PSES will result in a net increase in electrical energy consumption of approximately 8 million killowatt-hours per year. To achieve PSES, a typical existing indirect discharger will increase energy consumption by less than 1 percent of the total energy consumed for production purposes.

New source performance standards for direct and indirect dischargers in the nonferrous metals manufacturing category will not significantly add to the total energy consumption of the category. This observation is based on the fact that BAT and PSES will increase energy consumption by 14 million and 8 million kilowatt-hours, respectively, and new source standards are generally equivalent to BAT and PSES.

VIII. Pollutants and Subcategories Not Regulated

The Settlement Agreement in *NRDC* v. *Train, Supra* contains provisions authorizing the exclusion from regulation in certain instances of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979. See *NRDC* v. *Costle*, 12 ERC 1833 (D.D.C. 1979). Appendix B presents the pollutants selected for regulation.

A. Exclusion of Pollutants

The Agency has deleted the following three pollutants from the toxic pollutant list: (49) trichlorofluoromethane and (50) dichlorofluoromethane, 46 FR 79692 (January 8, 1981); and (17) bis(chloromethyl)ether, 46 FR 10723 (February 4, 1981).

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by section 304(h) analytical methods or other-state-of-the-art methods. The toxic pollutants not detected and therefore excluded from regulation are listed in Appendix C to this notice.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected in amounts to small too be effectively reduced by technologies known to the Administrator. Appendix D to this notice lists the toxic pollutants in each subcategory which were detected in the effluent in amounts at or below the nominal limit of analytical quantification, which are too small to be effectively reduced by technologies known to the Administrator and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix E lists those toxic pollutants which are not treatable using technologies considered applicable to the category.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix F to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only a small number of plants, are uniquely related to those plants, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants 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 other regulated pollutants in the BAT limitations and NSPS, PSES, and PSNS, even though they are not specifically regulated.

Paragraph 8(a)(iii) also allows the Administrator to exclude from

regulation toxic pollutants detected but only in trace amounts and not likely to cause toxic effects. Appendix H to this notice lists for each subcategory the toxic pollutants which were detected in trace amounts.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected solely as a result of their presence in the intake waters. Appendix I lists those pollutants excluded under this provision.

B. Exclusion of Subcategories

Additionally, Paragraph 8(a)(iv) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount and toxicity of each pollutant in the discharge do not justify developing national regulations. The Agency has excluded the following subcategories from regulation based on the provisions of Paragraph 8(a)(iv) of the Settlement Agreement:

1. Primary Arsenic,
2. Primary Antimony,
3. Primary Barium,
4. Primary Bismuth,
5. Secondary Cadmium,
6. Primary Calcium,
7. Secondary Molybdenum,
8. Secondary Tantalum,
9. Primary Tin,
10. Secondary Babbitt, and
11. Secondary Beryllium.

Data gathered in conjunction with developing mass limitations for the second phase of the nonferrous metals manufacturing category indicate that secondary molybdenum, secondary tantalum, and primary tin generate wastewaters that are directly or indirectly discharged to navigable waterways. Therefore, the Agency is reconsidering whether to establish national regulations for these three subcategories as part of its phase II study.

IX. Public Participation and Response to Major Comments

Industry, government, individual citizens, and environmental groups have participated during the development of these effluent limitation guidelines and standards. Following the publication of the proposed rule on February 17, 1983 in the **Federal Register**, we provided the development document and the economic impact analysis supporting the proposed rule to industry, government agencies, and the public sector. The public record supporting this regulation was available for public use on April 6, 1983. The comment period ended on May 27, 1983. A permit writers' workshop open to the public was held on the nonferrous metals manufacturing rulemaking in Denver, Colorado on May 20, 1983. On April 27, 1983 in Washington, D.C., a public hearing was held on the proposed pretreatment standards at which four people presented testimony. Notices of data availability and a request for comment on data obtained after proposal were published in the **Federal Register** on November 4, 1983 and November 21, 1983 with the comment periods ending on November 25, 1983, and December 21, 1983.

Since proposal, 58 commenters submitted approximately 1,600 individual comments on the proposed regulation. We considered all comment carefully and made appropriate changes in the regulation whenever data and information supported those changes. Seven of the major issues raised by the comments are addressed in this section of the preamble. Othe major comments are discussed briefly in Section V, control treatment options and technology basis for final regulations. All comments received and our detailed responses to these comments are included in a document entitled *Response to Public Comments, Proposed Nonferrous Metals Manufacturing Effluent Limitations and Standards* which has been placed in the public record for this regulation. The following is a discussion of the Agency's responses to the principal comments.

1. Permit Writer Guidance for Handling Non-Regulated Wastewater Sources

Comment: Numerous comments were received claiming the Agency failed to include flow and discharge allowances for significant wastewater sources. The commenters' position is that flow and discharge allowances should be established for such general wastewater sources as boiler blowdown, noncontact cooling water, and contaminated groundwater seepage, in addition to other subcategory-specific wastewater sources.

Other commenters requested the Agency to list site-specific wastewater sources as a separate subpart of the final regulation. The commenters believe this will obligate the permit writers to consider these wastewater sources when writing a permit. If the site-specific wastewater sources are not listed in the regulation, the commenters contend that permit writer may write the permit for only those wastewater sources given flow allowances on a national basis.

Response: The Agency has carefully reviewed all of the comments requesting additional flow allowances for streams previously considered. In several cases, the Agency has agreed with the commenters and added flow allowances where they are appropriate. Each of the flow allowances added on a subcategory-specific basis is discussed in Section V of this preamble under BPT and BAT. For those waste streams not given flow allowances, the Agency does not believe they warrant treatment on a national basis because they are generally not contaminated or occur at only one or two plants. It is the Agency's belief that such wastewater sources as noncontact cooling and boiler blowdown ordinarily do not contain significant quantities of toxic pollutants to warrant treatment or on a national basis. However, the permit writer should be aware that in some instances wastewater sources such as these may be contaminated with toxic pollutants. In such instances, it is up to the permit writer to adjust the plant's permit to take this type of wastewater source into account.

The Agency has decided not to include a regulatory listing of site-specific wastewater sources. Although commenters have provided the Agency with many of the site-specific wastewater sources, the Agency believes that this list may not be conclusive for each subcategory because not every facility in the category has informed the Agency of its site-specific waste streams, and new streams undoubtedly may arise or be discovered. Therefore, to avoid missing a site-specific waste stream, the Agency will continue to list these wastewater sources in the Development Document and instruct the permit writer that there may be other site-specific wastewater sources.

To account for site-specific wastewater sources, the permit writer must quantify the discharge rate of the waste stream. The mass allowance provided for the waste stream is then obtained form the product of the discharge rate and treatment performance of the technology basis of the promulgated regulation. For example, if the permit writer determines that contaminated ground water seepage requires treatment, he must determine the flowrate of contaminated water to be treated. He then can determine the appropriate treatment technology basis by referring to Section V of today's notice. Treatment effectiveness values are presented in Section VII of the General Development Document. The product of the discharge rate and treatment performance is then the allowed mass discharge. This quantity can then be added to the other building blocks (i.e., mass discharge for the

regulated streams) to determine total allowed mass discharge.

2. Stormwater and Other Non-Scope Flows

Comment: Numerous comments were received claiming that the Agency had failed to include flow and discharge allowances for stormwater and other wastewater sources such as noncontact cooling, boiler blowdown, contaminated groundwater, and so on. In addition, many of the commenters felt that the Agency understated the cost of compliance for the proposed regulation because the costs of treating contaminated stormwater and site-specific wastewater sources were not taken into account.

Response: The Agency believes the development of stormwater and other site-specific wastewater source mass limitations are inappropriate on a national basis because the volume of waste water is not constant from plant to plant and is not production related. Because of this, mass limitations on a national basis cannot be developed due to the variability of wastewater flow from plant to plant. Therefore, the Agency believes site-specific wastewater is best handled on a case-by-case basis in the NPDES permitting process. This is the Agency's consistent approach to this issue, reflected not only in other categorical effluent limitations guidelines and standards (e.g., aluminum forming category), but in general implementing regulations for these limitations and standards as well (see 40 CFR 401.11(q), definition of process wastewater).

Since the Agency did not propose (and is not promulgating) mass limitations for stormwater and other site-specific waste water sources, the cost of treating these wastewaters was not considered. In developing plant-by-plant costs for the nonferrous metals manufacturing category, the Agency provided segregation costs to route site-specific wastewater around the treatment system. Segregation of stormwater and other wastewaters for the purposes of costing does not mean the Agency believes these wastewaters are uncontaminated. On the contrary, the Agency recognizes that stormwater may be a significant source of pollutants and require treatment. We also recognize that central treatment of contaminated stormwater and process wastewater may be appropriate in some situations. For the reasons stated above, contaminated nonprocess wastewater will be handled by the permit writer on a case-by-case basis. We recommend that permit writers consider whether all stormwater requires treatment or if only certain parts of the flow (such as drainage from specific areas) or time periods (such as capturing only the initial drainage) need treatment. (See also the response to issue 1 above.)

3. Limitations and Standards for pH

Comment: Several commenters have expressed concern that the limits for pH and metals are incompatible. Optimum operating pH in lime and settle treatment may be different for each of the various metals regulated. Therefore, if the system is operated to maximize the removal of all regulated pollutants, individual metals will not be removed to the same extent as when the system is operated for removal of a single metal. The commenters express concern that the performance data used by the Agency to establish toxic metals limits have not been documented as actually occurring at a single pH resulting in simultaneous reduction of the pollutants to the proposed limits.

In addition, commenters contend that the pH range of control should be 3 units as opposed to the 2.5 range proposed because of the difficulties of maintaining pH within such a narrow range. Therefore, they recommend the limits be changed to 7 to 10 (rather than 7.5 to 10 as proposed). Some commenters state that since most industries have a lower pH limit of 6.0 and because some facilities do not employ lime and settle technology, the pH limits should be changed to 6 to 10 or handled on a case-by-case basis.

Response: The Agency proposed the pH range of 7.5 to 10 because it is within this range that the majority of toxic metals reach minimum solubility. Since the proposed limitations were derived from actual preformance data at plants operating the model technology (which operate their treatment systems within the range set forth as indicative of proper operation), we believe the limits are achievable using the recommended technology. However, comments and sampling data from the aluminum forming category show that the optimum pH level for aluminum removal is lower than for the regulated toxic metals. To facilitate meeting the aluminum limits at BPT and BAT, we have broadened the pH range from 7.5 to 10 to 7 to 10. The Agency does not believe the operation of primary or secondary aluminum treatment systems at the optimum pH for aluminum removal will affect the attainability of the nickel, antimony, lead, or zinc mass limitations. In the data gathered at aluminum forming plants, the Agency noted the removal performance for nickel and chromium were not serverely affected when the treatment systems were operated at pH 7 to 8. In fact, the performance values for nickle were being achieved. The Agency believes this observation is due to the coprecipitation of these metals with aluminum. The Agency anticipates this same phenomenon will occur with antimony, lead, zinc, and nickel. Lowering of the pH range will also aid in fluoride removal which has a minimum solubility as calcium fluoride between pH 7 and 8.

The Agency thus agrees with the commenters that the proposed 2.5 pH range is too narrow and has promulgated a pH range of 7 to 10. The Agency does not believe a pH range of 6 to 10 is appropriate for the nonferrous metals manufacturing category pH requirement. This pH range is established to ensure optimum metals removal; a pH of 6 is outside this range.

4. Achievability of 90 Percent Recycle

Comment: Several comments were received questioning the Agency's selection of 90 percent recycle as the basis in developing flow allowances for casting contact cooling water and wet scrubber blowdown. The commenters believe 90 percent recycle may not be achievable for these waste streams at all plants. In addition, the commenters stated plants with larger production normalized flows for a specific operation will be able to achieve a higher degree of recycle than plants with smaller production normalized flows.

Response: In determining the flow allowances, 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 preformance. 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 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, in some cases, a plant may only need to recycle 50 percent or less if it can reduce the volume of water used in the process to match the lowest water use observed in the subcategory.

The Agency realizes that the flow rates for wet scrubber streams may not be possible without pretreatment 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 than developed based on the demonstrated recycling methods. In many instances, we developed costs for pretreatment consisting of holding and settling tanks to remove suspended solids, while in other (more unusual) instances we developed costs for lime and settle treatment used to achieve recycle of the scrubber liquor.

5. Mass-Based Limitations and Standards.

Comment: Several commenters oppose mass-based limitations and standards and recommend that, as it did for other industries, the Agency should establish concentration-based limits instead. It is contended that production normalized flows, necessary for mass-based limits, have not and cannot be properly established and that the standards should therefore be based on concentration. In addition, mass-based limits make compliance determinations unnecessarily complex, if not impossible.

For pretreatment standards, commenters contend that mass-based limits are especially inappropriate as most POTW sewer ordinances are concentration-based and as compliance determinations will depend on industry supplied data.

Response: Mass-based limitations and standards are the norm, not an exception. The Clean Water Act was premised on the notion that pollutant discharge to navigable waters be eliminated by pollutant removal, not by dilution. *Senate Comm. on Public Works, 93d Congress, 1st Sess.* A legislative history of this same philosophy is reflected in the Agency's regulations. See 40 CFR 122.45(f) stating that NPDES permits should be mass-based wherever possible, and 48 FR at 9442 (January 28, 1981) stating that Control Authorities may impose mass limitations to prevent dilution as a substitute for treatment.

The Agency accordingly is promulgating mass-based limitations and standards for this category. In addition to implementing the general policy of the Act, mass limitations and standards are necessary in order to ensure implementation of the effluent reduction benefits associated with flow reduction which is an integral part of the model treatment technology. In developing the nonferrous metals manufacturing regulation, the Agency examined the sources and amounts of water used in the various manufacturing operations. EPA found that for all process operations a significant number of plants used more water than the process required, and further, that for a number of processes, water was being recycled by many plants in the category. Accordingly, flow reduction was incorporated as an integral part of the model treatment technology for nonferrous metals manufacturing. Mass-based limitations are necessary for this category to adequately control the total discharge of pollutants.

The production normalized flows that were used in calculating the mass-based limitations are fully discussed in the Response to Public Comments Document and in the Proposed and Final Development Document supporting this regulation. The Agency believes that these flows were properly established and that they provide an adequate basis for the determination of mass-based limitations.

These limitations are not very difficult to enforce because most companies keep records of production in terms of mass. The permit writer or control authority establishes production levels once, on a case-by-case basis. The Agency has already established the relationship between wastewater discharge and production (by means of production normalizing parameters expressed in the regulation), as well as the effluent concentrations achievable. These production levels require modification only when substantial changes in production occur. The other two parameters, regulatory flow and treatment effectiveness concentration, will not change.

In general, to determine limits for integrated plants that are required to comply with both a categorical pretreatment standard expressed only in mass-based limits and another categorical pretreatment standard expressed only in concentration-based limits, the concentration limit is converted to a mass limit. This is accomplished by multiplying the concentration limit by the appropriate flow of the stream to which the limit applies. Guidance on how to apply the combined waste stream formula is provided in the General Pretreatment Regulations (40 CFR Part 403.6(e)).

6. Flow Allowances for Industrial Hygiene Practices

Comment: Several comments were received stating that EPA had failed to consider wastewater flow generated in the secondary lead subcategory by respirator wash, uniform laundering, hand washing, showers, and facility washdown. The commenters point out that these practices are frequently used to reduce airborne lead and maintain blood levels within current OSHA limits.

Response: After proposal, the Agency conducted two engineering site visits at integrated secondary lead and battery manufacturing plants. Analytical data were collected from respirator wash, uniform laundering, hand washing, and facility washdown. Lead was found in each of the samples with concentrations as high as 20 mg/1. The analytical data demonstrate that these wastewater sources contain lead and other toxic metals at treatable concentrations. An allowance was provided for truck and pallet washing for similar reasons. Therefore, the Agency has established flow allowances and mass allowances for these sources of wastewater.

The Agency disagrees with the commenters that discharge allowances are justified for employee showers and facility washdown. We believe that shower discharges will not contain sufficient lead to justify treatment with process wastewater discharges because most lead dusts will be collected on protective clothing and respirators. Therefore, we have not included any costs for routing these discharges through the process wastewater treatment system. A discharge allowance was not provided for facility washdown because the Agency believes floor washing can be accomplished with recycled effluent following lime and settle treatment. However, we did include costs for treating and recycling these discharges.

The Agency has promulgated these same mass limitations for the primary lead subcategory, as well as for the secondary lead subcategory. The Agency believes the primary lead subcategory generates similar waste streams to achieve OSHA standards. The methodology used to develop the flow allowances for these two subcategories is present in Section IX of the secondary lead supplemental development document and Section X of the primary lead supplemental development document.

Comments were also received from the primary zinc and primary copper subcategories stating that water balances have changed at the plants since the Agency had gathered its data as a result of industrial hygiene requirements. These commenters were asked to support their claims through section 308 data requests. However, no information was submitted to support their claims. Consequently, flow

allowances associated with industrial hygiene requirements in the primary and secondary lead subcategories have not been provided for the primary zinc and copper subcategories.

7. Mass Limitations for Integrated Facilities

Comment: Several commenters stated that the Agency did not consider the impact of the regulation on plants that centrally treat wastewater discharges covered by more than one subcategory or category. The comments point out that the pollutants controled and the end-of-pipe treatment necessary may vary between nonferrous metals subcategories or between nonferrous metals manufacturing and other categories (such as aluminum forming). Several comments indicate that these differences could result in permits requiring treatment performance better than EPA's concentration component of the mass limits.

Response: We recognize that integrated plants may choose to treat their wastewater centrally, and problems may arise particularly where different pollutants are controlled by the applicable regulations. If the permitting or control authority does not allow appropriate allowances under best professional judgment (BPJ) for direct dischargers (or the combined waste stream formula for indirect dischargers) there is a possibility that in order to meet an end-of-pipe mass limitation, and integrated plant will have to reduce pollutant concentrations below the concentration performance contemplated in the regulation. For example, if an integrated primary aluminum plant has a mass allowance of 100 units of antimony (100 units of flow x 1 ppm of antimony) and it combines its wastewater with aluminum forming wastewater with a regulatory flow of 100 and no allowance for antimony, it would be forced to reduce antimony concentrations to 0.5 ppm in order to meet its allowance (200 units of combined flow x .5 ppm). Therefore, it is appropriate that plants combining process wastewaters to different controlled pollutants be credited with the appropriate mass allowances for the entire regulatory flow (i.e., the flow from all unit operations from the combined facilities) obtained through BPJ or the combined waste stream formula multiplied by the concentration achievable with the appropriate end-of-pipe technology. Without an allowance in each building block for all pollutants controlled by any regulation applying to the combined discharge, integrated plants would be forced to segregate discharges or achieve flow or pollutant concentration reductions not anticipated in any of the regulations. This same type of allowance is provided in the Combined Waste Streams forumula for integrated indirect dischargers. See 46 FR at 9420 (January 28, 1981).

Flow allowances for the regulated waste streams are presented in Section IX and X, while treatment performance for the various pollutants is presented in Section VII of the development documents. As an example, if the pollutant antimony is not regulated in both of the categories or subcategories, the permit writer must identify the regulatory flow allowances for the streams in the category or subcategory where antimony is not regulated along with the technology basis for the category or subcategory. Mass limitations for antimony are then calculated by multiplying the regulatory flow for each waste stream times the treatment performance for antimony.

The Agency does not believe it is necessary to consider different end-of-pipe requirements for control of the same pollutant regulated in different categories. In this situation, there is no possibility that a pollutant could be regulated to a lower concentration than intended. Under the approach outlined above, a plants' permit limitations would be the sum of all appropriate building blocks. Integrated plants will of course continue to have the flexibility of determining how they comply with our numerical limits. Thus, they may or may not treat centrally, or treat all or part of their various flows. Nothing in this regulation reduces this flexibility. For direct dischargers, developing mass limitations for regulated pollutants not common to both category or subcategory is handled procedurally as a Best Professional Judgement Decision (BPJ). For indirect dischargers, the provisions of the combined waste stream formula of the General Pretreatment Regulations are applicable.

As a final note, one commenter suggested that mass limitations were inappropriate for so-called "complex facilities" combining and co-treating refining and smelting water with water from ore mining and milling. The Agency has determined, as explained above, that refining and smelting wastewaters (and associated metallurgical acid plant wastewater) can be treated with sulfide precipitation, filter press, lime and settle, and filter technologies to achieve the promulgated limitations. This wastewater does not have to be co-treated with ore mining and milling wastewater. The Agency has evaluated the costs of segregating nonferrous and ore mining wastewaters at integrated plants and found time to be economically achievable. If such plants choose to co-treat, they should meet mass limitations developed for the combined flow. See 40 CFR 122.45(f) and 48 FR at 7048 (February 17, 1983). Nothing the Agency said in the ore mining regulation is contrary to this statement. Indeed, the Agency indicated in that rulemaking that "each (integrated) facility will be given effluent limitations that are derived from the BAT mine and mill guidelines and the smelter and refining guidelines . . ." 47 FR at 54601 (December 3, 1982.)

X. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator discretionary authority to prescribe "best management practices" (BMP). EPA is not promulgating BMP specific to the 12 subcategories of the nonferrous metals manufacturing category discussed in today's preamble.

XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called as "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 (98th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations.

We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have promulgated NPDES 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 final regulation does not address these issues.

XII. Variances and Modifications

Upon promulgation of this regulation, the appropriate effluent limitations must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the 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. duPont deNemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaueser 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(l)(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 guide line. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES Program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both.

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR 403.7, 48 FR 9404 (January 28, 1981). New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See, *E. I. duPont de Nemours & Co.* v. *Train*, supra.

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. However, on September 20, 1983, the United States Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded § 403.13 to EPA *NAMF et al.* v. *EPA*, Nos. 79–2256 et al. (3rd Cir., September 20, 1983). EPA is considering the effect of that decision.

In a few cases, information which would affect these PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to 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 techniquies, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of ability to pay that cost).

Indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions must contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

XIII. Implementation of Limitations and Standards

A. Relationship to NPDES Permits

The BPT/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. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such plllutant 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 NDPES 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 discharge; a description of its operation; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or noncompliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall provide the concentrations of the regulated pollutants in its discharge to the POTW; the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and analyze the data, and a certification that these methods conform to the methods outlined in the regulations. See 40 CFR 403.12(e).

XIV. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants." EPA's technical conclusions are detailed in the "Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Nonferrous Metals Manufacturing Point Source Category." The Agency's economic analysis is presented in "Economic Impact Analysis of Effluent Limitations and Standards for the Nonferrous Metals Manufacturing Industry." A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments, Proposed Nonferrous Metals Manufacturing Effluent Limitations Guidelines and Standards," which is a part of the public record for this regulation. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161, (703) 487-4600. Additional information concerning the economic impact analysis may be obtained from Ms. Debra Maness, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or by calling (202) 382-5397. Technical information may be obtained by writing to Mr. James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or by calling (202) 382-7126.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

XV. List of Subjects in 40 CFR Part 421

Metals, Nonferrous metals manufacturing, Water pollution control, Waste treatment and disposal.

Dated: February 23, 1984.

William D. Ruckelshaus,

Administrator.

XVI. Appendices

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology under section 304(b)(4) of the Act.

BMPs—Best management practices under section 304(e) of the Act.

BPT—The best practicable control technology currently available under section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 (Pub. L. 95-217).

DCP—Data collection portfolio.

Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

NSPS—New source performance standards under section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Pollutants Selected for Regulation by Subcategory

(a) Subpart B—Primary Aluminum Smelting Subcategory.

73. benzo(a)pyrene
114. antimony
121. cyanide (Total)
124. nickel, aluminum, fluoride, oil and grease, TSS, pH

(b) Subpart C—Secondary Aluminum Subcategory.

122. lead
128. zinc, aluminum, ammonia (N), oil and grease, phenolics (total; by 4–AAP method), TSS, pH

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

114. arsenic
120. copper
124. nickel, TSS, pH

(d) Subpart G—Primary Lead Subcategory.

122. lead
128. zinc, TSS, pH

(e) Subpart H—Primary Zinc Subcategory.

118. cadmium
120. copper
122. lead
128. zinc, TSS, pH

(f) Subpart I—Metallurgical Acid Plants Subcategory.

115. arsenic
118. cadmium
120. copper
122. lead
128. zinc, TSS, pH

(g) Subpart J—Primary Tungsten Subcategory.

122. lead
128. zinc, ammonia (N), TSS, pH

(h) Subpart K—Primary Columbium-Tantalum Subcategory.

122. lead
128. zinc, ammonia (N), fluoride, TSS, pH

(i) Subpart L—Secondary Silver Subcategory.

120. copper
128. zinc, ammonia (N), TSS, pH

(j) Subpart M—Secondary Lead Subcategory.

114. antimony
115. arsenic
122. lead
128. zinc, ammonia, TSS, pH

Appendix C—Toxic Pollutants Not Detected

(a) Subpart B—Primary Aluminum Smelting Subcategory

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-trichlorethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. Deleted
18. bis(2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
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
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
43. bis(2-chloroethoxy) methane
45. methyl chloride
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. Deleted
50. Deleted
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
71. dimethyl phthalate
85. tetrachloroethylene
88. vinyl chloride (chloroethylene)
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(b) Subpart C—Secondary Aluminum Subcategory.

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichlorethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. Deleted
18. bis(2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
28. 3,3'-dichlorobenzidine
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene(1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
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. Deleted
50. 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
70. diethyl phthalate
72. benzo(a)anthracene(1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene
78. anthracene(a)
79. benzo(ghi)perylene(1,12-benzoperylene)
80. fluorene
81. phenanthrene(a)
82. dibenzo(a,h)anthracene(1,2,5,6-dibenzanthracene)
83. indeno(1,2,3-cd)pyrene
86. toluene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
105. g-BHC-Delta
117. asbestos (fibrous)
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(a) Reported together.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene

21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
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. Deleted
50. Deleted
51. chlorodibromomethane
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
70. diethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
86. toluene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
94. 4,4'-DDD(p,p'TDE)
105. g-BHC-Delta
113. toxaphene
116. asbestos (Fibrous)
117. beryllium
118. cadmium
121. cyanide (Total)
123. mercury
127. thallium
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(d) Subpart G—Primary Lead Subcategory.

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichlorethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-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. Deleted
50. 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)fluoranthane (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene (a)
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
81. phenanthrene (a)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
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) (b)
107. PCB–1254 (Arochlor 1254) (b)
108. PCB–1221 (Arochlor 1221) (b)
109. PCB–1232 (Arochlor 1232) (c)
110. PCB–1248 (Arochlor 1248) (c)
111. PCB–1260 (Arochlor 1260) (c)
112. PCB–1016 (Arochlor 1016) (c)
113. toxaphene
121. cyanide (Total)
127. thallium
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(a), (b), (c) Reported together.

(e) Subpart H—Primary Zinc Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. Deleted
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
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. Deleted
50. Deleted
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone

55. naphthalene
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
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)fluoranthane (11,12-benzofluoranthene)
77. acenaphthylene
78. anthracene (a)
79. benzo(ghi)perylene (1,11-benzoperylene)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
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)
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
106. PCB–1242 (Arochlor 1242) (a)
107. PCB–1254 (Arochlor 1254) (a)
108. PCB–1221 (Arochlor 1221) (a)
109. PCB–1232 (Arochlor 1232) (b)
110. PCB–1248 (Arochlor 1248) (b)
111. PCB–1260 (Arochlor 1260) (b)
112. PCB–1016 (Arochlor 1016) (b)
113. toxaphene
117. beryllium
127. thallium
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(a), (b) Reported together.

(f) Subpart I—Metallurgical Acid Plants Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
12. hexachloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
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. Deleted
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
63. N-nitrosodi-n-propylamine
72. benzo(a)anthracene (1,2-benzanthracene)
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)
89. aldrin
95. a-endosulfan-Alpha
97. endosulfan sulfate
113. toxaphene
116. asbestos (Fibrous)
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(g) Subpart J—Primary Tungsten Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
12. hexachlorpethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
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)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
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
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
83. indeno (1,2,3-cd)pyrene
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)
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
113. toxaphene
116. asbestos (Fibrous)
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(h) Subpart K—Primary Columbium-Tantalum Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
9. hexachlorobenzene
13. 1,1-dichloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
37. 1,2-diphenylhydrazine
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. Deleted
50. Deleted
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
55. naphthalene
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
69. di-n-octyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
79. benzo(ghi)perylene
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
84. pyrene
86. toluene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane
92. 4,4'-DDT
93. 4,4'-DDE
94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. alpha-BHC
103. beta-BHC
104. gamma-BHC
105. delta-BHC
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(i) Subpart L—Secondary Silver Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
48. dichlorobromomethane
49. Deleted
50. Deleted
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. napthalene
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. pentachlororphenol
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
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)
89. aldrin
94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
101. heptachlor epoxide
105. delta-BHC
117. beryllium
129. 2,3,7,8-tetrachlorod'benzo-p-dioxin (TCDD)

(j) Subpart M—Secondary Lead Subcategory.

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-*trans*-dichloroethylene
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-chloroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
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
70. diethyl phthalate
73. benzo(a)pyrene
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene
79. benzo(ghi)perylene (1,11-benzoperylene)
82. dibenzo(a,h)anthracene
83. indeno(1,2,3-c,d)pyrene
85. tetrachloroethylene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
95. a-endosulfan-Alpha
105. g-BHC-Delta
113. toxaphene
116. asbestos (Fibrous)
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix D—Toxic Pollutants Detected Below the Analytical Quantification Limit

(a) Subpart B—Primary Aluminum Smelting Subcategory.

54. isophorone
69. di-n-octyl phthalate
70. diethyl phthalate
86. toluene
87. trichloroethylene
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
95. alpha-endosulfan
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
109. PCB-1232 (a)
110. PCB-1248 (a)
111. PCB-1260 (a)
112. PCB-1016 (a)
113. toxaphene

(a) Reported together.

(b) Subpart C—Secondary Aluminum Subcategory.

91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
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 (a)
107. PCB-1254 (a)
108. PCB-1221 (a)
109. PCB-1232 (b)
110. PCB-1248 (b)
111. PCB-1260 (b)
112. PCB-1016 (b)
113. toxaphene
121. cyanide (Total)

(a), (b) Reported together.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

1. acenaphthene
4. benzene
11. 1,1,1-trichlorethane
15. 1,1,2,2-tetrachloroethane
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
39. fluoranthene
55. naphthalene
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
76. chrysene
78. anthracene (a)
81. phenanthrene (a)
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
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) (b)
107. PCB-1254 (Arochlor 1254) (b)
108. PCB-1221 (Arochlor 1221) (b)
109. PCB-1232 (Arochlor 1232) (c)
110. PCB-1248 (c)
111. PCB-1260 (Arochlor 1260) (c)
112. PCB-1016 (Arochlor 1016) (c)

(a), (b), (c) Reported together.

(d) Subpart G—Primary Lead Subcategory.

4. benzene
6. carbon tetrachloride (tetrachloromethane)
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)

(e) Subpart H—Primary Zinc Subcategory.

1. acenaphthene
18. bis(chloromethyl)ether
21. 2,4,6-trichlorophenol
23. chloroform
34. 2,4-dimethyl phenol
39. fluoranthene
47. bromoform
48. dichlorobromomethane
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
62. N-nitrosodiphenylamine
65. phenol
70. diethyl phthalate
76. chrysene
80. fluorene
81. phenanthrene
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
95. alpha-endosulfan
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. alpha-BHC
103. beta-BHC
104. gamma-BHC
105. delta-BHC
114. antimony
121. cyanide (Total)

(f) Subpart I—Metallurgical Acid Plants Subcategory.

1. acenaphthene
4. benzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
29. 1,1-dichloroethylene
34. 2,4-dimethylphenol
39. fluoranthene
47. bromoform
49. Deleted
51. chlorodibromomethane
54. isophorone
55. naphthalene
56. nitrobenzene
62. N-nitrosodiphenylamine
64. pentachlorophenol
65. phenol
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
76. chrysene
80. fluorene
84. pyrene
87. trichloroethylene
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)
96. b-endosulfan-Beta
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. alpha-BHC
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. delta-BHC
106. PCB–1242 (Arochlor 1242) (a)
107. PCB–1254 (Arochlor 1254) (a)
108. PCB–1221 (Arochlor 1221) (a)
109. PCB–1232 (Arochlor 1232) (b)
110. PCB–1248 (Arochlor 1248) (b)
111. PCB–1260 (Arochlor 1260) (b)
112. PCB–1016 (Arochlor 1016) (b)
117. beryllium
121. cyanide (Total)

(a), (b) Reported together.

(g) Subpart J—Primary Tungsten Subcategory.

4. benzene
10. 1,2-dichloroethane
15. 1,1,2,2-tetrachloroethane
54. isophorone
70. diethyl phthalate
71. dimethyl phthalate
78. anthracene (a)
81. phenanthrene (a)
84. pyrene
87. trichloroethylene
95. a-endosulfan-Alpha
106. PCB–1242 (Arochlor 1242) (b)
107. PCB–1254 (Arochlor 1254) (b)
108. PCB–1221 (Arochlor 1221) (b)
109. PCB–1232 (Arochlor 1232) (c)
110. PCB–1248 (Arochlor 1248) (c)
111. PCB–1260 (Arochlor 1260) (c)
112. PCB–1016 (Arochlor 1016) (c)
114. antimony
125. selenium

(a), (b), (c) Reported together.

(h) Subpart K—Primary Columbium-Tantalum Subcategory.

14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethylene
20. 2-chloronaphthalene
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
39. fluoranthene
67. butyl benzyl phthalate
73. benzo(a)pyrene (3,4-benzopyrene)
78. anthracene (a)
80. fluorene
81. phenanthrene (a)
113. toxapene
121. cyanide (Total)

(a) Reported together.

(i) Subpart L—Secondary Silver Subcategory.

7. chlorobenzene
15. 1,1,2,2-tetrachloroethane
51. chlorodibromomethane
78. anthracene (a)
81. phenanthrene (a)
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
98. endrin
99. endrin aldehyde
100. heptachlor
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
113. toxaphene
116. asbestos (Fibrous)

(a) Reported together.

(j) Subpart M—Secondary Lead.

4. benzene
7. chlorobenzene
11. 1,1,1-trichloroethane
21. 2,4,6-trichlorophenol
29. 1,1-dichloroethylene
31. 2,4-dichlorophenol
40. 4-chlorophenyl phenyl ether
44. methylene chloride
57. 2-nitrophenol
65. phenol
72. benzo(a)anthracene (1,2-benzanthracene)
78. anthracene (a)

80. fluorene
81. phenanthrene (a)
86. toluene
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)
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) (b)
107. PCB–1254 (Arochlor 1254) (b)
108. PCB–1221 (Arochlor 1221) (b)
109. PCB–1232 (Arochlor 1232) (c)
110. PCB–1248 (Arochlor 1248) (c)
111. PCB–1260 (Arochlor 1260) (c)
112. PCB–1016 (Arochlor 1016) (c)

(a), (b), (c) Reported together.

Appendix E—Toxic Pollutants Detected in Amounts Too Small To Be Effectively Reduced by Technologies Considered in Preparing This Guideline

(a) Subpart B—Primary Aluminum Smelting Subcategory.

4. benzene
23. chloroform
44. methylene chloride
123. mercury

(b) Subpart C—Secondary Aluminum Subcategory.

29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
48. dichlorobromomethane
114. antimony
117. beryllium
123. mercury
125. selenium
126. silver

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

114. antimony
125. selenium

(d) Subpart G—Primary Lead Subcategory.

115. arsenic
117. beryllium
119. chromium (Total)
123. mercury
124. nickel
125. selenium
126. silver

(e) Subpart H—Primary Zinc Subcategory.

4. benzene
22. parachlorometa-cresol
86. toluene
123. mercury
125. selenium

(f) Subpart I—Metallurgical Acid Plants Subcategory.

22. parachlorometa-cresol
23. chloroform (trichloromethane)
38. ethylbenzene
48. dichlorobromomethane
85. tetrachloroethylene

(g) Subpart J—Primary Tungsten Subcategory.

23. chloroform (trichloromethane)
29. 1,1-dichloroethylene
38. ethylbenzene
51. chloroidibromomethane
85. tetrachloroethylene
86. toluene
117. beryllium
123. mercury

(h) Subpart K—Primary Columbium-Tantalum Subcategory.

4. benzene
48. dichlorobromomethane
54. isophorone
70. diethyl phthalate
117. beryllium
126. silver

(i) Subpart L—Secondary Silver Subcategory.

1. acenaphthene
30. 1,2-trans-dichloroethylene
38. ethybenzene

(j) Subpart M—Secondary Lead Subcategory.

23. chloroform (trichloromethane)
47. bromoform (tribromomethane)
56. nitrobenzene
71. dimethyl phthalate
117. beryllium

Appendix F—Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

(a) Subpart B—Primary Aluminum Smelting Subcategory.

20. 2-chlornaphthalene
42. bis(2-chloroisopropyl) ether
55. naphthalene
62. N-nitrosodiphenylamine
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
74. 3,4-benzofluoranthene
75. benzo(k)fluranthene
77. acenaphthylene
83. indeno(1,2,3-cd)pyrene
106. PCB–1242 (Arochlor 1242) (a)
107. PCB–1254 (Arochlor 1254) (a)
108. PCB–1221 (Arochlor 1221) (a)
117. beryllium
126. silver
127. thallium

(a) Reported together.

(b) Subpart C—Secondary Aluminum Subcategory.

4. benzene
23. chloroform (trichloromethane)
27. 1,4-dichlorobenzene
39. fluoranthene
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
76. chrysene
77. acenaphthylene
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
115. arsenic
119. chromium (Total)
120 copper
124. nickel
127. thallium

(a), (b) Reported together.

(c) Subpart G—Primary Lead Subcategory.

114. antimony
120. copper

(d) Subpart H—Primary Zinc Subcategory.

11. 1,1,1-trichloroethane
38. ethylbenzene
44. methylene chloride
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate

(e) Subpart I—Metallurgical Acid Plants Subcategory.

6. carbon tetrachloride
13. 1,1-dichloroethane
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
78. anthracene
81. phenanthrene
86. toluene
127. thallium

(f) Subpart J—Primary Tungsten Subcategory.

47. bromoform (tribromomethane)
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
76. chrysene
115. arsenic
120. copper
121. cyanide (Total)

(g) Subpart K—Primary Columbium-Tantalum Subcategory.

1. acenaphthene
6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
12. hexachlorethane
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
47. bromoform
56. nitrobenzene
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
71. dimethyl phthalate
85. tetrachloroethylene
106. PCB–1242 (Arochlor 1242) (a)
107. PCB–1254 (Arochlor 1254) (a)
108. PCB–1221 (Arochlor 1221) (a)
109. PCB–1232 (Arochlor 1232) (b)
110. PCB–1248 (Arochlor 1248) (b)
111. PCB–1260 (Arochlor 1260) (b)
112. PCB–1016 (Arochlor 1016) (b)
123. mercury

(a), (b) Reported together.

(h) Subpart L—Secondary Silver Subcategory.

11. 1,1,1-trichlorethane
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
47. bromoform (tribromomethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
84. pyrene
85. tetrachloroethylene
86. toluene

106. PCB–1242 (Arochlor 1242) (a)
107. PCB–1254 (Arochlor 1254) (a)
108. PCB–1221 (Arochlor 1221) (a)
109. PCB–1232 (Arochlor 1232) (b)
110. PCB–1248 (Arochlor 1248) (b)
111. PCB–1260 (Arochlor 1260) (b)
112. PCB–1016 (Arochlor 1016) (b)
123. mercury

(a), (b) Reported together.

(i) Subpart M—Secondary Lead Subcategory.

39. fluoranthene
67. butyl benzyl phthalate
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
76. chrysene
77. acenaphthylene
84. pyrene
121. cyanide
123. mercury
125. selenium

Appendix G—Toxic Pollutants Effectively Controlled by Technologies Upon Which Are Based Other Effluent Limitations and Guidelines

(a) Subpart B—Primary Aluminum Smelting Subcategory.

1. acenaphthene
39. fluoranthene
72. benzo (a)anthracene (1,2-benzanthracene)
76. chrysene
77. acenaphthylene
78. anthracene (a)
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
81. phenanthrene (a)
82. dibenzo (a, h)anthracene (1,2,5,6-dibenzanthracene)
84. pyrene
115. arsenic
116. asbestos
118. cadmium
119. chromium (Total)
120. copper
122. lead
125. selenium
128. zinc

(a) Reported together.

(b) Subpart C—Secondary Aluminum Subcategory.

118. cadmium.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

119. chromium (Total)
122. lead
126. silver
128. zinc

(d) Subpart G—Primary Lead Subcategory.

116. asbestos (Fibrous)
118. cadmium

(e) Subpart H—Primary Zinc Subcategory.

115. arsenic
116. asbestos (Fibrous)
119. chromium (Total)
124. nickel
126. silver

(f) Subpart I—Metallurgical Acid Plants Subcategory.

114. antimony
119. chromium (Total)
123. mercury
124. nickel
125. selenium
126. silver

(g) Subpart J—Primary Tungsten Subcategory.

118. cadmium
119. chromium (Total)
124. nickel
126. silver
127. thallium

(h) Subpart K—Primary Columbium-Tantalum Subcategory.

114. antimony
115. arsenic
116. asbestos
118. cadmium
119. chromium (Total)
120. copper
124. nickel
125. selenium
127. thallium

(i) Subpart L—Secondary Silver Subcategory.

118. cadmium
114. antimony
115. arsenic
119. chromium (Total)
121. cyanide
122. lead
124. nickel
125. selenium
126. silver
127. thallium

(j) Subpart M—Secondary Lead Subcategory.

118. cadmium
119. chromium (Total)
120. copper
124. nickel

Appendix H—Toxic Pollutants Detected But Only in Trace Amounts and Are Neither Causing Nor Likely To Cause Toxic Effects

(a) Subpart J—Primary Tungsten Subcategory.

1. acenaphthene
11. 1,1,1-trichloroethane
55. naphthalene
65. phenol
73. benzo(a)pyrene
77. acenaphthylene
79. benzo(ghi)perylene
80. fluorene
82. dibenzo(a,h)anthracene

(b) Subpart K—Primary Columbium-Tantalum Subcategory.

7. chlorobenzene
8. 1,2,4-trichlorobenzene
10. 1,2-dichloroethane
30. 1,2-trans-dichloroethylene
38. ethylbenzene
51. chlorodibromomethane
87. trichloroethylene

(c) Subpart L—Secondary Silver Subcategory.

4. benzene
6. carbon-tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
29. 1,1-dichloroethylene
87. trichloroethylene

Appendix I—Toxic Pollutants Detected But Present Solely as a Result of Their Presence in the Intake Waters

(a) Subpart F—Primary Electrolytic Copper Refining Subcategory.

23. chloroform (trichloromethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate

For the reasons discussed above, EPA amends 40 CFR Part 421 as follows:

1. By adding an undesignated subpart entitled "General Provisions," immediately preceding Subpart A as follows:

PART 421—NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.

421.1 Applicability.
421.2 [Reserved]
421.3 Monitoring and reporting requirements.
421.4 Compliance date for pretreatment standards for existing sources. (PSES.)
421.5 Removal allowances for pretreatment standards.

Authority. Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308, and 501 of the 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.

General Provisions

§ 421.1 Applicability.

This part applies to facilities producing primary metals from ore concentrates and recovering secondary metals from recycle wastes which discharge or may discharge pollutants to waters of the United States or which introduce or may introduce pollutants into a publicly owned treatment works. The applicability of this part to alloying or casting of nonferrous metals is limited to alloying or casting of hot metal directly from the nonferrous metals manufacturing process without cooling. Remelting followed by alloying or cooling is included in the aluminum forming, nonferrous metals forming, or metal molding and casting point source categories.

§ 421.2 [Reserved]

§ 421.3 Monitoring and reporting requirements.

The following special monitoring requirements apply to all facilities controlled by this regulation:

(a) The "monthly average" regulatory values shall be the basis for the monthly average discharge in direct discharge

permits and for pretreatment standards. Compliance with the monthly discharge limit is required regardless of the number of samples analyzed and averaged.

§ 421.4 Compliance date for pretreatment standards for existing sources (PSES).

The compliance date for pretreatment standards for existing sources will be three years after promulgation of this regulation.

§ 421.5 Removal allowances for pretreatment standards.

Removal allowances pursuant to 40 CFR 403.7(a) may be granted for the toxic metals limited in 40 CFR Part 421 when used as indicator pollutants.

2. By revising Subparts B through I and by adding Subparts J through M to read as set forth below. (For purposes of clarity, promulgated BPT effluent limitations guidelines and provisions relating to applicability and definitions are being reprinted as part of today's regulation. The BPT limitations and other reprinted provisions remain unaffected by today's regulation and are not subject to judicial review. These provisions are indicated by an asterisk (*).)

Subpart B—Primary Aluminum Smelting Subcategory

Sec.

421.20 Applicability: description of the primary aluminum smelting subcategory.*
421.21 Specialized definitions.
421.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.24 Standards of performance for new sources.
421.25 [Reserved]
421.26 Pretreatment standards for new sources.
421.27 [Reserved]

Subpart C—Secondary Aluminum Smelting Subcategory

421.30 Applicability: description of the secondary aluminum smelting subcategory.*
421.31 Specialized definitions.*
421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.34 Standards of performance for new sources.
421.35 Pretreatment standards for existing sources.
421.36 Pretreatment standards for new sources.
421.37 [Reserved]

Subpart D—Primary Copper Smelting Subcategory

421.40 Applicability: description of the primary copper smelting subcategory.*
421.41 Specialized definitions.*
421.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.44 Standards of performance for new sources.
421.45 [Reserved]
421.46 Pretreatment standards for new sources.
421.47 [Reserved]

Subpart E—Primary Electrolytic Copper Refining Subcategory

421.50 Applicability: description of the primary electrolytic copper refining subcategory.*
421.51 Specialized definitions.*
421.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.54 Standards of performance for new sources.
421.55 [Reserved]
421.56 Pretreatment standards for new sources.
421.57 [Reserved]

Subpart F—Secondary Copper Subcategory

421.60 Applicability: description of the secondary copper subcategory.*
421.61 Specialized definitions.*
421.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.64 Standards of performance for new sources.
421.65 Pretreatment standards for existing sources.
421.66 Pretreatment standards for new sources.
421.67 [Reserved]

Subpart G—Primary Lead Subcategory

421.70 Applicability: description of the primary lead subcategory.*
421.71 Specialized definitions.*
421.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.74 Standards of performance for new sources.
421.75 Pretreatment standards for existing sources.
421.76 Pretreatment standards for new sources.
421.77 [Reserved]

Subpart H—Primary Zinc Subcategory

421.80 Applicability: description of the primary zinc subcategory.*
421.81 Specialized definitions.*
421.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.84 Standards of performance for new sources.
421.85 Pretreatment standards for existing sources.
421.86 Pretreatment standards for new sources.
421.87 [Reserved]

Subpart I—Metallurgical Acid Plants Subcategory

421.90 Applicability: description of the metallurgical acid plants subcategory.*
421.91 Specialized definitions.*
421.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.94 Standards of performance for new sources.
421.95 Pretreatment standards for existing sources.
421.96 Pretreatment standards for new sources.
421.97 [Reserved]

Subpart J—Primary Tungsten Subcategory

421.100 Applicability: description of the primary tungsten subcategory.
421.101 Specialized definitions.
421.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of

the best practicable control technology currently available.
421.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.104 Standards of performance for new sources.
421.105 Pretreatment standards for existing sources.
421.106 Pretreatment standards for new sources.
421.107 [Reserved]

Subpart K—Primary Columbium-Tantalum Subcategory

421.110 Applicability: description of the primary columbium-tantalum subcategory.
421.111 Specialized definitions.
421.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.114 Standards of performance for new sources.
421.115 Pretreatment standards for existing sources.
421.116 Pretreatment standards for new sources.
421.117 [Reserved]

Subpart L—Secondary Silver Subcategory

421.120 Applicability: description of the secondary silver subcategory.
421.121 Specialized definitions.
421.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.124 Standards of performance for new sources.
421.125 Pretreatment standards for existing sources.
421.126 Pretreatment standards for new sources.
421.127 [Reserved]

Subpart M—Secondary Lead Subcategory

421.130 Applicability: description of the secondary lead subcategory.
421.131 Specialized definitions.
421.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.134 Standards of performance for new sources.
421.135 Pretreatment standards for existing sources.
421.136 Pretreatment standards for new sources.
421.137 [Reserved]

Authority. Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308, and 501 of the 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.

Subpart B—Primary Aluminum Smelting Subcategory

§ 421.20 Applicability: description of the primary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of aluminum from alumina in the Hall-Heroult process.

§ 421.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) The term "product" shall mean hot aluminum metal.

§ 421.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available (BPT):

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of product	
	English units—pounds per million pounds of product	
Fluoride	2.0	1.0
Total Suspended solids	3.0	1.5
pH	(1)	(1)

[1] Within the range of 6 to 9 at all times.

§ 421.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable: (a) Subpart B—Anode and Cathode Paste Plant Wet Air Pollution Control

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of paste produced	
Benzo(a)pyrene	.001	
Antimony	.263	.117
Nickel	.075	.050
Aluminum	.831	.369
Fluoride	4.760	2.720

(b) Supart (B)—Anode Contact Cooling and Briquette Quenching.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes cast	
Benzo(a)pyrene	.002	
Antimony	.403	.180
Nickel	.115	.077
Aluminum	1.277	.566
Fluoride	7.315	4.180

(c) Subpart (B)—Anode Bake Plant Wet Air Pollution Control (Closed Top Ring Furnace).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes baked	
Benzo(a)pyrene	.043	
Antimony	8.346	3.719
Nickel	2.378	1.600
Aluminum	26.420	11.720
Fluoride	151.400	86.460

(d) Subpart B—Anode Bake Plant Wet Air Pollution Control (Open Top Ring Furnace With Spray Tower Only).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes baked	
Benzo(a)pyrene	.001	
Antimony	.097	.043
Nickel	.028	.019
Aluminum	.306	.136
Fluoride	1.750	1.000

(e) Subpart B—Anode Bake Plant Wet Air Pollution Control (Open Top Ring Furnace With Wet Electrostatic Precipitator and Spray Tower).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes baked	
Benzo(a)pyrene	.007	
Antimony	1.409	.628
Nickel	.402	.270
Aluminum	4.461	1.979
Fluoride	25.550	14.600

(f) Subpart B—Anode Bake Plant Wet Air Pollution Control (Tunnel Kiln).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes baked	
Benzo(a)pyrene	.011	
Antimony	2.197	.979
Nickel	.626	.421
Aluminum	6.953	3.084
Fluoride	39.830	22.760

(g) Subpart B—Cathode Reprocessing (Operated With Dry Potline Scrubbing and Not Commingled With Other Process or Nonprocess Waters).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cryolite recovered	
Benzo(a)pyrene	.350	
Antimony	420.400	189.200
Cyanide	157.600	70.060
Nickel	80.570	35.030
Aluminum	273.200	122.600
Fluoride	29,430.000	13,310.000

(h) Subpart B—Cathode Reprocessing (Operated With Dry Potline Scrubbing and Commingled With Other Process or Nonprocess Waters).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cryolite recovered	
Benzo(a)pyrene	0.350	
Antimony	67.610	30.120
Cyanide	157.600	70.060
Nickel	19.270	12.960
Aluminum	214.000	94.930
Fluoride	1,226.000	700.600

(i) Subpart B—Cathode Reprocessing (Operated With Wet Potline Scrubbing).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of cryolite recovered	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Cyanide	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000

(j) Subpart B—Potline Wet Air Pollution Control (Operated Without Cathode Reprocessing).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.008	
Antimony	1.618	.721
Nickel	.461	.310
Aluminum	5.120	2.271
Fluoride	29.330	16.760

(k) Subpart B—Potline Wet Air Pollution Control (Operated With Cathode Reprocessing and Not Commingled With Other Process or Nonprocess Waters).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.008	
Antimony	10.060	4.525
Cyanide	3.771	1.676
Nickel	1.928	.838
Aluminum	6.537	2.933
Fluoride	703.900	318.500

(l) Potline Wet Air Pollution Control Cooperated With Cathode Reprocessing and Commingled With Other Process or Nonprocess Wastewaters).

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	0.008	
Antimony	1.618	.721
Cyanide	3.771	1.676
Nickel	0.461	.310
Aluminum	5.120	2.271
Fluoride	29.330	16.760

(m) Subpart B—Potroom Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.017	
Antimony	3.204	1.428
Nickel	.913	.614
Aluminum	10.140	4.499
Fluoride	58.100	33.200

(n) Subpart B—Potline SO_2 Emissions Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.013	
Antimony	2.588	1.153
Nickel	.738	.496
Aluminum	8.194	3.634
Fluoride	46.940	26.820

(o) Subpart B—Degassing Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.026	
Antimony	5.036	2.244
Nickel	1.435	.965
Aluminum	15.940	7.071
Fluoride	91.320	52.180

(p) Subpart B—Pot Repair and Pot Soaking.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000

(q) Subpart B—Direct Chill Casting Contact Cooling.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from direct chill casting	
Benzo(a)pyrene	.013	
Antimony	2.565	1.143
Nickel	.731	.492
Aluminum	8.120	3.602
Fluoride	46.520	26.580

(r) Subpart B—Continuous Rod Casting Contact Cooling.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from rod casting	
Benzo(a)pyrene	.001	
Antimony	.201	.089
Nickel	.057	.038
Aluminum	.636	.282
Fluoride	3.640	2.080

(s) Subpart B—Stationary Casting or Shot Casting Contact Cooling.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from stationary casting or shot casting	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000

§ 421.24 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart B—Anode and Cathode Paste Plant Wet Air.

Pollution Control—NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of paste produced	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
otal suspended solids	.000	.000
prH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart B—Anode Contact Cooling and Briquette Quenching.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/Kg (pound per million pounds) of anodes cast	
Benzo(a)pyrene	.002	
Antimony	.403	.180
Nickel	.115	.077
Aluminum	1.277	.566
Fluoride	7.315	4.180
Oil and grease	2.090	2.090
Total suspended solids	3.135	2.508
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart B—Anode Bake Plant Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/Kg (pound per million pounds) of anodes cast	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart B—Cathode Reprocessing (Operated With Dry Potline Scrubbing and Not Commingled With Other Process or Nonprocess Waters).

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/Kg (pound per million pounds) of cryolite recovered	
Benzo(a)pyrene	.350	
Antimony	420.400	189.200
Cyanide	157.600	70.060
Nickel	80.570	35.030
Aluminum	273.200	122.600
Fluoride	29,430.000	13,310.000
Oil and grease	350.300	350.300
Total suspended solids	2,172.000	945.800
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart B—Cathode Reprocessing (Operated With Dry Potline Scrubbing and Commingled With Other Process or Nonprocess Waters).

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of cryolite recovered	
Benzo(a)pyrene	0.350	
Antimony	67.610	30.120
Cyanide	157.600	70.060
Nickel	19.270	12.960
Aluminum	214.000	94.930
Fluoride	1,226.000	700.600
Oil and grease	350.300	350.300
Total suspended solids	2,172.000	945.800
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart B—Potline Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart B—Potroom Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart B—Potline SO_2 Emissions Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.013	
Antimony	2.568	1.153
Nickel	.738	.496
Aluminum	8.194	3.634
Fluoride	46.940	26.820

NSPS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Oil and grease	13.410	13.410
Total suspended solids	20.120	16.090
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart B—Degassing Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart B—Pot Repair and Pot Soaking.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart B—Direct Chill Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from direct chill casting	
Benzo(a)pyrene	.013	
Antimony	2.565	1.143
Nickel	.731	.492
Aluminum	8.120	3.602
Fluoride	46.520	26.580
Oil and grease	13.290	13.290
Total suspended solids	19.940	15.950
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(l) Subpart B—Continuous Rod Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from rod casting	
Benzo(a)pyrene	.001	
Antimony	.201	.089
Nickel	.057	.038
Aluminum	.636	.282
Fluoride	3.640	2.080
Oil and grease	1.040	1.040
Total suspended solids	1.560	1.248
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(m) Subpart B—Stationary Casting or Shot Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum product from stationary casting or shot casting	
Benzo(a)pyrene	.000	
Antimony	.000	.000
Nickel	.000	.000
Aluminum	.000	.000
Fluoride	.000	.000
Oil and grease	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.25 [Reserved]

§ 421.26 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduced 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 aluminum process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart B—Anode and Cathode Paste Plant Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of paste produced	
Benzo(a)pyrene	.000	
Nickel	.000	.000
Fluoride	.000	.000

(b) Subpart B—Anode Contact Cooling and Briquette Quenching.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes cast	
Benzo(a)pyrene	.002	
Nickel	.115	.077
Fluoride	7.315	4.180

(c) Subpart B—Anode Bake Plant Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of anodes baked	
Benzo(a)pyrene	.000	
Nickel	.000	.000
Fluoride	.000	.000

(d) Subpart B—Cathode Reprocessing (Operated With Dry Potline Scrubbing and Not Commingled With Other Process or Nonprocess Waters).

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cryolite recovered	
Benzo(a)pyrene	.350	
Cyanide	157.600	70.060
Nickel	80.570	35.030
Fluoride	29,430.000	13,310.000

(e) Subpart B—Cathode Reprocessing (Operated With Dry Potline Scrubbing and Commingled With Other Process or Nonprocess Waters).

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cryolite recovered	
Benzo(a)pyrene	0.350	
Cyanide	157.600	70.060
Nickel	19.270	12.960
Fluoride	1,226.000	700.600

(f) Subpart B—Potline Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Nickel	.000	.000
Fluoride	.000	.000

(g) Subpart B—Potroom Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Nickel	.000	.000
Fluoride	.000	.000

(h) Subpart B—Potline SO_2 Emissions Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.013	
Nickel	.738	.496
Fluoride	46.940	26.820

(i) Subpart B—Degassing Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Nickel	.000	.000
Fluoride	.000	.000

(j) Subpart B—Pot Repair and Pot Soaking.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum produced from electrolytic reduction	
Benzo(a)pyrene	.000	
Nickel	.000	.000

PSNS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	.000	.000

(k) Subpart B—Direct Chill Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum product from direct chill casting	
Benzo(a)pyrene	.013	
Nickel	.731	.492
Fluoride	46.520	26.580

(l) Subpart B—Continuous Rod Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from rod casting	
Benzo(a)pyrene	.001	
Nickel	.057	.038
Fluoride	3.640	2.080

(m) Subpart B—Stationary Casting or Shot Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of aluminum product from stationary casting or shot casting	
Benzo(a)pyrene	.000	
Nickel	.000	.000
Fluoride	.000	.000

§ 421.27 [Reserved]

Subpart C—Secondary Aluminum Smelting Subcategory

§ 421.30 Applicability: description of the secondary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges resulting from the recovery, processing, and remelting of aluminum scrap to produce metallic aluminum alloys.

§ 421.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean hot aluminum metal.

(c) "At-the-source" means at or before the commingling of delacquering scrubber liquor blowdown with other process or nonprocess wastewaters.

§ 421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart and which uses water for metal cooling, after application of the best practicable control technology currently available: There shall be no discharge of process wastewater pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart and which uses aluminum fluoride in its magnesium removal process ("demagging process"), after application of the best practicable control technology currently available: There shall be no discharge of process wastewater pollutants to navigable waters.

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart and which uses chlorine in its magnesium removal process, after application of the best practicable control technology currently available:

EFFLUENT LIMITATIONS

Effluent characteristic	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg magnesium removed) English units (pounds per 1,000 lb magnesium removed)
TSS	175
COD	6.5
pH	(1)

[1] Within the range of 7.5 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart and which processes residues by wet methods, after application of the best practical control technology currently available:

EFFLUENT LIMITATIONS

Effluent characteristic	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product) English units (pounds per 1,000 lb of product)
TSS	1.5
Fluoride	0.4
Ammonia (as N)	0.01
Aluminum	1.0
Copper	0.003
COD	1.0
pH	(1)

[1] Within the range of 7.5 to 9.0.

§ 421.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) Subpart C—Scrap Drying Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound's per million pounds) of aluminum scrap dried	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000

(b) Subpart C—Scrap Screening and Milling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound's per million pounds) of aluminum scrap screened and milled	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000

BAT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Aluminum	.000	.000
Ammonia (as N)	.000	.000

(c) Subpart C—Dross Washing.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound's per million pounds) of drossed washed	
Lead	3.043	1.413
Zinc	11.090	4.565
Aluminum	66.410	29.450
Ammonia (as N)	1,449.000	636.900

(d) Subpart C—Demagging Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound's per million pounds) of aluminum demagged	
Lead	.195	.091
Zinc	.711	.293
Aluminum	4.259	1.889
Ammonia (as N)	92.910	40.850

(e) Subpart C—Delacquering Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound's per million pounds) of aluminum delacquered	
Lead	.022	.010
Zinc	.082	.034
Aluminum	.489	.217
Ammonia (as N)	10.670	4.688
Total phenolics (4-AAP method) [1]	.001	

[1] At the source.

(f) Subpart C—Direct Chill Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.372	.173
Zinc	1.356	.558
Aluminum	8.120	3.602
Ammonia (as N)	177.200	77.880

(g) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chloride Demagging is Not Practiced On Site).

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.012	.006
Zinc	.044	.018
Aluminum	.263	.117
Ammonia (as N)	5.732	2.520

(h) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chloride Demagging is Not Practiced On Site).

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000

(i) Subpart C—Stationary Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000

(j) Subpart C—Shot Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000

§ 421.34 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart C—Scrap Drying Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average.
	Mg/kg (pounds per million pounds) of aluminum scrap dried	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
Oil and grease	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times

(b) Subpart C—Scrap Screening and Milling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum scrap screened and milled	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	000
Oil and grease	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart C—Dross Washing.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of dross washed	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
Oil and grease	.000	.000

NSPS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart C—Demagging Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum demagged	
Lead	.195	.091
Zinc	.711	.293
Aluminum	4.259	1.889
Ammonia (as N)	92.910	40.850
Total suspended solids	10.460	8.364
Oil and grease	6.970	6.970
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart C—Delacquering Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum delacquered	
Lead	.022	.010
Zinc	.082	.034
Aluminum	.489	.217
Ammonia (as N)	10.670	4.688
Total phenolics (4-AAP method) [1]	.001	
Total suspended solids	1.200	.960
Oil and grease	.800	.800
pH	(2)	(2)

[1] At the source.
[2] Within the range of 7.0 to 10.0 at all times.

(f) Subpart C—Direct Chill Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.372	.173
Zinc	1.356	.558
Aluminum	8.120	3.602
Ammonia (as N)	177.200	77.880
Total suspended solids	19.940	15.950
Oil and grease	13.290	13.290
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart C—Ingot Conveyor Casting Contract Cooling (When Chloride Demagging is Not Practiced On Site).

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.012	.006
Zinc	.044	.018
Aluminum	.263	.117
Ammonia (as N)	5.732	2.520
Total suspended solids	.645	.516
Oil and grease	.430	.430
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging is Practiced On Site).

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
Oil and grease	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart C—Stationary Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
Oil and grease	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart C—Shot Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Aluminum	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
Oil and grease	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.35 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary aluminum process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart C—Scrap Drying Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum scrap dried	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(b) Subpart C—Scrap Screening and Milling.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum scrap screened and milled	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(c) Subpart C—Dross Washing.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of dross washed	
Lead	3.043	1.413
Zinc	11.090	4.565
Ammonia (as N)	1,449.000	636.000

(d) Subpart C—Demagging Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum demagged	
Lead	.195	.091
Zinc	.711	.293
Ammonia (as N)	92.910	40.850

(e) Subpart C—Delacquering Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum delacquered	
Lead	0.22	.010
Zinc	.082	.034
Ammonia (as N)	10.670	4.688
Total phenolics (4-AAP) method) [1]	.001	

[1] At the source.

(f) Subpart C—Direct Chill Casting Contact Cooling.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.372	.173
Zinc	1.356	.558
Ammonia (as N)	177.200	77.800

(g) Subpart C—Ingot Conveyor Casting Contact Cooling. (When Chlorine Demagging Wet Air Pollution Control is Not Practiced on Site.)

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.012	.006
Zinc	.044	.018
Ammonia (as N)	5.732	2.520

(h) Subpart C—Ingot Conveyor Casting Contact Cooling. (When Chlorine Demagging Wet Air Pollution Control is Practiced On Site.)

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(i) Subpart C—Stationary Casting Contact Cooling.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(j) Subpart C—Shot Casting Contact Cooling.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.36 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into 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 introduced in secondary aluminum process wastewater into a POTW shall not exceed the following values:

(a) Subpart C—Scrap Drying Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum scrap dried	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(b) Subpart C—Scrap Screening and Milling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum scrap screened and milled	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(c) Subpart C—Dross Washing.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of dross washed	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(d) Subpart C—Demagging Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum demagged	
Lead	.195	.091
Zinc	.711	.293
Ammonia (as N)	92.910	40.850

(e) Subpart C—Delacquering Wet Air Pollution Control

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum delacquered	
Lead	.022	.010
Zinc	.082	.034
Ammonia (as N)	10.670	4.688
Total phenolics (4-AAP method) [1]	.001	

[1] At the source.

(f) Subpart C—Direct Chill Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.372	.173
Zinc	1.356	.558
Ammonia (as N)	177.200	77.880

(g) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging Wet Air Pollution Control Is Not Practiced on Site).

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.012	.006
Zinc	.044	.018
Ammonia (as N)	5.732	2.520

(h) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging Wet Air Pollution Control Is Practiced on Site).

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(i) Subpart C—Stationary Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(j) Subpart C—Shot Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of aluminum cast	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.37 [Reserved]

Subpart D—Primary Copper Smelting Subcategory

§ 421.40 Applicability: Description of the primary copper smelting subcategory.

The provisions of this subpart apply to process wastewater discharges resulting from the primary smelting of copper from ore or ore concentrates. Primary copper smelting includes, but is not limited to, roasting, converting, leaching if preceded by a pyrometallurgical step, slag granulation and dumping, fire refining, and the casting of products from these operations.

§ 421.41 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 apply to this subpart.

(b) In the event that the waste streams covered by this subpart are combined for treatment or discharge with waste streams covered by Subparts E—Primary Electrolytic Copper Refining and/or Subpart I—Metallurgical Acid Plants, the quantity of each pollutant or pollutant property discharged shall not exceed the quantity of each pollutant or pollutant property which could be discharged if each waste stream were discharged separately.

(c) For all impoundments constructed prior to the effective date of the interim final regulation (40 FR 8513), the term "within the impoundment," when used to calculate the volume of process wastewater which may be discharged, means the water surface area within the impoundment at maximum capacity plus the surface area of the inside and outside slopes of the impoundment dam as well as the surface area between the outside edge of the impoundment dam and any seepage ditch adjacent to the dam upon which rain falls and is returned to the impoundment. For the purpose of such calculations, the surface area allowances set forth above shall not exceed more than 30 percent of the water surface area within the impoundment dam at maximum capacity.

(d) For all impoundments constructed on or after the effective date of the interim final regulation (the interim regulation was effective February 27, 1975; 40 FR 8513, February 27, 1975), the term "within the impoundment," for purposes of calculating the volume of process wastewater which may be discharged, means the water surface area within the impoundment at maximum capacity.

§ 421.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Except as provided in 40 CFR 125.30–125.32 and paragraph (b) of this section, 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): There shall be no discharge of process wastewater pollutants to navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the

area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

§ 421.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best avialable technology economically achievable:

(a) Subject to the provisions of paragraph (b) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of preciptation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 421.44 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards: There shall be discharge of process wastewater pollutants into navigable waters.

§ 421.45 [Reserved]

§ 421.46 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into 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 copper smelting process wastewater introduced into a POTW shall not exceed the following values: There shall be no discharge of process wastewater pollutants into a publicly owned treatment works.

§ 421.47 [Reserved]

Subpart E—Primary Electrolytic Copper Refining Subcategory

§ 421.50 Applicability: description of the primary electrolytic copper refining subcategory.

The provisions of this subpart apply to process wastewater discharges resulting from the electrolytic refining of primary copper, including, but not limited to, anode casting performed at refineries which are not located on-site with a smelter, product casting, and by-product recovery.

§ 421.51 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 apply to this subpart.

(b) The term "product" means electrolytically refined copper.

§ 421.52 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):

EFFLUENT LIMITATIONS

Effluent characteristic	Maximum for any 1 day	Average of Daily values for 30 consecutive days shall not exceed
	(Metric units, kg/kkg of product; English units, pounds per 1,000 lb of product)	
Total suspended solids	0.100	0.050
Copper	0.0017	0.0008
Cadmium	0.00006	0.00003
Lead	0.0006	0.0026
Zinc	0.0012	0.0003
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 421.53 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:

(a) Subpart E—Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of copper cast	
Arsenic	.692	.284
Copper	.638	.304
Nickel	.274	.184

(b) Subpart E—Anode and Cathode Rinse.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode copper production	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000

(c) Subpart E—Spent Electrolyte.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of copper cathode production	
Arsenic	.068	.028
Copper	.063	.030
Nickel	.027	.018

(c) Subpart E—Casting Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of casting production	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000

(e) Subpart E—By-Product Recovery.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of product recovered from electrolytic slimes processing	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000

§ 421.54 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart E—Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of copper cast	
Arsenic	.692	.284
Copper	.638	.304
Nickel	.274	.184
Total suspended solids	7.470	5.976
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart E—Anode and Cathode Rinse.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode copper production	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000
Total suspended solids	.000	.000
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart E—Spent Electrolyte.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of copper cathode production	
Arsenic	.068	.028
Copper	.063	.030
Nickel	.027	.018
Total suspended solids	.735	.588
pH	[1]	[1]

[1] Within the range 7.0 to 10.0 at all times.

(d) Subpart E—Casting Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of casting production	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000
Total suspended solids	.000	.000
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart E—By-Product Recovery.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of product recovered from electrolytic slimes processing	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000
Total suspended solids	.000	.000
pH	[1]	[1]

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.55 [Reserved]

§ 421.56 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 electrolytic copper refining process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart E—Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of copper cast	
Arsenic	.692	.284
Copper	.638	.304
Nickel	.274	.184

(b) Subpart E—Anode and Cathode Rinse.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode copper production	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000

(c) Subpart E—Spent Electrolyte.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode copper production	
Arsenic	.068	.028
Copper	.063	.030

PSNS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Nickel	.027	.018

(d) Subpart E—Casting Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of casting production	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000

(e) Subpart E—By-Product Recovery.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of product recovered from electrolytic slimes processing	
Arsenic	.000	.000
Copper	.000	.000
Nickel	.000	.000

§ 421.57 [Reserved]

Subpart F—Secondary Copper Subcategory

§ 421.60 Applicability: description of the secondary copper subcategory.

The provisions of this subpart are applicable to discharges resulting from the recovery, processing, and remelting of new and used copper scrap and residues to produce copper metal and copper alloys, but are not applicable to continuous rod casting.

§ 421.61 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 401 shall apply to this subpart.

(b) For all impoundments constructed prior to the effective date of this regulation the term "within the impoundment" when used for purposes of calculating the volume of process wastewater which may be discharged shall mean the water surface area within the impoundment at maximum capacity plus the surface area of the inside and outside slopes of the impoundment dam as well as the surface area between the outside edge of the impoundment dam and any

seepage ditch immediately adjacent to the dam upon which rain falls and is returned to the impoundment. For the purpose of such calculations, the surface area allowances set forth above shall not be more than 30 percent of the water surface area within the impoundment dam at maximum capacity.

(c) For all impoundments constructed on or after the effective date of this regulation, the term "within the impoundment" for purposes of calculating the volume of process wastewater which may be discharged shall mean the water surface area within the impoundment at maximum capacity.

(d) The term "pond water surface area" when used for the purpose of calculating the volume of wastewater which may be discharged shall mean the water surface area of the pond created by the impoundment for storage of process wastewater at normal operating level. This surface shall in no case be less than one-third of the surface area of the maximum amount of water which could be contained by the impoundment. The normal operating level shall be the average level of the pond during the preceding calendar month.

§ 421.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) 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 practicable technology currently available: Subject to the provisions of paragraphs (b), (c), and (d) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the areas in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

(c) During any calendar month there may be discharged from a process wastewater impoundment either a volume of process wastewater equal to the difference between the precipitation for the month that falls within the impoundment and either the evaporation from the pond water surface area for that month, or a volume of process wastewater equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation from the pond water surface area as establsihed by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center), whichever is greater.

(d) Any process wastewater discharged pursuant to paragraph (c) of this section shall comply with each of the following requirements:

Effluent limitations	Effluent characteristic	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric Units (mg/1) English Units (ppm)	
TSS	50	25
Cu	0.5	0.25
Zn	10	5
Oil and grease	20	10
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 461.63 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:

(a) Subject to the provisions of paragraph (b) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) a process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 421.64 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards: There shall be no discharge of process wastewater pollutants into navigable waters.

§ 421.65 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 copper process wastewater introduced into a POTW shall not exceed the following values:

(a) There shall be no discharge of process wastewater pollutants into a publicly owned treatment works subject to the provisions of paragraph (b).

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process wastewater equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 421.66 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 copper process wastewater introduced into a POTW shall not exceed the following values: There shall be no discharge of process wastewater pollutants into a publicly owned treatment works.

§ 421.67 [Reserved]

Subpart G—Primary Lead Subcategory

§ 421.70 Applicability: description of the primary lead subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lead at primary lead smelters and refineries.

§ 421.71 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.72 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 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) Subpart G—Sinter Plant Materials Handling Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of sinter production	
Lead	594.000	270.000
Zinc	525.000	219.000
Total suspended solids	14,760.000	7,020.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(b) Subpart G—Blast Furnace Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furance lead bullion produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(c) Subpart G—Blast Furnace Slag Granulation.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furance lead bullion produced	
Lead	6,155.000	2,798.000
Zinc	5,446.000	2,276.000
Total suspended solids	153,000.000	72,740.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(d) Subpart G—Dross Reverberatory Slag Granulation.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of slag, speiss, or matte granulated	
Lead	9,499.000	4,318.000
Zinc	8,405.000	3,512.000
Total suspended solids	236,000.000	112,300.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(e) Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of dross reverberatory furnace production	
Lead	15,920.000	7,235.000
Zinc	14,080.000	5,884.000
Total suspended solids	395,500.000	188,100.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(f) Subpart G—Zinc Fuming Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furance lead bullion produced	
Lead	702.900	319.500
Zinc	622.000	259.000
Total suspended solids	17,470.000	8,307.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(g) Subpart G—Hard Lead Refining Slag Granulation.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(h) Subpart G—Hard Lead Refining Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	32,730.000	14,880.000
Zinc	28,960.000	12,100.000
Total suspended solids	813,300.000	386,800.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(i) Subpart G—Facility Washdown.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(j) Subpart G—Employee Handwash.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	5.445	2.475
Zinc	4.818	2.013
Total suspended solids	135.300	64.350
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(k) Subpart G—Respirator Wash.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	8.745	3.975
Zinc	7.738	3.233
Total suspended solids	217.300	103.400
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(l) Subpart G—Laundering of Uniforms.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	25.580	11.630
Zinc	22.630	9.455
Total suspended solids	635.500	302.300
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

§ 421.73 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:

(a) Subpart G—Sinter Plant Materials Handling Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of sinter production	
Lead	100.800	46.800
Zinc	367.200	151.200

(b) Subpart G—Blast Furnace Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(c) Subpart G—Blast Furnace Slag Granulation.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(d) Subpart G—Dross Reverberatory Slag Granulation.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of slag, speiss, or matte granulated	
Lead	1,612.000	748.400
Zinc	5,872.000	2,418.000

(e) Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of dross reverberatory furnace production	
Lead	.000	.000
Zinc	.000	.000

(f) Subpart G—Zinc Fuming Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnance lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(g) Subpart G—Hard Lead Refining Slag Granulation.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000

(h) Subpart G—Hard Lead Refining Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000

(i) Subpart G—Facility Washdown.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(j) Subpart G—Employee Handwash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	.924	.429
Zinc	3.366	1.386

(k) Subpart G—Respirator Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	1.484	.689
Zinc	5.406	2.226

(l) Subpart G—Laundering of Uniforms.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produce	
Lead	4.340	2.015
Zinc	15.810	6.510

§ 421.74 Standards of performance for new sources.

Any new source subject to this subpart must achieve the following performance standards:

(a) Subpart G—Sinter Plant Materials Handling Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of sinter production	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart G—Blast Furnace Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(c) Subpart G—Blast Furnace Slag Granulation.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnance lead bullion produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(d) Subpart G—Dross Reverberatory Slag Granulation.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of slag, speiss, or matte granulated	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(e) Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of dross reverberatory furnace production	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(f) Subpart G—Zinc Fuming Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(g) Subpart G—Hard Lead Refining Slag Granulation.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(h) Subpart G—Hard Lead Refining Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1]Within the range of 7.0 to 10.0 at all times.

(i) Subpart G—Facility Washdown.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

Within the range of 7.0 to 10.0 at all times.

(j) Subpart G—Employee Handwash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	.924	.429
Zinc	3.366	1.386

NSPS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Total suspended solids	49.500	39.600
pH	(1)	(1)

Within the range of 7.0 to 10.0 at all times.

(k) Subpart G—Respirator Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	1.484	.689
Zinc	5.406	2.226
Total suspended solids	79.500	63.600
pH	(1)	(1)

Within the range of 7.0 to 10.0 at all times.

(l) Subpart G—Laundering of Uniforms.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	4.340	2.015
Zinc	15.810	6.510
Total suspended solids	232.500	186.000
pH	(1)	(1)

Within the range of 7.0 to 10.0 at all times.

§ 421.75 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 mut comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in primary lead process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart G—Sinter Plant Materials Handling Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of sinter production	
Lead	100.800	46.800
Zinc	367.200	151.200

(b) Subpart G—Blast Furnace Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pound per billion pounds) of blast furnance lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(c) Subpart G—Blast Furnace Slag Granulation.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pound per billion pounds) of blast furance lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(d) Subpart G—Dross Reverberatory Slag Granulation.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of slag, speiss, or matte granulated	
Lead	1,612.000	748.400
Zinc	5,872.000	2,418.000

(e) Subpart G—Dross Reverberatory Furnance Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of dross reverberatory furnace production	
Lead	.000	.000
Zinc	.000	.000

(f) Subpart G—Zinc Fuming Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(g) Subpart G—Hard Lead Refining Slag Granulation.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000

(h) Subpart G—Hard Lead Refining Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000

(i) Subpart G—Facility Washdown.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced.	
Lead	.000	.000
Zinc	.000	.000

(j) Subpart G—Employee Handwash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	.924	.429
Zinc	3.366	1.386

(k) Subpart G—Respirator Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	1.484	.689
Zinc	5.406	2.226

(l) Subpart G—Laundering of Uniforms.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of lead bullion produced	
Lead	4.340	2.015
Zinc	15.810	6.510

§ 421.76 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 lead process wastewaters introduced into a POTW shall not exceed the following values.

(a) Subpart G—Sinter Plant Materials Handling Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of sinter production	
Lead	.000	.000
Zinc	.000	.000

(b) Subpart G—Blast Furnace Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(c) Subpart G—Blast Furnace Slag Granulation.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(d) Subpart G—Dross Reverberatory Slag Granulation.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of slag, speiss, or matte granulated	
Lead	.000	.000
Zinc	.000	.000

(e) Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of dross reverberatory furnace production	
Lead	.000	.000
Zinc	.000	.000

(f) Subpart G—Zinc Fuming Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kkg (pounds per billion pounds) of blast furnace lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(g) Subpart G—Hard Lead Refining Slag Granulation.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000

(h) Subpart G—Hard Lead Refining Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per billion pounds) of hard lead produced	
Lead	.000	.000
Zinc	.000	.000

(i) Subpart G—Facility Washdown.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per billion pounds) of lead bullion produced	
Lead	.000	.000
Zinc	.000	.000

(j) Subpart G—Employee Handwash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per billion pounds) of lead bullion produced	
Lead	.924	.429
Zinc	3.366	1.386

(k) Subpart G—Respirator Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per billion pounds) of lead bullion produced	
Lead	1.484	.689
Zinc	5.406	2.226

(l) Subpart G—Laundering of Uniforms.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per billion pounds) of lead bullion produced	
Lead	4.340	2.015
Zinc	15.810	6.510

§ 421.77 [Reserved]

Subpart H—Primary Zinc Subcategory

§ 421.80 Applicability: description of the primary zinc subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of primary zinc by either electrolytic or pyrolytic means.

§ 421.81 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 401 shall apply to this subpart.

(b) The term "product" shall mean zinc metal.

§ 421.82 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 shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

EFFLUENT LIMITATIONS

Effluent characteristics	Maximum for any 1 day	Average of Daily values for 30 consecutive days shall not exceed
	Metric Units (kg/kkg of product) English Units (pounds per 1,000 pounds of product)	
TSS	0.42	0.21
As	0.0016	0.0008
Cd	0.008	0.004
Se	0.608	0.04
Zn	0.08	0.04
pH	(1)	(1)

(1) Within the range of 6.0 to 9.0.

§ 421.83 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:

(a) Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc reduced	
Cadmium	.334	.134
Copper	2.135	1.018
Lead	.467	.217
Zinc	1.702	.701

(b) Subpart H—Preleach of Zinc Concentrates.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate leached	
Cadmium	.180	.072

BAT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Copper	1.153	.550
Lead	.252	.117
Zinc	.919	.378

(c) Subpart H—Leaching Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc processed through leaching	
Cadmium	.000	.000
Copper	.000	.000
Lead	.000	.000
Zinc	.000	.000

(d) Subpart H—Electrolyte Bleed Wastewater.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.086	.035
Copper	.553	.264
Lead	.121	.056
Zinc	.441	.182

(e) Subpart H—Cathode and Anode Wash Wastewater.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.150	.060
Copper	.961	.458
Lead	.210	.098
Zinc	.766	.315

(f) Subpart H—Casting Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.051	.021
Copper	.329	.157
Lead	.072	.033
Zinc	.262	.108

(g) Subpart H—Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.036	.014
Copper	.232	.110
Lead	.051	.024
Zinc	.185	.076

(h) Subpart H—Cadmium Plant Wastewater.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cadmium produced	
Cadmium	1.234	.494
Copper	7.899	3.765
Lead	1.728	.802
Zinc	6.295	2.592

§ 421.84 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc reduced	
Cadmium	.334	.134
Copper	2.135	1.018
Lead	.467	.217
Zinc	1.702	.701
Total suspended solids	25.020	20.020
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart H—Preleach of Zinc Concentrates.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate leached	
Cadmium	.180	.072
Copper	1.153	.550
Lead	.252	.117
Zinc	.919	.378
Total suspended solids	13.520	10.810
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart H—Leaching Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc processed through leaching	
Cadmium	.000	.000
Copper	.000	.000
Lead	.000	.000
Zinc	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart H—Electrolyte Bleed Wastewater.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.086	.035
Copper	.553	.264
Lead	.121	.056
Zinc	.441	.182
Total suspended solids	6.480	5.184
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart H—Cathode and Anode Wash Wastewater.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.150	.060
Copper	.961	.458
Lead	.210	.098
Zinc	.766	.315
Total suspended solids	11270.	9.012
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart H—Casting Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.051	.021
Copper	.329	.157
Lead	.072	.033
Zinc	.262	.108
Total suspended solids	3.855	3.084
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart H—Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.036	.014
Copper	.232	.110
Lead	.051	.024
Zinc	.185	.076
Total suspended solids	2.715	2.172
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart H—Cadmium Plant Wastewater.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cadmium produced	
Cadmium	1.234	.494
Copper	7.899	3.765
Lead	1.728	.802
Zinc	6.295	2.592
Total suspended solids	92.570	74.050
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.85 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 zinc process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc reduced	
Cadmium	.334	.134
Zinc	1.702	.701

(b) Subpart H—Preleach of Zinc Concentrates.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate leached	
Cadmium	.180	.072

PSES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	.919	.376

(c) Subpart H—Leaching Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc processed through leaching	
Cadmium	.000	.000
Zinc	.000	.000

(d) Subpart H—Electrolyte Bleed Wastewater.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.086	.035
Zinc	.441	.182

(e) Subpart H—Cathode and Anode Wash Wastewater.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.150	.060
Zinc	.766	.315

(f) Subpart H—Casting Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.051	.021
Zinc	.262	.108

(g) Subpart H—Casting Contact Cooling.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.036	.014
Zinc	.185	.076

(h) Subpart H—Cadmium Plant Wastewater.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cadmium produced	
Cadmium	1.234	.494
Zinc	6.295	2.592

§ 421.86 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 zinc process wastewaters introduced into a POTW shall not exceed the following values:

(a) Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc reduced	
Cadmium	.334	.134
Zinc	1.702	.701

(b) Subpart H—Preleach of Zinc Concentrates.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate leached	
Cadmium	.180	.072
Zinc	.919	.378

(c) Subpart H—Leaching Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc processed through leaching	
Cadmium	.000	.000
Zinc	.000	.000

(d) Subpart H—Electrolyte Bleed Wastewater.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.086	.035
Zinc	.441	.182

(e) Subpart H—Cathode and Anode Wash Wastewater.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cathode zinc produced	
Cadmium	.150	.060
Zinc	.766	.315

(f) Subpart H—Casting Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	.051	.021
Zinc	.262	.108

(g) Subpart H—Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of zinc cast	
Cadmium	0.036	0.014
Zinc	0.185	0.076

(h) Subpart H—Cadmium Plant Wastewater.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of cadmium produced	
Cadmium	1.234	0.494
Zinc	6.295	2.592

§ 421.87 [Reserved]

Subpart I—Metallurgical Acid Plants Subcategory

§ 421.90 Applicability: description of the metallurgical acid plants subcategory.

The provisions of this subpart apply to process wastewater discharges resulting from or associated with the manufacture of by-product sulfuric acid at primary copper smelters, primary zinc facilities, and primary lead facilities, including any associated air pollution control or gas-conditioning systems for sulfur dioxide off-gases from pyrometallurgical operations.

§ 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):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of product English units, pounds per 1,000 pounds of product	
Total suspended solids	0.304	0.152
Copper	0.005	0.002
Cadmium	0.00018	0.00009
Lead	0.0018	0.00079
Zinc	0.0036	0.0009
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 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

Pollutant or pollutant property	BAT Effluent Limitations: Maximum for any 1 day	BAT Effluent Limitations: Maximum for monthly average
	(Mg/kg pounds per million pounds) of 100 pct 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

Pollutant or pollutant property	NSPS: Maximum for any 1 day	NSPS: Maximum for monthly average
	(Mg/kg pounds per million pounds) of 100 pct 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 7.0 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

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of 100 pct sulfuric acid capacity	
Cadmium	0.511	0.204
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

Pollutant or pollutant property	PSNS	
	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

§ 421.97 [Reserved]

Subpart J—Primary Tungsten Subcategory

§ 421.100 Applicability: description of the primary tungsten subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tungsten at primary tungsten facilities.

§ 421.101 Specialized definitions.

For the purpose of this subpart the general information, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.102 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 shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) Subpart J—Tungstic Acid Rinse.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	12.680	6.038
Zinc	44.080	18.420
Ammonia (as N)	4,025.000	1,769.000
Total suspended solids	1,238.000	588.700
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(b) Subpart J—Acid Leach Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pound per million pounds) of tungstic acid produced	
Lead	11.070	5.270
Zinc	38.470	16.080
Ammonia (as N)	3,513.000	1,544.000
Total suspended solids	1,081.000	513.600
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all time.

(c) Subpart J—Alkali Leach Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of sodium tungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(d) Subpart J—Ion-Exchange Raffinate.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium tungstate produced	
Lead	21.300	10.140
Zinc	74.030	30.930
Ammonia (as N)	6,759.000	2,972.000
Total suspended solids	2,079.000	988.800
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(e) Subpart J—Calcium Tungstate Precipitate Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of calcium tungstate produced	
Lead	19.800	9.428
Zinc	68.830	28.760
Ammonia (as N)	6,284.000	2,763.000
Total suspended solids	1,933.000	919.300
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(f) Subpart J—Cystallization and Drying of Ammonium Paratungstate.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium paratungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(g) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO3) produced	
Lead	9.198	4.380
Zinc	31.980	13.360
Ammonia (as N)	2,919.000	1,284.000
Total suspended solids	897.900	427.100
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(h) Subpart J—Ammonium Paratungstate Coversion to Oxides Water of Formation.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO3)sodium tungstate produced	
Lead	.021	.010
Zinc	.073	.031
Ammonia (as N)	6.665	2.930
Total suspended solids	2.050	.975
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(i) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	12.940	6.161
Zinc	44.970	18.790
Ammonia (as N)	4,106.000	1,805.000
Total suspended solids	1,263.000	600.700
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart J—Reduction to Tungsten Water of Formation.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.205	.098
Zinc	.714	.298
Ammonia (as N)	65.190	28.660
Total suspended solids	20.050	9.536
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart J—Tungsten Powder Acid Leach and Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	1.008	.480
Zinc	3.504	1.464
Ammonia (as N)	319.900	140.700
Total suspended solids	98.400	46.800
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(l) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of molybdenum sulfide precipitated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.103 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:

(a) Subpart J—Tungstic Acid Rinse.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	8.453	3.925
Zinc	30.800	12.680
Ammonia (as N)	4,025.000	1,769.000

(b) Subpart J—Acid Leach Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	.738	.343
Zinc	2.688	1.107
Ammonia (as N)	351.300	154.400

(c) Subpart J—Alkali Leach Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of sodium tungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(d) Subpart J—Ion-Exchange Raffinate.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium tungstate produced	
Lead	14.200	6.592
Zinc	51.720	21.300
Ammonia (as N)	6,759.000	2,972.000

(e) Subpart J—Calcium Tungstate Precipitate Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of calcium tungstate produced	
Lead	13.200	6.128
Zinc	48.080	19.800
Ammonia (as N)	6,284.000	2,763.000

(f) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium paratungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(g) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO_3) produced	
Lead	.613	.285
Zinc	2.234	.920
Ammonia (as N)	291.900	126.400

(h) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO_3) produced	
Lead	.014	.007
Zinc	.051	.021
Ammonia (as N)	6.665	2.930

(i) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.862	.400
Zinc	3.142	1.294
Ammonia (as N)	410.600	180.500

(j) Subpart J—Reduction to Tungsten Water of Formation.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.137	.064
Zinc	.499	.205
Ammonia (as N)	65.190	28.660

(k) Subpart J—Tungsten Powder Acid Leach and Wash t+1.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.672	.312
Zinc	2.448	1.008
Ammonia (as N)	319.900	140.700

(l) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Poliutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of molybdenum sulfide precipitated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.104 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart J—Tungstic Acid Rinse.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	8.453	3.925
Zinc	30.800	12.680
Ammonia (as N)	4,025.000	1,769.000
Total suspended solids	452.900	362.300
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart J—Acid Leach Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	.738	.343
Zinc	2.688	1.107
Ammonia (as N)	351.300	154.400
Total suspended solids	39.530	31.620
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart J—Alkali Leach Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of sodium tungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart J—Ion-Exchange Raffinate.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium tungstate produced	
Lead	14.200	6.592
Zinc	51.720	21.300
Ammonia (as N)	6,759.000	2,972.000
Total suspended solids	760.600	608.500
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart J—Calcium Tungstate Precipitate Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of calcium tungstate produced	
Lead	13.200	6.128
Zinc	48.080	19.800
Ammonia (as N)	6,284.000	2,763.000
Total suspended solids	707.100	565.700
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium paratungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO_3) produced	
Lead	.613	.285
Zinc	2.234	.920
Ammonia (as N)	291.900	126.400
Total suspended solids	32.850	26.280
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO_3) produced	
Lead	.014	.007
Zinc	.051	.021
Ammonia (as N)	6.665	2.930
Total suspended solids	.750	.600
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.862	.400
Zinc	3.142	1.294
Ammonia (as N)	410.600	180.500
Total suspended solids	46.200	36.960
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart J—Reduction to Tungsten Water of Formation.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.137	.064
Zinc	.499	.205
Ammonia (as N)	65.190	28.660
Total suspended solids	7.335	5.868
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(k) Subpart J—Tungsten Powder Acid Leach and Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.672	.312
Zinc	2.448	1.008
Ammonia (as N)	319.900	140.700
Total suspended solids	36.000	28.800
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

(l) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of molybdenum sulfide precipitated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

(1) Within the range of 7.0 to 10.0 at all times.

§ 421.105 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 tungsten process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart J—Tungstic Acid Rinse.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	8.453	3.925
Zinc	30.800	12.680
Ammonia (as N)	4,025.000	1,769.000

(b) Subpart J—Acid Leach Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	.738	.343
Zinc	2.688	1.107
Ammonia (as N)	351.300	154.400

(c) Subpart J—Alkali Leach Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of sodium tungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(d) Subpart J—Ion-Exchange Raffinate.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium tungstate prqduced	
Lead	14.200	6.592
Zinc	51.720	21.300
Ammonia (as N)	6,759.000	2,972.000

(e) Subpart J—Calcium Tungstate Precipitate Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of calcium tungstate produced	
Lead	13.200	6.128
Zinc	48.080	19.800
Ammonia (as N)	6,284.000	2,763.000

(f) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium paratungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(g) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO3) produced	
Lead	.613	.285
Zinc	2.234	.920
Ammonia (as N)	291.900	128.400

(h) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO3) produced	
Lead	.014	.007
Zinc	.051	.021
Ammonia (as N)	6.665	2.930

(i) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.862	.400
Zinc	3.142	1.294
Ammonia (as N)	410.600	180.500

(j) Subpart J—Reduction to Tungsten Water of Formation.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.137	.064
Zinc	.499	.205
Ammonia (as N)	65.190	28.660

(k) Subpart J—Tungsten Powder Acid Leach and Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungsten metal produced	
Lead	.672	.312
Zinc	2.448	1.008
Ammonia (as N)	319.900	140.700

(l) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of molybdenum sulfide precipitated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.106 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 tungsten process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart J—Tungstic Acid Rinse.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	6.453	3.925
Zinc	30.800	12.680
Ammonia (as N)	4,025.000	1,769.000

(b) Subpart J—Acid Leach Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic acid produced	
Lead	.738	.343
Zinc	2.688	1.107
Ammonia (as N)	351.300	154.400

(C) Subpart J—Alkali Leach Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of sodium tungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(d) Subpart J—Ion-Exchange Raffinate.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium tungstate produced	
Lead	14.200	6.592
Zinc	51.720	21.300
Ammonia (as N)	6,759.000	2,972.000

(e) Subpart J—Calcium Tungstate Precipitate Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of calcium tungstate produced	
Lead	13.200	6.126
Zinc	48.080	19.800
Ammonia (as N)	6,284.000	2,763.000

(f) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of ammonium paratungstate produced	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(g) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO_3) produced	
Lead	.613	.285
Zinc	2.234	.920

PSNS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	291.900	128.400

(h) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic oxide (WO_3 produced	
Lead	.014	.007
Zinc	.051	.021
Ammonia (as N)	6.665	2.930

(i) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic metal produced	
Lead	.862	.400
Zinc	3.142	1.294
Ammonia (as N)	410.600	180.500

(j) Subpart J—Reduction to Tungsten Water of Formation.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic metal produced	
Lead	.137	.064
Zinc	.499	.205
Ammonia (as N)	65.190	28.660

(k) Subpart J—Tungsten Powder Acid Leach and Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tungstic metal produced	
Lead	.672	.312
Zinc	2.448	1.008
Ammonia (as N)	319.900	140.700

(l) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of molybdenum sulfide precipitated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.107 [Reserved]

Subpart K—Primary Columbium-Tantalum Subcategory

§ 421.110 Applicability: description of the primary columbium-tantalum subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of columbium or tantalum by primary columbium-tantalum facilities.

§ 421.111 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.112 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 shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) Subpart K—Concentrate Digestion Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	2.612	1.244
Zinc	9.080	3.794
Ammonia (as N)	829.000	364.500
Fluoride	217.700	124.400
Total suspended solids	255.000	121.300
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart K—Solvent Extraction Raffinate.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	3.845	1.831
Zinc	13.370	5.585
Ammonia (as N)	1,221.000	536.500
Fluoride	320.400	183.100
Total suspended solids	375.400	178.500
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart K—Solvent Extraction Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	1.032	.491
Zinc	3.586	1.498
Ammonia (as N)	327.400	143.900
Fluoride	85.960	49.120
Total suspended solids	100.700	47.890
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart K—Precipitation and Filtration.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	5.750	2.738
Zinc	19.990	8.350
Ammonia (as N)	1,825.000	802.200
Fluoride	479.100	273.800
Total suspended solids	561.300	267.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart K—Precipitation and Filtration Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	26.680	12.700
Zinc	92.730	38.740
Ammonia (as N)	8,466.000	3,722.000
Fluoride	2,223.000	1,270.000
Total suspended solids	2,604.000	1,239.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart K—Tantalum Salt Drying.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt dried	
Lead	25.430	12.110
Zinc	88.390	36.930
Ammonia (as N)	8,070.000	3,548.000
Fluoride	2,119.000	1,211.000
Total suspended solids	2,482.000	1,181.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart K—Oxides Calcining Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium-tantalum oxide dried	
Lead	16.140	7.685
Zinc	56.100	23.440
Ammonia (as N)	5,122.000	2,252.000
Fluoride	1,345.000	768.500
Total suspended solids	1,576.000	749.200
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart K—Reduction of Tantalum Salt to Metal.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	69.750	33.220
Zinc	242.500	101.300
Ammonia (as N)	22,140.000	9,732.000
Fluoride	5,813.000	3,322.000
Total suspended solids	6,809.000	3,239.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart K—Reduction of Tantalum Salt to Metal Wet Air Pollution Control.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	.858	.409
Zinc	2.983	1.246
Ammonia (as N)	272.400	119.700
Fluoride	71.510	40.860
Total suspended solids	83.770	39.840
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart K—Tantalum Powder Wash.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum power washed	
Lead	8.582	4.087
Zinc	29.830	12.470
Ammonia (as N)	2,724.000	1,198.000
Fluoride	715.200	408.700
Total suspended solids	837.800	398.500
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart K—Consolidation and Casting Contact Cooling.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium or tantalum cast or consolidated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Fluoride	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.113 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:

(a) Subpart K—Concentrate Digestion Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.174	.081
Zinc	.635	.261
Ammonia (as N)	82.910	36.450
Fluoride	21.770	12.440

(b) Subpart K—Solvent Extraction Raffinate.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	2.564	1.190
Zinc	9.338	3.845
Ammonia (as N)	1,221.000	536.500
Fluoride	320.400	183.100

(c) Subpart K—Solvent Extraction Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.069	.032
Zinc	.251	.103
Ammonia (as N)	32.790	14.420
Fluoride	8.610	4.920

(d) Subpart K—Precipitation and Filtration.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	3.833	1.780
Zinc	13.960	5.750
Ammonia (as N)	1,825.000	802.200
Fluoride	479.100	273.800

(e) Subpart K—Precipitation and Filtration Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	1.778	.826
Zinc	6.478	2.668
Ammonia (as N)	846.600	372.200
Fluoride	222.300	127.000

(f) Subpart K—Tantalum Salt Drying.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt dried	
Lead	16.950	7.871
Zinc	61.750	25.430
Ammonia (as N)	8,070.000	3,548.000

BAT Effluent Limitations—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	2,119.000	1,211.000

(g) Subpart K—Oxides Calcining Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium-tantalum oxide	
Lead	1.076	.500
Zinc	3.919	1.614
Ammonia (as N)	512.200	225.200
Fluoride	134.500	76.840

(h) Subpart K—Reduction of Tantalum Salt to Metal.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	46.500	21.590
Zinc	169.400	69.750
Ammonia (as N)	22,140.000	9,732.000
Fluoride	5,813.000	3,322.000

(i) Subpart K—Reduction of Tantalum Salt to Metal Wet Air Pollution Control.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	.572	.266
Zinc	2.084	.858
Fluoride	71.510	40.860

(j) Subpart K—Tantalum Powder Wash.

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum powder washed	
Lead	5.721	2.656
Zinc	20.840	8.582
Ammonia (as N)	2,724.000	1,198.000
Fluoride	715.200	408.700

(k) Subpart K—Consolidation and Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium or tantalum cast or consolidated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Fluoride	.000	.000

§ 421.114 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart K—Concentrate Digestion Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.174	.081
Zinc	.635	.261
Ammonia (as N)	82.910	36.450
Fluoride	21.770	12.440
Total suspended solids	9.330	7.464
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart K—Solvent Extraction Raffinate.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	2.564	1.190
Zinc	9.338	3.845
Ammonia (as N)	1,221.000	536.500
Fluoride	320.400	183.100
Total suspended solids	137.300	109.900
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart K—Solvent Extraction Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.069	.032
Zinc	.251	.103
Ammonia (as N)	32.790	14.420
Fluoride	8.610	4.920
Total suspended solids	3.690	2.952
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart K—Precipitation and Filtration.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	3.833	1.780
Zinc	13.960	5.750
Ammonia (as N)	1,825.000	802.200
Fluoride	479.100	273.800
Total suspended solids	205.400	164.300
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart K—Precipitation and Filtration Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	1.778	.826
Zinc	6.478	2.668
Ammonia (as N)	846.600	372.200
Fluoride	222.300	127.000
Total suspended solids	95.270	76.210
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart K—Tantalum Salt Drying.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt dried	
Lead	16.950	7.871
Zinc	61.750	25.430
Ammonia (as N)	8,070.000	3,548.000
Fluoride	2,119.000	1,211.000
Total suspended solids	908.200	726.500
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart K—Oxides Calcining Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium-tantalum oxide dried	
Lead	1.076	.500
Zinc	3.919	1.614
Ammonia (as N)	512.200	225.200
Fluoride	134.500	76.840
Total suspended solids	57.630	46.110
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart K—Reduction of Tantalum Salt to Metal.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	46.500	21.590
Zinc	169.400	69.750
Ammonia (as N)	22,140.000	9,732.000
Fluoride	5,813.000	3,322.000
Total suspended solids	2,491.000	1,993.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart K—Reduction of Tantalum Salt to Metal Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	.572	.266
Zinc	2.084	.858
Ammonia (as N)	272.400	119.700
Fluoride	71.510	40.860
Total suspended solids	30.650	24.520
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart K—Tantalum Powder Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum powder washed	
Lead	5.721	2.656
Zinc	20.840	8.582
Ammonia (as N)	2,724.000	1,198.000
Fluoride	715.200	408.700
Total suspended solids	306.500	245.200
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart K—Consolidation and Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium or tantalum cast or consolidated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Fluoride	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.115 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 columbium-tantalum process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart K—Concentrate Digestion Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.174	.081
Zinc	.635	.261
Ammonia (as N)	82.910	36.450
Fluoride	21.770	12.440

(b) Subpart K—Solvent Extraction Raffinate.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	2.564	1.190
Zinc	9.338	3.845
Ammonia (as N)	1,221.000	536.500
Fluoride	320.400	183.100

(c) Subpart K—Solvent Extraction Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.069	.032
Zinc	.251	.103
Ammonia (as N)	32.790	14.420
Fluoride	8.610	4.920

(d) Subpart K—Precipitation and Filtration.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	3.833	1.780
Zinc	13.960	5.750
Ammonia (as N)	1,825.000	802.200
Fluoride	479.100	273.800

(e) Subpart K—Precipitation and Filtration Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	1.778	.826
Zinc	6.478	2.668
Ammonia (as N)	846.600	372.200
Fluoride	222.300	127.000

(f) Subpart K—Tantalum Salt Drying.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt dried	
Lead	16.950	7.871
Zinc	61.750	25.430
Ammonia (as N)	8,070.000	3,548.000
Fluoride	2,119.000	1,211.000

(g) Subpart K—Oxides Calcining Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium-tantalum oxide dried	
Lead	1.076	.500
Zinc	3.919	1.614
Ammonia (as N)	512.200	225.200
Fluoride	134.500	76.840

(h) Subpart K—Reduction of Tantalum Salt to Metal.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	46.500	21.590
Zinc	169.400	69.750
Ammonia (as N)	22,140.000	9,732.000

PSES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	5,813.000	3,322.000

(i) Subpart K—Reduction of Tantalum Salt to Metal Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	.572	.266
Zinc	2.084	.858
Ammonia (as N)	272.400	119.700
Fluoride	71.510	40.860

(j) Subpart K—Tantalum Powder Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum powder washed	
Lead	5.721	2.656
Zinc	20.840	8.582
Ammonia (as N)	2,724.000	1,198.000
Fluoride	715.200	408.700

(k) Subpart K—Consolidation and Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium or tantalum cast or consolidated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Fluoride	.000	.000

§ 421.116 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 columbium-tantalum process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart K—Concentrate Digestion Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.174	.081
Zinc	.635	.261
Ammonia (as N)	82.910	36.450
Fluoride	21.770	12.440

(b) Subpart K—Solvent Extraction Raffinate.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	2.564	1.190
Zinc	9.338	3.845
Ammonia (as N)	1,221.000	536.500
Fluoride	320.400	183.100

(c) Subpart K—Solvent Extraction Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	.069	.032
Zinc	.251	.103
Ammonia (as N)	32.790	14.420
Fluoride	8.610	4.920

(d) Subpart K—Precipitation and Filtration.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	3.833	1.760
Zinc	13.960	5.750
Ammonia (as N)	1,825.000	802.200
Fluoride	479.100	273.800

(e) Subpart K—Precipitation and Filtration Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of concentrate digested	
Lead	1.778	.826
Zinc	6.478	2.668
Ammonia (as N)	846.600	372.200

PSNS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Fluoride	222.300	127.000

(f) Subpart K—Tantalum Salt Drying.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt dried	
Lead	16.950	7.871
Zinc	61.750	25.430
Ammonia (as N)	8,070.000	3,548.000
Fluoride	2,119.000	1,211.000

(g) Subpart K—Oxides Calcining Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium-tantalum oxide dried	
Lead	1.076	.500
Zinc	3.919	1.614
Ammonia (as N)	512.200	225.200
Fluoride	134.500	76.840

(h) Subpart K—Reduction of Tantalum Salt to Metal.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	46.500	21.590
Zinc	169.400	69.750
Ammonia (as N)	22,140.000	9,732.000
Fluoride	5,813.000	3,322.000

(i) Subpart K—Reduction of Tantalum Salt to Metal Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum salt reduced	
Lead	.572	.266
Zinc	2.084	.858
Ammonia (as N)	272.400	119.700
Fluoride	71.510	40.860

(j) Subpart K—Tantalum Powder Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of tantalum powder washed	
Lead	5.721	2.656
Zinc	20.840	8.582
Ammonia (as N)	2,724.000	1,198.000
Fluoride	715.200	408.700

(k) Subpart K—Consolidation and Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of columbium or tantalum cast or consolidated	
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Fluoride	.000	.000

§ 421.117 [Reserved]

Subpart L—Secondary Silver Subcategory

§ 421.120 Applicability: description of the secondary silver subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of silver from secondary silver facilities processing protographic and nonphotographic raw materials.

§ 421.121 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.122 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 shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) Subpart L—Film Stripping.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from film stripping	
Copper	95.670	50.350

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	73.510	30.720
Ammonia (as N)	6,712.000	2,951.000
Total suspended solids	2,065.000	981.800
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart L—Film Stripping Wet Air Pollution Control and Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of film stripping solutions	
Copper	1.843	.970
Zinc	1.416	.592
Ammonia (as N)	129.300	56.840
Total suspended solids	39.770	18.920
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart L—Precipitation and Filtration of Film Stripping Solutions.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	109.400	57.570
Zinc	84.050	35.120
Ammonia (as N)	7,674.000	3,374.000
Total suspended solids	2,361.000	1,123.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart L—Precipitation and Filtration of Photographic Solutions.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	50.540	26.600
Zinc	38.836	16.226
Ammonia (as N)	3,545.000	1,559.000
Total suspended solids	1,090.600	518.700
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of photographic solutions	
Copper	23.070	12.140
Zinc	17.730	7.406
Ammonia (as N)	1,618.000	711.400
Total suspended solids	497.800	236.800
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart L—Electrolytic Refining.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from electrolytic refining	
Copper	1.444	.760
Zinc	1.110	.464
Ammonia (as N)	101.300	44.540
Total suspended solids	31.160	14.820
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart L—Furnace Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver roasted, smelted, or dried	
Copper	1.273	.670
Zinc	.978	.409
Ammonia (as N)	89.310	39.260
Total suspended solids	27.470	13.070
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) (Subpart L—Leaching.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching	
Copper	.164	.086
Zinc	.126	.053
Ammonia (as N)	11.470	5.040
Total suspended solids	3.526	1.677
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart L—Leaching Wet Air Pollution Control and Precipitation of Nonphotographic Solutions Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching or silver precipitated	
Copper	8.417	4.430
Zinc	6.468	2.703
Ammonia (as N)	590.500	259.600
Total suspended solids	181.700	86.390
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart L—Precipitation and Filtration of Nonphotographic Solutions.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	5.833	3.070
Zinc	4.482	1.873
Ammonia (as N)	409.300	179.900
Total suspended solids	125.900	59.670
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart L—Floor and Equipment Washdown.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver production	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.123 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:

(a) Subpart L—Film Stripping.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from film stripping	
Copper	64.450	30.720
Zinc	51.360	21.150

BAT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	6,712.000	2,951.000

(b) Subpart L—Film Stripping Wet Air Pollution Control and Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of film stripping solutions	
Copper	1.242	.592
Zinc	.990	.408
Ammonia (as N)	129.300	56.840

(c) Subpart L—Precipitation and Filtration of Film Stripping Solutions.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	73.690	35.120
Zinc	58.720	24.180
Ammonia (as N)	7,674.000	3,374.000

(d) Subpart L—Precipitation and Filtration of Photographic Solutions.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	34.048	16.226
Zinc	27.132	11.172
Ammonia (as N)	3,545.000	1,559.000

(e) Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of photographic solutions	
Copper	15.540	7.406
Zinc	12.380	5.099
Ammonia (as N)	1,618.000	711.400

(f) Subpart L—Electrolytic Refining.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from electrolytic refining	
Copper	.973	.464
Zinc	.775	.319
Ammonia (as N)	101.300	44.540

(g) Subpart L—Furnace Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver roasted, smelted, or dried	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(h) Subpart L—Leaching.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching	
Copper	.110	.053
Zinc	.088	.036
Ammonia (as N)	11.470	5.040

(i) Subpart L—Leaching Wet Air Pollution Control and Precipitation of Nonphotographic Solutions Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching or silver precipitated	
Copper	5.671	2.703
Zinc	4.519	1.861
Ammonia (as N)	590.500	259.600

(j) Subpart L—Precipitation and Filtration of Nonphotographic Solutions.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	3.930	1.873
Zinc	3.132	1.290
Ammonia (as N)	409.300	179.900

(k) Subpart L—Floor and Equipment Washdown.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver production	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.124 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart L—Film Stripping.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from film stripping	
Copper	64.450	30.720
Zinc	51.360	21.150
Ammonia (as N)	6,712.000	2,951.000
Total suspended solids	755.300	604.200
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart L—Film Stripping Wet Air Pollution Control and Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of film stripping solutions	
Copper	1.242	.592
Zinc	.990	.408
Ammonia (as N)	129.300	56.840
Total suspended solids	14.550	11.640
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart L—Precipitation and Filtration of Film Stripping Solutions.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	mg/troy ounce of silver precipitated	
Copper	73.690	35.120
Zinc	58.720	24.180
Ammonia (as N)	7,674.000	3,374.000
Total suspended solids	863.600	690.900
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart L—Precipitation and Filtration of Photographic Solutions.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	34.048	16.226
Zinc	27.132	11.172
Ammonia (as N)	3,545.000	1,559.000
Total suspended solids	399.000	319.200
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of photographic solutions	
Copper	15.540	7.406
Zinc	12.380	5.099
Ammonia (as N)	1,618.000	711.400
Total suspended solids	182.100	145.700
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart L—Electrolytic Refining.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from electrolytic refining	
Copper	.973	.464
Zinc	.775	.319
Ammonia (as N)	101.300	44.540
Total suspended solids	11.400	9.120
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart L—Furnace Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver roasted, smelted, or dried	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart L—Leaching.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching	
Copper	.110	.053
Zinc	.088	.036
Ammonia (as N)	11.470	5.040
Total suspended solids	1.290	1.032
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart L—Leaching Wet Air Pollution Control and Precipitation of Nonphotographic Solutions Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching or silver precipitated	
Copper	5.671	2.703
Zinc	4.519	1.861
Ammonia (as N)	590.500	259.600
Total suspended solids	66.450	53.160
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart L—Precipitation and Filtration of Nonphotograhic Solutions.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	3.930	1.873
Zinc	3.132	1.290
Ammonia (as N)	409.300	179.900
Total suspended solids	46.050	36.840
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart L—Floor and Equipment Washdown.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver production	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.125 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 silver process wastewater introduced into a POTW must not exceed the following values.

(a) Subpart L—Film Stripping.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from film stripping	
Copper	64.450	30.720
Zinc	51.360	21.150
Ammonia (as N)	6,712.000	2,951.000

(b) Subpart L—Film Stripping Wet Air Pollution Control and Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of film stripping solutions	
Copper	1.242	.592
Zinc	.990	.408
Ammonia (as N)	129.300	56.840

(c) Subpart L—Precipitation and Filtration of Film Stripping Solutions.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	73.690	35.120
Zinc	58.720	24.180
Ammonia (as N)	7,674.000	3,374.000

(d) Subpart L—Precipitation and Filtration of Photographic Solutions.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	34.048	16.226
Zinc	27.132	11.172
Ammonia (as N)	3,545.000	1,559.000

(e) Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of photographic solutions	
Copper	15.540	7.406
Zinc	12.380	5.099
Ammonia (as N)	1,618.000	711.400

(f) Subpart L—Electrolytic Refining.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from electrolytic refining	
Copper	.973	.464
Zinc	.775	.319
Ammonia (as N)	101.300	44.540

(g) Subpart L—Furnace Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver roasted, smelted, or dried	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(h) Subpart L—Leaching.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching	
Copper	.110	.053
Zinc	.088	.036
Ammonia (as N)	11.470	5.040

(i) Subpart L—Leaching Wet Air Pollution Control and Precipitation of Nonphotographic Solutions Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching or silver precipitated	
Copper	5.671	2.703
Zinc	4.519	1.861
Ammonia (as N)	590.500	259.600

(j) Subpart L—Precipitation and Filtration of Nonphotographic Solutions.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	3.930	1.873
Zinc	3.132	1.290
Ammonia (as N)	409.300	179.900

(k) Subpart L—Floor and Equipment Washdown.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver production	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.126 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 silver process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart L—Film Stripping.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from film stripping	
Copper	64.450	30.720
Zinc	51.360	21.150
Ammonia (as N)	6,712.000	2,951.000

(b) Subpart L—Film Stripping Wet Air Pollution Control and Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of film stripping solutions	
Copper	1.242	.592
Zinc	.990	.408
Ammonia (as N)	129.300	56.840

(c) Subpart L—Precipitation and Filtration of Film Stripping Solutions.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	73.690	35.120
Zinc	58.720	24.180
Ammonia (as N)	7,674.000	3,374.000

(d) Subpart L—Precipitation and Filtration of Photographic Solutions.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	34.048	16.226
Zinc	27.132	11.172
Ammonia (as N)	3,545.000	1,559.000

(e) Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from precipitation and filtration of photographic solutions	
Copper	15.540	7.406
Zinc	12.380	5.099
Ammonia (as N)	1,618.000	5.099.711.400
Ammonia (as N)	1,618.000	711.400

(f) Subpart L—Electrolytic Refining.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver from electrolytic refining	
Copper	.973	.464
Zinc	.775	.319
Ammonia (as N)	101.300	44.540

(g) Subpart L—Furnace Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver roasted, smelted or dried	
Copper	.000	000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(h) Subpart L—Leaching.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching	
Copper	.110	.053
Zinc	.088	.036
Ammonia (as N)	11.470	5.040

(i) Subpart L—Leaching Wet Air Pollution Control and Precipitation of Nonphotographic Solutions Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver produced from leaching or silver precipitated	
Copper	5.671	2.703
Zinc	4.519	1.861
Ammonia (as N)	590.500	259.600

(j) Subpart L—Precipitation and Filtration of Nonphotographic Solutions.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver precipitated	
Copper	3.930	1.873
Zinc	3.132	1.290
Ammonia (as N)	409.300	179.900

(k) Subpart L—Floor and Equipment Washdown.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/troy ounce of silver production	
Copper	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

§ 421.127 [Reserved].

Subpart M—Secondary Lead Subcategory

§ 421.130 Applicability: description of the secondary lead subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lead by secondary lead facilities.

§ 421.131 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.132 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 shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) Subpart M—Battery Cracking

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	1.932	.862
Arsenic	1.407	.579
Lead	.283	.135
Zinc	.983	.411
Ammonia (as N)	.000	.000
Total suspended solids	27.600	13.130
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart M—Blast, Reverberatory, or Rotary Furnace Wet Air Pollution Control

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	7.491	3.341
Arsenic	5.455	2.245
Lead	1.096	.522
Zinc	3.811	1.592
Ammonia (as N)	.000	.000
Total suspended solids	107.000	50.900
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart M—Kettle Wet Air Pollution Control

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from refining	
Antimony	.129	.058
Arsenic	.094	.039
Lead	.019	.009
Zinc	.066	.027
Ammonia (as N)	.000	.000
Total suspended solids	1.845	.878
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart M—Lead Paste Desulfurization

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead processed through desulfurization	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart M—Casting Contact Cooling

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead cast	
Antimony	.634	.283
Arsenic	.462	.190
Lead	.093	.044
Zinc	.323	.135
Ammonia (as N)	.000	.000
Total suspended solids	9.061	4.310
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart M—Truck Wash.

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.060	.027
Arsenic	.044	.018
Lead	.009	.004
Zinc	.031	.013
Ammonia (as N)	.000	.000
Total suspended solids	.861	.410
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart M—Facility Washdown

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart M—Battery Case Classification.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart M—Employee Handwash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.077	.035
Arsenic	.056	.023
Lead	.011	.005
Zinc	.039	.016
Ammonia (as N)	.000	.000
Total suspended solids	1.107	.527
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart M—Employee Respirator Wash.

BPT EFFULENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.126	.056
Arsenic	.092	.038
Lead	.018	.009
Zinc	.064	.027
Ammonia (as N)	.000	.000
Total suspended solids	1.804	.858
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart M—Laundering of Uniforms.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.367	.164
Arsenic	.268	.110
Lead	.054	.026
Zinc	.187	.078
Ammonia (as N)	.000	.000
Total suspended solids	5.248	2.496
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.133 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:

(a) Subpart M—Battery Cracking.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	1.299	.579
Arsenic	.936	.384
Lead	.189	.087
Zinc	.687	.283
Ammonia (as N)	.000	.000

(b) Subpart M—Blast, Reverberatory, or Rotary Furnace Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	5.038	2.245
Arsenic	3.628	1.488
Lead	.731	.339
Zinc	2.662	1.096
Ammonia (as N)	0.000	0.000

(c) Subpart M—Kettle Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from refining	
Antimony	.087	.039
Arsenic	.063	.026
Lead	.013	.006
Zinc	.046	.019
Ammonia (as N)	.000	.000

(d) Subpart M—Lead Paste Desulfurization.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead processed through desulfurization	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(e) Subpart M—Casting Contact Cooling.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead cast	
Antimony	.042	.019
Arsenic	.031	.013
Lead	.006	.003
Zinc	.022	.009
Ammonia (as N)	.000	.000

(f) Subpart M—Truck Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.041	.018
Arsenic	.029	.012
Lead	.006	.003
Zinc	.021	.009
Ammonia (as N)	.000	.000

(g) Subpart M—Facility Washdown.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(h) Subpart M—Battery Case Classification.

BAT EFFLUENT LIMITATIONS

Pollutant pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	.000	.000
Arsenic	.000	.000

BAT EFFLUENT LIMITATIONS—Continued

Pollutant pollutant property	Maximum for any 1 day	Maximum for monthly average
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(i) Subpart M—Employee Handwash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.052	.023
Arsenic	.038	.015
Lead	.008	.004
Zinc	.028	.011
Ammonia (as N)	.000	.000

(j) Subpart M—Employee Respirator Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.085	.038
Arsenic	.061	.025
Lead	.012	.006
Zinc	.045	.018
Ammonia (as N)	.000	.000

(k) Subpart M—Laundering of Uniforms.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.247	.110
Arsenic	.178	.073
Lead	.036	.017
Zinc	.131	.054
Ammonia (as N)	.000	.000

§ 421.134 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) Subpart M—Battery Cracking.

NSPS

Polletant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	1.299	.579
Arsenic	.936	.384
Lead	.189	.087
Zinc	.697	.283
Ammonia (as N)	.000	.000
Total suspended solids	10.100	8.076
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart M—Blast, Reverberatory, or Rotary Furnace Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	5.038	2.245
Arsenic	3.628	1.488
Lead	.731	.339
Zinc	2.662	1.096
Ammonia (as N)	0.000	0.000
Total suspended solids	39.150	31.320
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart M—Kettle Wet Air Pollution Control.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from refining	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart M—Lead Paste Desulfurization.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead processed through desulfurization	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart M—Casting Contact Cooling.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead cast	
Antimony	.042	.019
Arsenic	.031	.013
Lead	.005	.003
Zinc	.022	.009
Ammonia (as N)	.000	.000
Total suspended solids	.330	.264
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart M—Truck Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.041	.018
Arsenic	.029	.012
Lead	.006	.003
Zinc	.021	.009
Ammonia (as N)	.000	.000
Total suspended solids	.315	.252
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(g) Subpart M—Facility Washdown.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart M—Battery Case Classification.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000
Total suspended solids	.000	.000
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart M—Employee Handwash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.052	.023
Arsenic	.036	.015
Lead	.008	.004
Zinc	.028	.011
Ammonia (as N)	.000	.000
Total suspended solids	.405	.324
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart M—Employee Respirator Wash.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.085	.038
Arsenic	.061	.025
Lead	.012	.006
Zinc	.045	.018
Ammonia (as N)	.000	.000
Total suspended solids	.660	.528
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart M—Laundering of Uniforms.

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.247	.110
Arsenic	.178	.073
Lead	.036	.017
Zinc	.131	.054
Ammonia (as N)	.000	.000
Total suspended solids	1.920	1.536
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 421.135 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 lead process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart M—Battery Cracking.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	1.299	.579
Arsenic	.936	.384
Lead	.189	.087
Zinc	.687	.283
Ammonia (as N)	.000	.000

(b) Subpart M—Blast, Reverberatory, or Rotary Furnace Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	5.038	2.245
Arsenic	3.628	1.488
Lead	.731	.339
Zinc	2.662	1.096
Ammonia (as N)	.000	.000

(c) Subpart M—Kettle Wet Air Pollution Control.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from refining	
Antimony	.087	.039
Arsenic	.063	.026
Lead	.013	.006
Zinc	.046	.019
Ammonia (as N)	.000	.000

(d) Subpart M—Lead Paste Desulfurization.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead processed through desulfurization	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(e) Subpart M—Casting Contact Cooling.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead cast	
Antimony	.042	.019
Arsenic	.031	.013
Lead	.006	.003
Zinc	.022	.009
Ammonia (as N)	.000	.000

(f) Subpart M—Truck Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.041	.018
Arsenic	.029	.012
Lead	.006	.003
Zinc	.021	.009
Ammonia (as N)	.000	.000

(g) Subpart M—Facility Washdown.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(h) Subpart M—Battery Case Classification.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(i) Subpart M—Employee Handwash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.052	.023
Arsenic	.038	.015
Lead	.008	.004
Zinc	.028	.011

PSES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	.000	.000

(j) Subpart M—Employee Respirator Wash.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.085	.038
Arsenic	.061	.025
Lead	.012	.006
Zinc	.045	.018
Ammonia (as N)	.000	.000

(k) Subpart M—Laundering of Uniforms.

PSES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.247	.110
Arsenic	.178	.073
Lead	.036	.017
Zinc	.131	.054
Ammonia (as N)	.000	.000

§ 421.136 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 lead process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart M—Battery Cracking.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	1.299	.579
Arsenic	.936	.384
Lead	.189	.087
Zinc	.687	.283
Ammonia (as N)	.000	.000

(b) Subpart M—Blast, Reverberatory, or Rotary Furnace Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	5.038	2.245
Arsenic	3.628	1.488
Lead	.731	.339
Zinc	2.662	1.096
Ammonia (as N)	.000	.000

(c) Subpart M—Kettle Wet Air Pollution Control.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from refining	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(d) Subpart M—Lead Paste Desulfurization.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead processed through desulfurization	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(e) Subpart M—Casting Contact Cooling.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead cast	
Antimony	.042	.019
Arsenic	.031	.013
Lead	.006	.003
Zinc	.022	.009
Ammonia (as N)	.000	.000

(f) Subpart M—Truck Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.041	.018
Arsenic	.029	.012
Lead	.006	.003
Zinc	.021	.009
Ammonia (as N)	.000	.000

(g) Subpart M—Facility Washdown.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(h) Subpart M—Battery Case Classification.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead scrap produced	
Antimony	.000	.000
Arsenic	.000	.000
Lead	.000	.000
Zinc	.000	.000
Ammonia (as N)	.000	.000

(i) Subpart M—Employee Handwash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.052	.023
Arsenic	.038	.015
Lead	.008	.004
Zinc	.028	.011
Ammonia (as N)	.000	.000

(j) Subpart M—Employee Respirator Wash.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.085	.038
Arsenic	.061	.025

PSNS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Lead	.012	.006
Zinc	.045	.018
Ammonia (as N)	.000	.000

(k) Subpart M—Laundering of Uniforms.

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Mg/kg (pounds per million pounds) of lead produced from smelting	
Antimony	.247	.110
Arsenic	.178	.073
Lead	.036	.017
Zinc	.131	.054
Ammonia (as N)	.000	.000

§ 421.137 [Reserved]

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federal register

Thursday
March 8, 1984

Part III

Environmental Protection Agency

41 CFR Ch. 15
48 CFR Ch. 15
Acquisition Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

41 CFR Ch. 15

48 CFR Ch. 15

[AAA-FRL 2538-2]

Acquisition Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document establishes a final rule known as the Environmental Protection Agency Acquisition Regulation (EPAAR). This rule is codified as Chapter 15 of Title 48 of the Code of Federal Regulations. The purpose of the EPAAR is to implement the Federal Acquisition Regulation (FAR) where required and supplement the FAR in areas where there is no FAR coverage on policies unique to EPA.

The FAR is being promulgated as the uniform, simplified, acquisition regulation called for by Executive Order 12352, Federal Procurement Reforms. The FAR will supersede the Defense Acquisition Regulation, the Federal Procurement Regulations, and the National Aeronautics and Space Administration Procurement Regulations.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Pamela John or Edward Murphy, Environmental Protection Agency, Procurement and Contracts Management Division (PM-214), 401 M Street, SW., Washington, D.C. 20460, tel: (202) 382-5026.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rulemaking was published on Page 55594 of the **Federal Register** on December 14, 1983 and invited comments for Parts 1, 13, 14, 15, 16, 28, 32, 35, 36, 37, 46, 52, and 53 of the EPAAR by January 16, 1984; Parts 3, 9, 12, 19, 20, 22, 30, 31, 42, and 45 by January 23, 1984; and Parts 2, 4, 5, 8, 10, 17, 23, 24, 25, 27, 33, 34, and 48 by January 30, 1984.

One public comment was received. The commentor takes exception to EPA application to the FAR 19.502-2 "rule of two" for setting aside contracts for architect-engineer services for small businesses when two or more small businesses could be found to provide the needed services at reasonable prices. The commentor feels that this rule would constrain EPA's flexibility to retain the most qualified and experienced expertise in contracts associated with solid and hazardous waste response activities under the Resource Conservation Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act. The commentor recommends either that EPA obtain an appropriate deviation from the FAR or request the Civil Agency Acquisition Council and Office of Federal Procurement Policy consider appropriate modifications to FAR coverage.

EPA fully supports the small business set-aside program requirements in the FAR and believes it is in the public interest to place contracts with small businesses. The FAR provision in Subpart 19.502 does not preclude individual determinations not to set aside a requirement when a set-aside would be detrimental to the public interest. EPA therefore has concluded that no FAR deviation is necessary.

Executive Order 12291

In accordance with the memorandum from David Stockman, Director, Office of Management and Budget, to Donald Sowle, Administrator, Office of Federal Procurement Policy, and Christopher DeMuth, Administrator, Information and Regulatory Affairs, dated October 4, 1982, this rule is exempt from the provisions of Executive Order 12291.

Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. Since this rule reformats existing procurement policies to comply with the FAR structure and does not promulgate any new procurement policies which would impact the public, EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

Paperwork Reduction Act

The information collection and recordkeeping requirements that are imposed on the public by this rule have been cleared by the Office of Management and Budget (OMB) in accordance with section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

National Environmental Policy Act

EPA has concluded that this rule does not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 et seq. 1976), the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and the EPA guidelines at 40 CFR Part 6, and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

List of Subjects in 48 CFR Chapter 15

Government procurement, EPA acquisition regulations.

Dated: February 23, 1984.

K. Kirke Harper,

Director, Office of Administration.

1. Chapter 15 of Title 41 of the Code of Federal Regulations is removed.

2. Title 48 Chapter 15 Code of Federal Regulations is established as set forth below:

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

Sec.

1501 General
1502 Definition of words and terms.
1503 Improper business practices and personal conflicts of interest.
1504 Administrative matters.
1505 Publicizing contract actions.

SUBCHAPTER B—ACQUISITION PLANNING

1508 Required sources of supply.
1509 Contractor qualifications.
1510 Specifications, standards, and other purchase descriptions.
1512 Contract delivery or performance

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

1513 Small purchases and other simplified purchase procedures.
1514 Formal advertising.
1515 Contracting by negotiation.
1516 Types of contracts
1517 Special contracting methods.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

1519 Small business and small disadvantaged business concerns.
1520 Labor surplus area concerns.
1522 Application of labor laws to government acquisitions.
1523 Environmental, conservation, and occupational safety.
1524 Protection of privacy and freedom of information.
1525 Foreign acquisition.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

1527 Patents, data and copyrights.
1528 Bonds and insurance.
1530 Cost accounting standards.
1531 Contract cost principles and procedures.
1532 Contract financing.
1533 Disputes and appeals.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

1534 Major system acquisition.

Sec.
1535 Research and development contracting.
1536 Construction and architect-engineering contracts.
1537 Service contracting.

SUBCHAPTER G—CONTRACT MANAGEMENT

1542 Contract administration.
1545 Government property.
1546 Quality assurance.
1548 Value engineering.

SUBCHAPTER H—CLAUSES AND FORMS

1552 Solicitation provisions and contract clauses.
1553 Forms.

SUBCHAPTER A—GENERAL

PART 1501—GENERAL

Sec.
1501.000 Scope of part.

Subpart 1501.1—Purpose, Authority, Issuance

1501.101 Purpose.
1501.103 Applicability.
1501.104 Issuance.
1501.104–1 Publication and code arrangement.
1501.104–2 Arrangement of regulations.
1501.104–3 Copies.

Subpart 1501.3—Agency Acquisition Regulations

1501.301 Policy.
1501.303 Codification and public participation.
1501.304 Agency control and compliance procedures.
1501.370 OMB control numbers.

Subpart 1501.4—Deviations

1501.401 Definition.
1501.403 Individual deviations.
1501.404 Class deviations.

Subpart 1501.6—Contracting Authority and Responsibilities

1501.603 Selection, appointment, and termination of appointment.
1501.603–1 General.
1501.670 Ratification of unauthorized contract actions.
1501.670–1 General.
1501.670–2 Applicability.
1501.670–3 Definitions.
1501.670–4 Policy.
1501.670–5 Procedures.
1501.670–6 Ratification approvals and concurrences.
1501.670–7 Exception.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1501.000 Scope of part.

The Federal Acquisition Regulation System brings together, in Title 48 of the Code of Federal Regulations, the acquisition regulations applicable to all executive agencies of the Government. This part establishes a system of Environmental Protection Agency (EPA) acquisition regulations, referred to as the EPAAR, for the codification and publication of policies and procedures of EPA which implement and supplement the Federal Acquisition Regulation (FAR).

Subpart 1501.1—Purpose, Authority, Issuance

1501.101 Purpose.

(a) This subpart establishes Chapter 15, the Environmental Protection Agency Acquisition Regulation (EPAAR), within Title 48, the Federal Acquisition Regulations System.

(b) The purpose of the EPAAR is to implement the FAR where further implementation is needed and to supplement the FAR when coverage is needed for subject matter not covered in the FAR.

1501.103 Applicability.

The FAR and the EPAAR apply to all acquisitions as defined in Part 2 of the FAR, except where expressly excluded.

1501.104 Issuance.

1501.104–1 Publication and code arrangement.

The EPAAR will be published in: (a) The **Federal Register**, (b) cumulated form in the Code of Federal Regulations (CFR), and (c) a separate loose-leaf form in a distinctive light blue color.

1501.104–2 Arrangement of regulations.

(a) *References and citations.* This regulation may be referred to as the Environmental Protection Agency Acquisition Regulation or the EPAAR. References to EPAAR materials shall be made in a manner similar to that prescribed by FAR 1.104–2(c).

1501.104–3 Copies.

Copies of the EPAAR in **Federal Register** and CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402. Copies of loose-leaf EPAAR are distributed within EPA and may be obtained from the EPA Facilities and Support Services Division.

Subpart 1503.3—Agency Acquisition Regulations

1501.301 Policy.

The EPAAR is prescribed by the Director, Office of Administration.

1501.303 Codification and public participation.

(a) The EPAAR is codified as Chapter 15 in Title 48, Code of Federal Regulations.

(b) Public participation in promulgation of the EPAAR shall be in the same manner as specified for the FAR in FAR 1.501. Where solicitation of public comment on significant EPAAR revisions is impractical prior to promulgation, the revisions may be set forth in temporary regulations. Comments will be solicited on the temporary regulations and considered prior to formulating the final regulations.

1501.304 Agency control and compliance procedures.

(a) The Assistant General Counsel, Contracts and Information Law, and the Head of the Contracting Activity (HCA) shall review all EPAARs prior to promulgation to assure compliance with FAR Part 1.

(b) The EPA representative to the Civilian Agency Acquisition Council (CAA Council) will recommend to the chairperson of the CAA Council any EPA regulatory coverage that should be included in the FAR.

1501.370 OMB control numbers.

The information collection requirements contained in the EPAAR have been approved by the Office of Management and Budget (OMB) in accordance with section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq. The OMB clearance numbers are 2030–0005, 2030–0006, and 2030–0007.

Subpart 1501.4—Deviations

1501.401 Definition.

A deviation to the EPAR is defined in the same manner as a deviation to the FAR (see FAR 1.401).

1501.403 Individual deviations.

Requests for individual deviations from the FAR and the EPAAR shall be submitted to the Head of the Contracting Activity (HCA) for approval. Requests submitted shall cite the specific part of the FAR or EPAAR from which it is desired to deviate; shall set forth the nature of the deviation(s); and shall give the reasons for the action requested. The HCA shall transmit copies of approved individual FAR deviations to the FAR Secretariat.

1501.404 Class deviations.

Requests for class deviations to the EPAAR shall be submitted in advance to the HCA for processing in accordance with FAR 1.404 and this section. Requests submitted shall include the same type of information as required for individual deviations as prescribed in 1501.403. The HCA may approve class deviations to the FAR and the EPAAR and shall transmit copies of approved

class FAR deviations to the FAR Secretariat as required by FAR 1.404.

Subpart 1501.6—Contracting Authority and Responsibilities

1501.603 Selection, appointment, and termination of appointment.

1501-603-1 General.

EPA Contracting Officers shall be selected and appointed and their appointments terminated in accordance with the Contracting Officer warrant program specified in Chapter 8 of the EPA "Contracts Management Manual."

1501.670 Ratification of unauthorized contract actions.

1501.670-1 General.

Execution of otherwise proper contracts made by individuals without contracting authority, or by Contracting Officers in excess of the limits of their delegated authority, may be later ratified in accordance with the policies and procedures prescribed in this section. To be effective, such ratification must be in the form of a written document clearly stating that ratification of a previously unauthorized act is intended and must be signed by a person authorized to ratify such acts. Officials cited in 1501.670-6 are authorized to ratify previously unauthorized acts.

1501.670-2 Applicabililty.

With the exception of paid advertisements, the provisions of this section apply to all unauthorized contract actions, whether oral or written and without regard to dollar value. Examples of unauthorized contract actions are: (a) Ordering supplies or services by an individual without contracting authority; (b) unauthorized direction of work through assignment of orders or tasks; (c) unauthorized addition of new work; (d) directing Contractors to subcontract with particular firms; or (e) unauthorized direction which changes the terms and conditions of the contract. All ratifications are subject to the requirements of 1501.670-1 and the determination of a properly designated Contracting Officer to ratify the unauthorize contract action.

1501.670-3 Definitions.

"Ratification" means the execution, by an authorized Contracting Officer, of a document retroactively formalizing a contract action of: (a) An individual who acted without contracting authority; or (b) a Contracting Officer who acted beyond his or her delegated authority.

"Unauthorized Action" means a contract action taken by an individual without contracting authority or a contract action by an individual acting beyond the limits of his or her delegated contracting authority.

1501.670-4 Policy.

Contracting actions taken by personnel without formally delegated contracting authority do not legally obligate the Government for the expenditure of funds. If an unauthorized contract action would have been valid had it been authorized by a Contracting Officer, then the Contracting Officer may ratify the unauthorized action. If an unauthorized action is otherwise improper, a Contracting Officer cannot ratify it and the Agency must deny legal liability, in which case the person committing the unauthorized action may be personally liable.

1501.670-5 Procedures.

(a) The program office will notify the cognizant contract office by memorandum of the circumstances surrounding any unauthorized action. This notification will include:

(1) All relevant documents and records,

(2) Documentation why the work was necessary to and for the benefit of the Government, and;

(3) A statement of steps taken or proposed to prevent reoccurrence of the unauthorized action.

(b) The division director (or equivalent) of the responsible office shall approve the memorandum. If expenditure of funds is involved, as part of this submission the program office will include a Procurement Request/Order, EPA Form 1900-8, with funding sufficient to cover the supplies or services. For any new work, or work beyond the scope of an existing contract, the program office shall submit a justification for noncompetitive procurement (JNCP) as required by FAR 15.104 and 1515.105 of this chapter.

(c) Upon receiving the notification the Contracting Officer shall make a determination and findings regarding ratification of the unauthorized action. In order to document this determination, additional information may be required from the Contractor and an opinion from the Office of General Counsel may be necessary. Concurrently, the Contracting Officer may, at his/her discretion, inform the Inspector General (IG) of the action by memorandum routed through the Head of the Contracting Activity (HCA). The Contracting Officer shall also prepare a memorandum from the Assistant Administrator for Administration and Resources Management to the Assistant, Associate, or Regional Administrator (or equivalent level) of the person committing the unauthorized action. This memorandum shall contain a brief description of the circumstances surrounding the unauthorized action, recommend corrective action, and include a copy of the memorandum sent to the IG. Submission of a memorandum to the appropriate Assistant, Associate, or Regional Administrator for unauthorized actions involving small purchases is optional and may be accomplished at the discretion of the Chief of the Contracting Office or a Management Division Director or equivalent at a regional or field activity.

§ 1501.670-6 Ratification approvals and concurrences.

(a) The Chief of the Contracting Office is the ratifying official, provided that he/she has redelegable contracting authority.

(b) For ratification actions which arise in regional offices or laboratory sites, the Chief of the Contracting Office to whom the activity functionally reports is the ratifying official, provided that he/she has redelegable contracting authority. The HCA is the ratifying official for actions which arise in regional or laboratory sites which do not functionally report to a contracting office.

(c) The HCA shall review all ratification actions of $250,000 or more.

§ 1501.670-7 Exception.

EPA is not authorized to ratify improperly ordered paid advertisements. Therefore, the cognizant paying office shall return to the Contractor all voucher claims not accompanied by a written prior authorization. If there was not prior authorization, the paying office shall instruct the Contractor to present its claim directly to the General Accounting Office in accordance with the instructions contained in 4 CFR Part 31, Claims Against the United States, General Procedures.

PART 1502—DEFINITION OF WORDS AND TERMS

Subpart 1502.1—Definitions.

§ 1502.100 Definitions

"Chief of the Contracting Office" means the Branch Chief(s) at the Headquarters Procurement Operations and the Directors of the Contracts Management Divisions at Research Triangle Park and Cincinnati.

"Head of the Contracting Activity" (HCA) means the Director, Procurement and Contracts Management Division.

"Legal counsel" means those attorneys assigned to the Contracts and

Information Law Branch, Office of the General Counsel and designated by the Assistant General Counsel as contract law specialists.

"Procurement Executive" means the Assistant Administrator for Administration and Resources Management.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

PART 1503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Sec.

1503.000 Scope of part.

Subpart 1503.1—Safeguards

1503.101 Standards of conduct.
1503.101-3 Agency regulations.
1503.103 Independent pricing.
1503.103-2 Evaluating the certification.

Subpart 1503.2—Contractor Gratuities to Government Personnel

1503.203 Reporting suspected violations of the gratuities clause.

Subpart 1503.3—Reports of Suspected Antitrust Violations

1503.301 General.

Subpart 1503.4—Contingent Fees

1503.408 Evaluation of the SF 119.
1503.408-1 Responsibilities.
1503.409 Misrepresentations or violations of the covenant against contingent fees.

Subpart 1503.5—Other Improper Business Practices

1503.502 Subcontractor kickbacks.

Subpart 1503.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

1503.600-70 Scope of subpart.
1503.600-71 Definitions.
1503.601 Policy.
1503.602 Exceptions.
1503.603 Responsibilities of the contracting officer.
1503.670 Solicitation disclosure provision.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1503.000 Scope of part.

This Part implements FAR Part 3, cites EPA regulations on employee responsibilities and conduct, establishes responsibility for reporting violations and related actions, and provides for authorization of exceptions to policy.

Subpart 1503.1—Safeguards

1503.101 Standards of conduct.

1503.101-3 Agency regulations.

EPA regualtions on Employee Responsibilities and Conduct are contained in 40 CFR Part 3. All personnel involved in acquisition actions shall become familiar with the statutory and regulatory prohibitions. Any problems or questions concerning 40 CFR Part 3 shall be referred to the appropriate Deputy Ethics Official pursuant to 40 CFR Part 3, Subpart B.

1503.103 Independent pricing.

1503.103-2 Evaluating the certification.

Whenever an offer is rejected under FAR 3.103-2 or the Certificate of Independent Price Determination is suspected of being false, the Contracting Officer shall report the situation to the Inspector General through the Head of the Contracting Activity for referral to the Attorney General in accordance with FAR 3.303.

Subpart 1503.2—Contractor Gratuities to Government Personnel

1503.203 Reporting suspected violations of the gratuities clause.

EPA personnel, particularly Contracting Officers, shall promptly report, by memorandum, suspected violations of the Gratuities clause in solicitations or contracts to the Inspector General through the Head of the Contracting Activity.

Subpart 1503.3—Reports of Suspected Antitrust Violations

1503.301 General.

The Contracting Officer shall report any suspected violations of antitrust laws to the Inspector General through the Head of the Contracting Activity for referral to the Attorney General in accordance with FAR Subpart 3.3.

Subpart 1503.4—Contingent Fees

1503.408 Evaluation of the SF 119.

1503.408-1 Responsibilities.

The Contracting Officer's documentation of the evaluation of the Standard Form 119, Statement of Contingent or Other Fees, conclusions, and any proposed actions shall be reviewed by the Head of the Contracting Activity in coordination with legal counsel.

1503.409 Misrepresentations or violations of the covenant against contingent fees.

EPA personnel who suspect or have evidence of attempted or actual exercise of improper influence, misrepresentations, or violations of the Covenant Against Contingent Fees shall report the matter promptly to the Inspector General through the Head of the Contracting Activity.

Subpart 1503.5—Other Improper Business Practices

1503.502 Subcontractor kickbacks.

The Contracting Officer shall report suspected violations of the Anti-Kickback Act to the Inspector General through the Head of the Contracting Activity.

Subpart 1503.6—Contracts with Government Employees or Organizations Owned or Controlled by Them.

1503.600-70 Scope of subpart.

This subpart implements and supplements FAR Subpart 3.6 and sets forth EPA policy and procedures for identifying and dealing with conflicts of interest and improper influence or favoritism in connection with contracts involving current or former EPA employees. This subpart does not apply to agreements with other departments or agencies of the Federal Government, nor to contracts awarded to State or local units of Government.

1503.600-71 Definitions.

(a) "Regular employee" means any officer or employee of EPA who is employed or appointed, with or without compensation, to serve more than 130 days during any period of 365 consecutive days, including regular officers of the Public Health Service Commissioned Corps and reserve officers of the Public Health Service Commissioned Corps while on active duty.

(b) "Special employee" means an officer or employee of EPA who is retained, designated, appointed or employed to perform, with or without compensation, temporary duties either on a full-time or intermittent basis for not more that 130 days during any period of 365 consecutive days and who actually served more than 60 days during such 365-day period.

1503.601 Policy.

(a) No contract may be awarded without competition to a former regular or special EPA employee (or to a business concern or other organization owned or substantially owned or controlled by a former employee) whose employment terminated within 365 calendar days before submission of a proposal to EPA.

(b) No contract shall be awarded without competition to a firm which employs, or proposes to employ, a current regular or special EPA employee or a former EPA regular or special employee whose employment terminated within 365 calendar days

before submission of a proposal to EPA, if either of the following conditions exits:

(1) The current or former EPA regular or special employee is or was involved in development or negotiating the proposal for the prospective contractor.

(2) The current or former EPA regular or special employee will be involved directly or indirectly in the management, administration, or performance of the contract.

1503.602 Exceptions.

(a) The Assistant Administrator for Administration and Resources Management may authorize an exception, in writing, to the policy in FAR 3.601 and 1503.601 of this chapter for the reasons stated in FAR 3.602, if the exception would not involve a violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, or EPA regulations at 40 CFR Part 3. The Assistant Administrator shall consult with the Designated Agency Ethics Official before authorizing any exceptions.

(b) This subpart does not apply to subcontracts, that is, agreements to undertake part of the work as an independent contractor. However, where subcontracts essentially create an "employer-employee" relationship, the subpart shall apply. In determining whether such a relationship exists, the Contracting Officer shall generally be guided by the standards of Chapter 304, Subchapter 1–4 of the "Federal Personnel Manual" in distinguishing between employees and independent contractors.

1503.603 Responsibilities of the contracting officer.

Before awarding a contract, the Contracting Officer shall obtain an authorization under 1503.602 for any of the reasons stated in FAR 3.603.

1503.670 Solicitation of disclosure provision.

The Contracting Officer shall insert the provision at 1552.203–70, Current/Former Agency Employee Involvement Certification, in all noncompetitive requests for proposals.

PART 1504—ADMINISTRATIVE MATTERS

Subpart 1504.8—Contract Files

Sec.

1504.804 Closeout of contract files.

1504.804–5 Detailed procedures for closing out contract files.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c)

Subpart 1504.8—Contract Files

1504.804 Closeout of contract files.

1504.804–5 Detailed procedures for closing out contract files.

In addition to those procedures set forth in FAR 4.804–5, the contracting office shall, before final payment is made under a costreimbursement type contract, verify the allowability, allocability, and reasonableness of cost claimed. Verification of total costs incurred should be obtained from the Office of Audit through the Planning and Cost Advisory Branch, Procurement and Contracts Management Division in the form of a final audit report. Similar verification of actual costs shall be made for other contracts when cost incentives, price redeterminations, or cost-reimbursement elements are involved. Termination settlement proposals shall be submitted to the Planning and Cost Advisory Branch for review by the Office of Audit as prescribed by FAR 49.107. All such audits will be coordinated through the cost advisory office in the contracting activity. Exceptions to these procedures are the quick close-out procedures as described in 1542.708 and Unit 2 of the EPA *Acqusition Handbook*.

PART 1505—PUBLICIZING CONTRACT ACTIONS

Sec.

1505.000 Scope of part.

Subpart 1505.2—Synopses of Proposed Contracts

1505.270 Use of synopses to perform market surveys.

Subpart 1505.4—Release of Information

1505.401 General.

1505.405 Exchange of acquisition information.

Subpart 1505.5—Paid Advertisement

1505.502 Authority.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c)

1505.000 Scope of part.

This part provides additional instructions on information to include in synopses of proposed contracts, provides policy references relative to release of information, and provides procedures for obtaining information on previous Government contracts.

Subpart 1505.2—Synopses of Proposed Contracts

1505.270 Use of synopses to perform market surveys.

(a) Market surveys shall be used in justifying noncompetitive procurements with a potential value exceeding $10,000. Either the synopsis of a proposed noncompetitive contract for goods or services or a sources-sought synopsis that is detailed enough to permit submission of meaningful responses and subsequent evaluation of the responses by the Government constitutes an acceptable market survey.

(b) The synopsis of a proposed noncompetitive contract, or the sources-sought synopsis, must contain sufficient detail to permit the Contracting Officer to perform an evaluation of the responses to the synopsis. As a minimum, the synopsis shall include:

(1) A clear statement of the supplies or services being procured;

(2) Required Contractor capabilities, experience, and any other factors salient to the requirement; and

(3) Criteria and weighting of the criteria to indicate relative order of importance to be used in the evaluation of responses.

Subpart 1505.4—Release of Information

1505.401 General.

The Freedom of Information Act, 5 U.S.C. 552, provides that, with certain exceptions, Government records shall be made available to the public upon request. This Act has been implemented by the Environmental Protection Agency in 40 CFR Part 2 (5 U.S.C. 301).

1505.405 Exchange of acquisition information.

Contracting Officers shall insert the solicitation provision at 1552.214–70 and 1552.215–72, Past Performance, to obtain information on previous Government contracts or subcontracts.

Subpart 1505.5—Paid Advertisement

1505.502 Authority.

Authority to approve publication of paid advertisements in newspapers has been delegated to those Contracting Officers whose contracting officer warrant specifically grants them this authority.

SUBCHAPTER B—ACQUISITION PLANNING

PART 1508—REQUIRED SOURCES OF SUPPLY

Subpart 1508.8—Acquisition of Printing and Related Supplies

1508.870 Contract clause.

Contracting Officers shall insert the contract clause at 1552.208–70, Printing, in all contracts which require printing, duplication, binding, reproduction, and related services and are subject to the provisions of the Government Printing

and Binding Regulations published by the Joint Committee on Printing, Congress of the United States.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

PART 1509—CONTRACTOR QUALIFICATIONS

Sec.

1509.000 Scope of part.

Subpart 1509.1—Responsible Prospective Contractors

1509.105 Procedures.
1509.105–2 Determinations and documentation.
1509.105–3 Disclosures of preaward information.

Subpart 1509.170—Contractor Performance Evaluations

1509.170–1 Scope of subpart.
1509.170–2 Applicability.
1509.170–3 Purpose.
1509.170–4 Procedures.

Subpart 1509.4—Debarment, Suspension, and Ineligibility

1509.403 Definitions.
1509.404 Consolidated list of debarred, suspended, and ineligible contractors.
1509.406 Debarment.
1509.406–3 Procedures.
1509.407 Suspension.
1509.407–3 Procedures.

Subpart 1509.5—Organizational Conflicts of Interest

1509.500 Scope of subpart.
1509.502 Applicability.
1509.503 Waiver.
1509.505–4 Obtaining access to proprietary information.
1509.506 Information sources.
1509.507 Procedures.
1509.508 Solicitation provision and contract clause.
1509.509 Examples.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c)

1509.000 Scope of part.

This Part implements FAR Part 9 and provides policy and procedures pertaining to contractor's responsibility; debarment, suspension, and ineligibility; and organizational conflicts of interest.

Subpart 1509.1—Responsible Prospective Contractors

1509.105 Procedures.

1509.105–2 Determinations and documentation.

Where the Contracting Officer makes a determination that a Contractor is not responsible and the determination is based totally or in part on factors which are also cause(s) for debarment or suspension under FAR Subpart 9.4, the Contracting Officer shall report the information as prescribed in 1509.406–3 and 1509.407–3.

1509.105–3 Disclosures of preaward information.

The Freedom of Information Act, 5 U.S.C. 552, provides that, with certain exceptions, Government records shall be made available to the public upon request. This Act has been implemented by the Environmental Protection Agency in 40 CFR Part 2. Subpart B, Confidentiality of Business Information, of 40 CFR Part 2 provides the policy and guidance pertaining to the treatment of confidential business information submitted by prospective Contractors.

Subpart 1509.170—Contractor Performance Evaluations

1509.170–1 Scope of subpart.

This subpart establishes EPA policy and procedures for evaluation of contractor performance.

1509.170–2 Applicability.

The provisions of this subpart apply to: (a) All contracts for research and development and for services other than management consulting services when the contract amount is $25,000 and above, and (b) all contracts for management consulting services, without regard to dollar value. FAR 36.201 and 36.604 provide detailed instructions for conduct of construction and architect-engineering Contractor performance evaluation.

1509.170–3 Purpose.

The purpose of this subpart is to: (a) Provide an orderly and uniform method of determining and recording the effectiveness of contractors in meeting contractual obligations; (b) emphasize to contractors the importance of satisfying contractual obligations; (c) create within the EPA a record of contractor performance and a means for considering this record in future acquisition actions; and (d) provide a system for identifying contractors with a history of poor performance.

1509.170–4 Procedures.

(a) *Use and preparation of forms.* EPA Form 1900–26, Contracting Officer's Evaluation of Contractor Performance, and EPA Form 1900–27, Project Officer's Evaluation of Contractor Performance, shall be prepared at the completion of the technical effort of the contract or purchase order to record the effectiveness of contractors in meeting contractual obligations. Forms shall be prepared in accordance with the instructions printed on the back of each form.

(b) *Responsibilities for preparation of forms.*

(1) The Contracts Management Division shall originate EPA Form 1900–26 and EPA Form 1900–27 within two weeks after the completion of the technical effort of the contract or purchase order.

(2) The Contracting Officer administering the contract shall prepare the business evaluation on EPA Form 1900–26; forward the original of the form to the Quality Assurance Section, Procurement and Contracts Management Division (PM–214), Washington, D.C. 20460; and retain a copy in the contract file.

(3) The Project Officer with technical responsibility for the contract shall prepare the technical evaluation on EPA Form 1900–27; forward the form to the Quality Assurance Section, Procurement and Contracts Management Division (PM–214), Washington, D.C. 20460; and forward a copy to the Contracting Officer for insertion in the contract file.

(c) *Unsatisfactory performance ratings.* The Contracting Officer shall apprise the Contractor of any overall rating of "unsatisfactory." If the Contractor submits comments in response to such a rating, the evaluator shall include the comments as an attachment to the evaluation form. Evaluators shall make appropriate changes to the performance evaluations if any are warranted by the Contractor's comments.

(d) *Review of evaluations.* The Quality Assurance Section, PCMD, shall review each evaluation as it is received, and compare it with recent evaluations submitted for the same Contractor. If the Quality Assurance Section discerns a pattern of unsatisfactory performance, it will notify the appropriate Contracting Officer for his/her possible action, which may include referral of the matter in accordance with 1509.406–3(a)(1).

(e) *Filing of forms.* Evaluation forms shall be filed in the Contractor performance evaluation files maintained by the Quality Assurance Section, Procurement and Contracts Management Division.

(f) *Release of ratings.* Information on Contractors' performance ratings may be obtained by contacting the Quality Assurance Section. Contractors' performance ratings determined by the Contracting Officer and the Project Officer may be released to other Government agencies at their specific written request, and on condition that the information will not be made available outside of the Government. Requests for information on the ratings from individuals of entities outside of the Government shall be processed in accordance with the Freedom of Information Act and 40 CFR Part 2.

Subpart 1509.4—Debarment, Suspension, and Ineligibility

1509.403 Definitions.

The Director, Grants Administration Division, is designated the "debarring official" and the "suspending official" as defined in FAR 9.403 and is designated as the agency official authorized to make the decisions required in FAR 9.405(a), 9.405–1(b), 9.405–2, 9.406–1(c), and 9.407–1(d).

1509.404 Consolidated list of debarred, suspended, and ineligible contractors.

The Director, Grants Administration Division (or designee) is responsible for notifying GSA in accordance with FAR 9.404(c).

1509.406 Debarment.

1509.406–3 Procedures.

(a) *Investigation and referral.*

(1) *Contracting Officer responsibility.*

(i) When contracting personnel discover information which indicates that a cause for debarment or suspension may exist, they shall promptly report such information by memorandum to the cognizant Chief of the Contracting Office. Purchasing agents in the small purchase activities which do not come under the cognizance of the Headquarters, Research Triangle Park (RTP), or Cincinnati contracting offices shall report such information by memorandum directly to the Head of the Contracting Activity (HCA).

(ii) Contracting Officers shall review the GSA consolidated list to ensure that the Agency does not solicit offers from, award contracts to, or consent to subcontract with listed contractors.

(2) *Chief of the Contracting Office responsibility.* When the Chief of the Contracting Office determines that sufficient information exists to support the reasonable belief that a cause for debarment or suspension may exist, such information shall be promptly reported by memorandum to the HCA. The memorandum to the HCA may be a cover memorandum which forwards the Contracting Officer's memorandum and provides the Chief of the Contracting Office's assessment of the information, any investigative report or audit, and any additional information he/she has discovered.

(3) *HCA responsibility.* Upon receipt of a report of a suspected debarment or suspension situation, the HCA or the designee shall take the following actions:

(i) Notify the Debarring Official that investigation of a potential debarment has been initiated.

(ii) Review the reported information.

(iii) Investigate as necessary to verify or develop additional information. Request investigative support from the EPA Inspector General when appropriate.

(iv) Refer the matter to the Debarring Official for consideration of debarment; or recommend to the Debarring Official that the matter be closed without further action because the facts do not constitute a cause for debarment.

(v) Obtain legal counsel's opinion on referrals or recommendations made to the Debarring Official.

(vi) Notify EPA Contracting Officers of those Contractors who are ineligible for solicitation, award, or subcontracting but who do not appear on the GSA Consolidated List; e.g., those who are ineligible based on a settlement reached by the Debarring Official under which the Contractor has agreed to voluntarily exclude itself from participation in Government contracting/subcontracting for a specified period or because of a Notice of Proposal to Debar.

(4) *Debarring Official's responsibility.* The Debarring Official shall:

(i) Review referrals from the HCA together with the HCA's recommendations, if any, and determine whether further consideration by the Debarring Official is warranted and take such actions as are required by FAR Subpart 9.4;

(ii) Obtain the HCA's recommendation prior to reaching a voluntary exclusion settlement with a Contractor in lieu of debarment;

(iii) Promptly notify the HCA of Contractors with whom a settlement in lieu of debarment has been reached under which the Contractor voluntarily excludes itself from or restricts its participation in Government contracting/subcontracting for a specified period; and of Contractors who have received a Notice of Proposal to Debar.

1509.407 Suspension.

1509.407–3 Procedures.

The procedures prescribed in 1509.406–3(a) shall be followed under conditions which appear to warrant suspension of a Contractor.

Subpart 1509.5—Organizational Conflicts of Interests

1509.500 Scope of subpart.

This subpart establishes EPA policy and precedures for identifying, evaluating, and resolving organizational conflicts of interest. EPA's policy is to avoid, neutralize, or mitigate organizational conflicts of interest. If EPA is unable to neutralize or mitigate the effects of a potential conflict of interest, EPA will disqualify the prospective contractor or will terminate the contract when potential or actual conflicts are identified after award.

1509.502 Applicability.

This subpart applies to all EPA contracts except agreements with other Federal agencies. However, this subpart applies to contracts with the Small Business Administration (SBA) under the 8(a) program.

1509.503 Waiver.

The Assistant Administrator for Administration and Resources Management may waive any general rule or procedure of this subpart by determining that its application in a particular situation would not be in the Government's interest. Any request for waiver must be in accordance with FAR 9.503. The Assistant General Counsel for Contracts and Information Law shall be consulted on such waiver requests.

1509.505–4 Obtaining access to proprietary information.

Contractors gaining access to confidential business information of other companies in performing advisory services for EPA shall comply with the special requirements of 40 CFR Part 2 and the provisions of their contracts relating to the treatment of confidential business information.

1509.506 Information sources.

(a) *Disclosure.* Prospective EPA Contractors responding to solicitations or submitting unsolicited proposals shall provide information to the Contracting Officer for use in identifying, evaluating, or resolving potential organizational conflicts of interest. The submittal may be a certification or a disclosure, pursuant to paragraphs (a) (1) or (2) of this section.

(1) If the prospective contractor is not aware of any information bearing on the existence of any organizational conflict of interest, it may so certify.

(2) Prospective contractors not certifying in accordance with paragraph (a)(1) of this section must provide a disclosure statement which describes concisely all relevant facts concerning any past, present, or planned interests relating to the work to be performed and bearing on whether they, including their chief executives, directors, or any proposed consultant or subcontractor, may have a potential organizational conflict of interest.

(b) *Failure to disclose information.* Any prospective contractor failing to provide full disclosure, certification, or other required information will not be eligible for award. Nondisclosure or

misrepresentation of any relevant information may also result in disqualification from award, termination of the contract for default, or debarment from Government contracts, as well as other legal action or prosecution. In response to solicitations, EPA will consider any inadvertent failure to provide disclosure certification as a "minor informality" (as explained in FAR 14.405); however, the prospective contractor must correct the omission promptly.

(c) *Exception.* Where the Contractor has previously submitted a conflict of interest certification or disclosure for a contract, only an update of such statement is required when the contract is modified.

1509.507 Procedures.

(a) The Contracting Officer shall document in writing the resolution of any potential or actual conflicts of interest identified. This documentation shall be reviewed and approved by the Head of the Contracting Activity (HCA) prior to award. If the organizational conflict of interest cannot be resolved by any other means, the Contracting Officer shall disqualify the prospective contractor from receiving the contract award.

(b) The Director, Office of Administration shall review and make the final decision on any Contractor request for higher review of the Contracting Officer's decision as prescribed in FAR 9.507(c)(4).

1509.508 Solicitation provision and contract clause.

(a) *Advance notice of limitations.* The Contracting Officer shall alert prospective contractors by placing a notice in the solicitation whenever a particular acquisition might create an organizational conflict of interest. The notice will:

(1) Include the information prescribed in FAR 9.508–1;

(2) Refer prospective contractors to this subpart; and

(3) Require proposers to disclose relevant facts concerning any past, present, or currently planned interests relating to the work described in the solicitation.

(b) *Required solicitation provision.* Except in solicitations where the Organizational Conflict of Interest provision is geared toward the particular acquisition (see 1509.508(a)), the Contracting Officer shall include in all solicitations the provisions at 1552.209–70 and 1552.209–72. The provision is optional in solicitations for small purchases.

(c) *Required contract clause.* The Contracting Officer shall include the clause in 1552.209–71, in all contracts over $10,000, and, as appropriate, in small purchases. However, the Contracting Officer need not include this clause when a specific clause is developed as prescribed in FAR 9.508–2.

1509.509 Examples.

The examples in the following paragraphs (a) through (e) illustrate situations concerning organizational conflicts of interest (OCI) considered typical of those which might be encountered in EPA contracts. While more than one OCI may exist in the situations described in the examples, the discussion is limited so as to demonstrate a specific conflict. The examples are not all inclusive but are intended to help in applying the general rules in FAR Subpart 9.5 and 1509.5.

(a) Company A, in response to a Request for Proposals (RFP), proposes to undertake certain analyses of an air emission control device. In response to the inquiry in the RFP, Company A advises that it is currently performing similar analyses for the manufacturer of the device. Normally this would constitute an OCI and a contract for that particular work would not be awarded to Company A. The company would be placed in a position in which its judgment could be biased in relation to its work for EPA. Since other well-qualified sources are available, there would be no basis for granting a waiver of the policy.

(b) Company A, in response to an RFP, proposes to undertake an economic analysis of one segment of the chemical industry. Company A advises that it derives a substantial portion of its income from the industry to be studied. Normally this would constitute an OCI and a contract would not be awarded to Company A. It would be placed in a position in which its judgment could be biased in relation to its work for EPA. Should award be made to Company A, the appearance of an OCI could undermine the credibility of the data generated under the contract and render such data useless for its intended purpose, regardless of whether any bias is actually reflected in the data.

(c) Company A receives a contract to define the detailed performance characteristics EPA will require for the purchase of automobile emission analysis equipment. Company A has not developed the particular equipment. At the time the contract is awarded, it is clear to both parties that the performance characteristics defined will be used by EPA to choose competitively a Contractor to develop or produce the equipment. Normally this would constitute an OCI and Company A should not be permitted to propose on the follow-on procurement.

(d) Company A is selected to study possible methods for disposal of toxic substances. The Agency intends to ask that firms doing research in the field make proprietary information available to Company A. The contract must require Company A to protect any proprietary information in receives, to refrain from using the information for any purpose other than that for which it was intended, and to otherwise comply with the requirements of 40 CFR Part 2 and the provisions of its contract relating to the treatment of confidential business information.

(e) Company A, in response to an RFP, proposes to perform inspections for EPA. The inspections are to determine if companies are meeting Federal requirements for limiting discharge of pollutants into the air. Company A plans to act as a consultant to the companies to be inspected. Company A should be prohibited in the contract from acting as a consultant to any of the companies being inspected during the contract period of performance and for a reasonable period thereafter.

PART 1510—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

Sec.

1510.007 Deviations.
1510.011 Solicitation provisions and contract clauses.
1510.011–70 Reports of work.
1510.011–71 Monthly progress report—short form.
1510.011–72 Monthly progress report—cost-type contract.
1510.011–73 Monthly progress report—time and materials or labor hour, or indefinite delivery/indefinite quantity fixed-rate services contract.
1510.011–74 Working files.
1510.011–75 Legal analysis.
1510.011–76 Final reports.
1510.011–77 Management consulting services.

Authority: Sec. 205(c), 63 Stat. 390; as amended, 40 U.S.C. 486(r).

1510.007 Deviations.

The Head of the Contracting Activity (HCA) is the designated official responsible for ensuring that Federal specifications are used and that exceptions and deviations are justified in accordance with FAR 10.007(a).

1510.011 Solicitation provisions and contract clauses.

1510.011-70 Reports of work.

Contracting Officers shall insert one of the contract clauses at 1552.210-70 when the contract requires the delivery of reports. Alternate I should be used to specify reports in the contract schedule, whereas the other clause should be used when reports are specified in a contract attachment.

1510.011-71 Monthly progress report—short form.

Contracting Officers shall insert the contract clause at 1552.210-71 when monthly progress reports are required and the duration of the contract is contemplated to be less than six months.

1510.011-72 Monthly progress report—cost-type contract.

Contracting Officers shall insert the contract clause at 1552.210-72 when monthly progress reports are required and the duration of the contract is expected to exceed six months. This clause may also be used in cost-reimbursement contracts with a duration of less than six months.

1510.011-73 Monthly progress report—time and materials or labor hour, or indefinite delivery/indefinite quantity fixed-rate services contract.

Contracting Officers shall insert the clause at 1552.210-73 in all time and materials, labor hour, and indefinite delivery/indefinite quantity type contracts for services with a period of performance of six months or longer. The clause may also be used in these contract types when the performance period is less than six months.

1510.011-74 Working files.

Contracting Officers shall insert the contract clause at 1552.210-74 in all applicable EPA contracts where accurate working files on all work documentation is required in the performance of the contract.

1510.011-75 Legal analysis.

Contracting Officers shall insert the clause at 1552-210-75 when it is determined that the contract involves legal analysis.

1510.011-76 Final reports.

Contracting Officers shall insert the contract clause at 1552.210-76 when a contract requires both a draft and a final report.

1510.011-77 Management consulting services.

Contracting Officers shall insert the contract clause at 1552.210-77 in all contracts for management consulting services.

PART 1512—CONTRACTING DELIVERY OR PERFORMANCE

Subpart 1512.1—Delivery or Performance Schedules

1512.104 Contract clauses.

(a) The Contracting Officer shall insert the clause at 1552.212-70, Level of Effort, in term form contracts.

(b) The Contracting Officer shall insert the contract clause at 1552.212-71, Work Assignments, in cost-reimbursement type term form contracts when work assignments are used.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 1513—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1513.1—General

Sec.

1513.106 Competition and price reasonableness.

Subpart 1513.4—Imprest Fund

1513.404 Conditions for use.

Subpart 1513.5—Purchase Orders

1513.505 Purchase order and related forms.
1513.505-2 Agency order forms in lieu of Optional Forms 347 and 348.
1513.507 Clauses.
1513.570 Oral purchase orders.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1513.1—General

1513.106 Competition and price reasonableness.

Solicitation mailing lists shall be established and maintained by the three major contracting offices: Headquarters in Washington, D.C., Cincinnati, and Research Triangle Park. Contracting personnel at regional and laboratory locations are authorized to use the lists maintained by any of these offices (see 1514.205-1).

Subpart 1513.4—Imprest Fund

1513.404 Conditions for use.

Imprest funds may be used for small purchases when the transaction does not exceed $250 ($500 under emergency conditions).

Subpart 1513.5—Purchase Orders

1513.505 Purchase order and related forms.

1513.505-2 Agency order forms in lieu of Optional Forms 347 and 348.

Contracting Officers may use the EPA Form 1900-8, Procurement Request/Order, in lieu of Optional Forms 347 and 348 for individual purchases prepared in accordance with the instructions printed on the reverse thereof (see 1553.213-70).

1513.507 Clauses.

(a) It is the general policy of the Environmental Protection Agency that Contractor or vendor prescribed leases or maintenance agreements for equipment shall not be executed.

(b) The Contracting Officer shall, where appropriate, insert the clause at 1552.213-70, Notice to Suppliers of Equipment, in orders for purchases or leases of automatic data processing equipment, word processing, and similar types of commercially available equipment for which vendors, as a matter of routine commercial practice, have developed their own leases and/or customer service maintenance agreements.

1513.570 Oral purchase orders.

(a) Contracting Officers are authorized to issue oral purchase orders for supplies or services whose estimated value is $10,000 or less. Oral purchase orders may be used only where all of the following conditions are present:

(1) Supplies or services (including construction) are readily available.

(2) Detailed specifications or complex terms and conditions are not required.

(3) The vendor is willing to furnish the supplies/services on the basis of an oral order.

(4) The vendor has been advised orally of FAR/EPAAR contract clauses which are applicable.

(b) In addition to documenting the existence of the conditions prescribed in (a) above, the following actions must also be completed:

(1) The Procurement Request/Order must be annotated to indicate the date and number of the order, the supplier, the dollar value, and the delivery and discount terms.

(2) The annotated Procurement Request/Order must be retained in the purchase order file and copies provided to the originator of the procurement request, the commitment clerk, the paying office, the property office, and the shipping/receiving office.

PART 1514—FORMAL ADVERTISING

Sec.
1514.000 Scope of part.

Subpart 1514.2—Solicitation of Bids

1514.201 Preparation of invitations for bids.
1514.201–6 Solicitation provisions.
1514.205 Solicitation mailing lists.
1514.205–1 Establishment of lists.
1514.205–5 Release of solicitation mailing lists.

Subpart 1514.4—Opening of Bids and Award of Contract

1514.406 Mistakes in bids.
1514.406–3 Other mistakes disclosed before award.
1514.406–4 Mistakes after award.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1514.000 Scope of part.

This Part implements and supplements FAR Part 14 by providing additional guidance regarding the development of lists of qualified bidders, including small and disadvantaged business sources, and by requiring additional information from bidders that will be used in evaluating bids for award.

Subpart 1514.2—Solicitation of Bids

1514.201 Preparation of invitations for bids.

1514.201–6 Solicitation provisions.

(a) The Contracting Officer shall insert the solicitation provision at 1552.214–70, Past Performance, in all advertised solicitation documents.

(b) The Contracting officer shall insert the solicitation provision at 1552.214–71, Contract Award—Other Factors—Formal Advertising, in Invitations for Bid (IFB) when it is appropriate to describe other factors that will be used in evaluating bids for award.

1514.205 Solicitation mailing lists.

1514.205–1 Establishment of lists.

(a) Within EPA, solicitation mailing lists shall be established and maintained by the three major contracting offices: Headquarters in Washington, D.C., Cincinnati, and Research Triangle Park to provide for the maximum number of qualified sources in solicitations consistent with the nature of supplies or services to be acquired. Contracting personnel at regional and laboratory locations are authorized to use the lists maintained by any of these offices.

(b) It is the policy of EPA to use the Small Business Administration (SBA) procurement automated source system (PASS) for identification of small business and small disadvantaged business sources. PASS is capable of identifying businesses that are small, disadvantaged, women-owned, in labor surplus areas, and by geographic location or any combination thereof.

(c) Identification of sources through PASS or the solicitation mailing list does not negate the requirement for the Contracting Officer to synopsize the acquisition in accordance with FAR 5.201.

(d) For motion picture and videotape production requirements, the Department of Defense (DOD) Directorate for Audiovisual Management Policy, 1117 North 19th Street, Room 601, Arlington, Virginia 22209, is the Executive Agent responsible for maintaining a Qualified Film Producers List and a Qualified Videotape Producers List. When a requirement arises, the Contracting Officer shall notify the Executive Agent who will furnish the names of vendors in increments of five on a rotational basis. The Contracting Officer shall provide a copy of the solicitation to the Executive Agent.

1514.205–5 Release of solicitation mailing lists.

EPA installations shall make the solicitation mailing list, established under 1514.205–1, available to the public and Contractors during normal business hours.

Subpart 1514.4—Opening of Bids and Award of Contract

1514.406 Mistakes in bids.

1514.406–3 Other mistakes disclosed before award.

The Head of the Contracting Activity (HCA) is delegated the authority to make the administrative determinations in connection with mistakes in bids prior to award. This authority may not be redelegated. The legal counsel must review and concur with the determination.

1514.406–4 Mistakes after award.

The Chief of the Contracting Office is authorized to make determinations on mistakes in bids disclosed after award. The legal counsel must review and concur with the determination.

PART 1515—CONTRACTING BY NEGOTIATION

Sec.
1515.000 Scope of part.

Subpart 1515.1—General Requirements for Negotiation

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1515.1002 Debriefing of unsuccessful offerors.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1515.000 Scope of part.

This part implements and supplements FAR Part 15. It prescribes the Environmental Protection Agency policies and procedures for contracting for supplies and services by negotiations.

Subpart 1515.1—General Requirements for Negotiation

1515.105 Competition.

(a) In the fulfillment of national policy, negotiated acquisitions by EPA shall be conducted competitively to the maximum practicable extent. However, it is recognized that there may be circumstances where it is in the interest of the Government and EPA to solicit

only one source. In such instances, the initiating program office may recommend that the property or services can be obtained from only one organization and that a proposal be solicited only from that source. This recommendation is subject to review and approval as provided in 1515.105–73.

(b)(1) A written justification for noncompetitive procurement (JNCP) that documents the facts and circumstances substantiating the infeasibility of competition shall be prepared by the initiating office for each recommended noncompetitive acquisition over $1,000 except those types of acquisitions specifically excepted by FAR Part 15.

(2) Noncompetitive purchases estimated to cost over $1,000 but not exceeding $10,000 shall be justified as prescribed in 1515.105–72.

(3) The recommendation shall be entitled "Justification for Noncompetitive Procurement," and shall be signed at the programmatic Division Director or comparable office level prior to submission with the procurement request. The JNCP shall contain a full and complete justification in accordance with the instructions prescribed in 1515.105–71.

1515.105–70 Conduct of market surveys.

(a) The Contracting Officer shall determine the extent of any market surveys. In making this decision, the Contracting Officer may consider such factors as the type and size of the acquisition, the results of recent competitive acquisitions for similar supplies or services, or other recent market surveys.

(b) The Contracting Officer, with input from the Project Officer, shall determine the market survey strategy and who is responsible for accomplishing the different aspects of the survey. For example, the Contracting Officer may choose to have discussions with offerors who had proposed on previous similar requirements. For market surveys involving discussions with or inquiries from commercial firms, the Contracting Officer shall conduct or participate in such discussions or inquiries.

(c) *Commerce Business Daily* (CBD) synopses of proposed noncompetitive contracts or sources-sought synopses (see 1505.270) that are detailed enough to permit submission of meaningful responses and subsequent evaluation of the responses by EPA constitute an acceptable market survey.

(d) Under those circumstances when market surveys are conducted to assist in determining the existence of competition for acquisitions over $10,000, the Contracting Officer, with the assistance of the Project Officer, shall evaluate responses to such surveys in accordance with the general criteria included in the synopses. If the evaluation indicates the existence of qualified firms, the Contracting Officer shall issue a competitive solicitation. If the Contracting Officer determines, after evaluation of responses, that a noncompetitive acquisition should be conducted, the evaluation document shall be incorporated into the JNCP for review in accordance with 1515.105–73. The documentation shall include:

(1) A copy of the CBD synopsis;

(2) A listing of respondees to the synopsis;

(3) A written evaluation of the responses; and

(4) The basis for the Contracting Officer's conclusion that competitive acquisition is impractical.

1515.105–71 Preparation of the justification for noncompetitive procurement (JNCP).

(a) The JNCP shall fully explain the circumstances which make competitive negotiation impracticable. The JNCP shall:

(1) Identify the problem, mission deficiency, or need that the contract is intended to satisfy;

(2) Provide the facts supporting the citation of one or more of the circumstances set forth in FAR Part 15 that permit the use of a noncompetitive acquisition;

(3) Demonstrate how the initiator knows that the Contractor is the only one that can meet the Government's minimum requirements;

(4) Describe the market survey that was conducted, including whether a sources-sought synopsis or a synopsis of proposed noncompetitive procurement was publicized in the *Commerce Business Daily;* and

(5) If applicable, describe the reasons why a market survey could not be undertaken in connection with an unsolicited proposal.

(b) Each JNCP shall reflect the degree of consideration that has been given to other sources in the particular field and the reasons they lack the capability that the proposed contractor evidences. The following questions represent factors that should be considered, and when appropriate, discussed in the JNCP:

(1) What unique capability applicable to the specific effort does the proposed contractor have which is essential to satisfaction of the Government's minimum requirements?

(2) Is the effort a continuation of a previous effort performed by the proposed contractor; and to what degree is such previous effort critical to the current acquisition? Such questions as the following should be considered and addressed if pertinent:

(i) Is the added effort a minor supplement to a completed project requirement? Of what significance is this fact?

(ii) Is the added effort a major supplement to a completed project requirement? Of what significance is this fact?

(iii) Is the added effort essential to the continuing project requirement? Of what significance is this fact?

(3) Does the proposed contractor have exclusive access to personnel who are considered pre-eminent experts in the particular fields necessary to perform the work? If so, identify the expert(s) and the basis for the person's or persons' expertise.

(4) What facilities, equipment, or data does the proposed contractor have which are specialized, vital to the effort, and which no other company can provide? Can the Government furnish such resources as Government-furnished equipment or data?

(5) Is urgency the basis for the JNCP? Urgency means that the need is so compelling that the Government would be injured financially or otherwise if the property or services to be acquired were not furnished by a certain time. There may be valid reasons for obtaining required goods or services on a urgent basis, and although there may be other firms capable of delivering the required goods or services, no other firm could deliver within the required performance period, even if expedited competitive procedures were employed. Explain the circumstances that led to the need for an urgent contractual action. Explain why the requirement could not have been processed in sufficient time to permit competition on an expedited basis and how it is known that only one firm is capable of timely performance (when a market survey was conducted, provide details as indicated in 1515.105–70). It should be noted that the existence of legislation, court order, or Presidential mandate is not, of itself, a sufficient basis for noncompetitive contracting. However, the circumstances which have necessitated legislation, court order, or Presidential mandate may justify contractual action on an expedited basis using noncompetitive methods.

(6) If the basis for the JNCP is an unsolicited proposal, FAR 15.507 provides criteria for justification of noncompetitive procurement.

(c) *Limitations.* The following factors, according to decisions of the Comptroller General, cannot be used to justify noncompetitive procurements:

(1) The proposed organization is either a nonprofit organization, a tax exempt entity, or a volunteer citizens group; or

(2) The proposed organization has a large price advantage and it is believed that there is little or no willingness in the market to supply competitive offers (Comptroller General Decision B-187369, 2/28/77).

1515.105-72 Justifications for procurements over $1,000 but not exceeding $10,000.

The justification for noncompetitive procurements estimated to be over $1,000 but not to exceed $10,000 shall be in the form of a brief statement attached to the EPA Form 1900-8, Procurement Request/Order.

1515.105-73 Review and approval of the JNCP.

The review and approval of JNCPs shall be conducted by contracting officials at the levels specified in Figure 1515-1 below. The review shall assess the quality of consideration given those factors discussed in 1515.105-71 and the approval shall be based upon the validity of the justification offered in support of the proposal to contract on a noncompetitive basis.

FIGURE 1515-1

Potential contract value	Approving official
• $1,001 to $10,000	Contracting officer.
• $10,001 to $99,999	One level above the contracting officer.
• $100,000 to $1,000,000 (FY 84).	Head of the contracting activity (HCA) or designated representative.[1]
• $100,000 to $500,000 (FY 85).	HCA or designated representative.[1]
• $100,000 to $300,000 (FY 86).	HCA or designated representative.[1]
• Over $1,000,000 (FY 84).	HCA or deputy on a nondelegable basis.[1]
• Over $500,000 (FY 85).	HCA or deputy on a nondelegable basis.[1]
• Over $300,000 (FY 86 and thereafter.	HCA or deputy on a nondelegable basis.[1]

[1] The Contracting Officer shall submit JNCPs directly to the approving official.

Subpart 1515.3—Determinations and Findings to Justify Negotiation

1515.307 Signatory authority.

(a) The Administrator of EPA signs all determinations and findings (D&Fs) authorizing negotiation where agency head signature is prescribed in FAR Subpart 15.2 and Table 15-1 of the FAR.

(b) The Head of the Contracting Activity (HCA) is authorized to sign D&Fs for:

(1) Contracts negotiated under 41 U.S.C. 252(c)(11) when less than $25,000 will be expended; and

(2) Contracts negotiated under 41 U.S.C. 252(c)(14).

(c) The Contracting Officer is authorized to sign all other D&Fs related to authority to negotiate except as otherwise provided in paragraphs (a) and (b) of this section.

Subpart 1515.4—Solicitation and Receipt of Proposals and Quotations

1515.403 Solicitation mailing lists.

Contracting offices shall establish, maintain, and use lists of potential sources in accordance with 1514.205-1.

1515.407 Solicitation provisions.

(a) In addition to those provisions prescribed in FAR 15.407, the Contracting Officer shall insert in negotiated solicitations the provisions at—

(1) 1552.215-72, Past Performance;

(2) 1552.215-73, Instructions for the Preparation of Technical and Cost or Pricing Proposals;

(3) 1552.215-75, Additional Representations, Certifications, and Statements of Offerors Whose Proposals Are In the Competitive Range; and

(b) The Contracting Officer shall insert the provision at 1552.215-76, General Financial and Organizational Information, in requests for revised proposals (or requests for best and final offers) from offerors in the competitive range.

(c) The Contracting Officer shall insert the provision at 1552.215-74, Cost Proposal Instructions, in negotiated solicitations when cost or pricing data is required in an offeror's proposal and it is necessary to obtain the detailed cost data specified in the provision. While designed to obtain cost data for acquisitions under the Compreshensive Environmental Response, Compensation and Liability Act, the provision may be used in other negotiated solicitations.

Subpart 1515.5—Unsolicited Proposals

1515.506 Agency procedures.

The Director, Grants Administration Division (PM-216), EPA, 401 M Street S.W., Washington, D.C. 20460, is the Agency contact point established to coordinate the receipt and handling of unsolicited proposals.

1515.507 Contracting methods.

The Department of Housing and Urban Development-Independent Agencies Appropriation Act contains a requirement that none of the funds provided in the Act may be used for payment through grants or contracts to recipients that do not share in the cost of conducting research resulting from proposals that are not specifically solicited by the Government. Accordingly, contracts which result from unsolicited proposals shall provide for the Contractor to bear a portion of the cost of performance for work subject to the Act. However, where there is no measurable gain to the performing organization, cost sharing is not required.

Subpart 1515.6—Source Selection

1515.600 Scope of subpart.

This subpart establishes EPA policies and procedures for the source evaluation and selection processes in competitive negotiated acquisitions.

1515.602 Applicability.

FAR Subpart 15.6 and this subpart apply to all competitive negotiated procurements in excess of $25,000 except architect-engineering services which are covered in 1536.6.

1515.603 Purpose.

EPA personnel shall conduct source evaluation and selection in accordance with consistent standards and procedures that ensure fair and impartial treatment of all offerors.

1515.604 Responsibilities and duties.

In addition to those cited in FAR 15.604, the following responsibilities and duties are assigned:

(a) *Source Selection Official.* The Source Selection Official (SSO) is the official responsible for overall management of the source selection process. Duties of the SSO include appointing the members and chairpersons of the Source Evaluation Board, the Technical Evaluation Panel, and the Business Evaluation Panel and approving the solicitation document, including any amendments. The SSO approves the competitive range decision and makes the source selection decision.

(b) *Source Evaluation Board.* The Source Evaluation Board (SEB) consists of a chairperson who is responsible for all of the procedural and administrative aspects of the SEB, and other specialists, e.g., technical, procurement, and financial, as may be deemed appropriate by the SSO. An attorney from the Office of General Counsel should serve in an advisory role to the SEB. The SEB makes recommendations to the SSO on selection of a contractor for award.

(c) *Technical Evaluation Panel.* The Technical Evaluation Panel (TEP) develops the evaluation criteria and the Statement of Work for the solicitation and performs the technical evaluation of offers. All members of the TEP must review all proposals initially submitted in response to a solicitation. Unless approved in advance by the SSO, only individuals who evaluated initial proposals may evaluate revised

proposals submitted after determination of the competitive range.

(d) *Business Evaluation Panel.* The Business Evaluation Panel (BEP) reviews the solicitation evaluation criteria and Statement of Work from a business perspective; evaluates the business and contractual aspects of the offerors' business proposals; and considers other factors such as responsibility of the offerors.

1515.604-70 Personal conflicts of interests.

(a) Only regular or special Government employees of EPA as defined in 40 CFR 3.102, or where appropriate, other Federal Government agencies, may participate in the evaluation and selection process.

(b) Each EPA employee (including special employees) engaged in source evaluation and selection is required to be familiar with the provisions of 40 CFR Part 3 regarding personal conflicts of interests. The employee shall inform the Source Selection Official in writing if his/her participation in the source evaluation and selection process could be interpreted as a possible or apparent conflict of interest. The SSO shall relieve any EPA employee who has a conflict of interest of further duties in connection with the evaluation and selection process.

1515.605 Evaluation factors.

The evaluation factors that will be considered in making the source selection and their relative importance shall be included in "Part IV, Section M, Evaluation Factors for Award," in each solicitation.

(a) The Contracting Officer shall insert the provision in 1552.215-70, EPA Source Evaluation and Selection Procedures—Negotiated Procurements and either: (1) The provision in 1552.215-71 Evaluation Factors for Award where technical quality is more important than cost or price, or (2) the provision in Alternate I to 1552.215-71 where cost or price is more important than technical quality, provided an offeror's technical proposal meets the minimum needs of the Government.

(b) Technical evaluation criteria should be prepared in accordance with FAR 15.605 and inserted into paragraph (o) of the provision in 1552.215-71 or Alternate I to that provision.

1515.608 Proposal evaluation.

(a) The initial technical evaluations of proposals shall be conducted in accordance with the following procedures.

(1) The evaluation of technical proposals shall be accomplished using the Scoring Plan specified below, which consists of narrative qualitative descriptions to which numerical values have been assigned. These values shall be applied against the weight assigned to each technical evaluation criterion and subcriterion set forth in the solicitation. The Scoring Plan values are expressed on a scale of zero through five; each value, except "0," "3.5," and "4.5" represents a multiple of 20 percent which is to be used in determining the technical score. For example, a value of "4" applied to a particular technical evaluation criterion whose weight is 30, would result in a technical score of 24. The values used in technical proposal evaluation shall be limited to those established in the Scoring Plan.

SCORING PLAN

Value	Descriptive statement
0	The element is not addressed, or is totally deficient and without merit.
1	The element is addressed but contains deficiencies that can be corrected only by major or significant changes to relevant portions of the proposal.
2	Clarification is required. Final scoring of the element will be made following limited discussions or full negotiations, if discussions or negotiations are held with the offeror.
3	The proposal element is adequate. Overall it meets specifications. However, comments should be made on any perceived weaknesses or on areas in which an offeror could improve.
3.5 [1]	Intermediate merit.
4	The proposal element is good with some superior features.
4.5 [1]	Intermediate merit.
5	The proposal is superior in most feature.

[1] The values 3.5 and 4.5 are to be used to indicate intermediate merit. If used, the Chairperson of the Technical Evaluation Panel shall provide a narrative to explain the distinction between values 3 and 4 or values 4 and 5.

(2) *Ranking.* The assignment of numerical scores to a technical proposal establishes the relative rank of that proposal with respect to those of other offerors. The use of pre-established cut-off scores to determine the competitive range or the source to be selected is prohibited. Each member of the TEP shall independently evaluate and score each offer. The TEP Chairperson shall develop a consensus opinion on the scores assigned to each offer. The averaging of individual TEP member's scores to arrive at an overall panel score is prohibited.

(b) *Technical and business evaluation panel reports of initial offers.* The TEP and BEP shall deliver their respective reports to the Contracting Officer upon completion of the evaluation of initial offers.

(1) The TEP report shall include:

(i) A detailed scoring of each offer received and a narrative summary of facts and findings of significant strengths, weaknesses, and risks associated with each offer. The narrative summary and the score must be consistent. Score sheets prepared by each individual panel member must be made available upon the Contracting Officer's request. For contracts valued at $500,000 or less, the Chairperson of the TEP may use the short form technical evaluation format (EPA Form 1900-61); and

(ii) Any interrogatories the Contracting Officer should submit to offerors to clarify their technical proposals. The Contracting Officer may review the technical proposals and TEP evaluation and submit any additional interrogatories deemed appropriate

(2) The BEP report shall include:

(i) A preliminary cost evaluation of each offeror's cost proposal. The evaluation may include worksheets or a formal narrative pointing out cost elements which appear unreasonable or questionable. For level of effort contracts, the evaluation shall compare proposed costs with the cost standards specified in the solicitation (e.g., man-hours per labor category); and

(ii) A discussion of any factors which might prevent award to an offeror (e.g., appearance on a debarred/suspended list).

(3) Both the TEP and BEP reports shall also include:

(i) A statement that the respective panel members are free from actual or potential personal conflicts of interest; and

(ii) Any information which might reveal that a offeror has an actual or potential organizational conflict of interest.

(c) *Technical and business evaluation reports following the competitive range determination.*

(1) The Project Officer shall deliver a supplemental TEP report to the Contracting Officer at the completion of evaluation of revised proposals and prior to final selection. The supplemental report shall include, for each offeror in the competitive range:

(i) A discussion of whether or not the offerors' cost proposals adequately reflect their technical proposals and the requirements of the solicitation;

(ii) A summary evaluation of the technical aspects of each offeror's record of recent or current performance. The evaluation of past performance includes an analysis of the offeror's previous efforts to provide work of a high quality in a timely, cost-efficient manner. However, past performance is not a criterion to be scored. Where the offeror is known to have performed contracts for EPA and for other Government agencies for comparable work, those agencies should be contacted for a record of past

performance and the Contracting Officer contacted for a record of past performance on EPA contracts; and

(iii) Any changes to the initial technical evaluation scores and a narrative evaluation based on discussions or negotiations and the revised technical proposal. All revised score sheets by each panel member must be included.

(2) The BEP shall deliver a supplemental BEP report to the Contracting Officer at the completion of evaluation of revised proposals and prior to final selection. The supplemental report shall include, for each offeror in the competitive range:

(i) A detailed cost analysis of the business proposal. For contracts valued at $500,000 or less, EPA encourages the contract specialist to perform the cost analysis. However, the contract specialist may seek the assistance of a cost/price analyst when necessary;

(ii) An evaluation of the offeror's proposed management structure to be utilized for performance;

(iii) An evaluation of the offeror's subcontracting program as it relates to small businesses, labor surplus area concerns, and socially and economically disadvantaged business enterprises;

(iv) An evaluation of the offeror's record of performance under prior EPA contracts as it relates to timely performance, history of cost control, requests for changes, and quality of the end product. The BEP should obtain this information from the Contractor Performance Evaluation System. Where the offeror is known to have performed contracts with other Government agencies for comparable work, the BEP should contact those agencies for a record of past performance; and

(v) An evaluation of those business elements submitted with each proposal which could lead to a determination of nonresponsibility by the Contracting Officer.

(d) *Safeguarding information.* The following procedures are prescribed for protecting source selection information.

(1) Offerors' identities, offer contents, and prices shall be treated with the utmost discretion to avoid compromising the evaluation results or giving any offeror an unfair competitive advantage. Any questions regarding the receipt and distribution of offers, status of the proceedings, or other matters shall be referred to the Contracting Officer or designated contract specialist.

(2) After receipt of proposals, the contract specialist shall serially number all proposal copies received, distribute the required number of proposal copies to the TEP and BEP, and be responsible for the collection and final disposal of proposal copies. The panel chairpersons shall maintain a log of proposal distribution within the TEP and BEP. The contract specialist shall destroy all excess copies of proposals in a timely manner. The original copy of each unsuccessful proposal should be retained by the contract specialist as a reference in conducting debriefings. A minimum of two copies of the successful proposal should be retained (contract file copy/Project Officer file copy) for reference in administering the contract. Final disposition of the file shall be accomplished in accordance with FAR Subpart 4.8, and the EPA "Records Management Manual."

1515.609 Competitive range.

(a) The Contracting Officer shall prepare the determination of the competitive range for the subsequent approval of the SSO. Where there is reasonable doubt regarding the inclusion of a particular offer within the competitive range, that doubt should be resolved in favor of inclusion. All determinations must be completely documented to support the competitive range decision.

(b) When the procurement action is expected to exceed $5,000,000, the SSO may call for an oral briefing by the Contracting Officer prior to granting approval of the competitive range decision.

(c) When only one offer is determined to be in the competitive range, the Contracting Officer shall review the solicitation document to assure that it did not unduly restrict competition. The competitive range determination shall include the Contracting Officer's determination that the solicitation is not restrictive. The determination shall include a discussion of the relevant aspects of the solicitation.

1515.610-70 Limited discussions vs full negotiations.

(a) To satisfy the varying nature of its acquisitions, EPA encourages the Contracting Officer to suit the negotiation strategy to the circumstances of the procurement. Factors which influence this decision include the number of proposals and relative closeness of technical scores and costs.

(b) After determination of the competitive range, the Contracting Officer may proceed with limited cost/full technical discussions with the firms in the competitive range, generally through interrogatories, and final in-depth negotiations with one or more firm(s) still within the competitive range after evaluation of revised proposals; complete/full cost and technical negotiations with all firms comprising the competitive range; or a variation of these two approaches as the circumstances of the procurement dictate. Regardless of which approach is used, the Contracting Officer is encouraged to raise cost questions as early as possible and not defer them to final negotiations. Discussions/negotiations with contractors in the competitive range shall include questions on past performance [Government and non-Government] that was less than satisfactory. Information on past performance may be obtained from program personnel who have served as Project Officers on relevant contracts, and/or from the contractor performance evaluations maintained by the Procurement and Contracts Management Division.

1515.611 Best and final offers.

The Contracting Officer shall establish a common cut-off date for receipt of revised proposals and/or confirmations of negotiations (best and final offers) upon completion of limited discussions or full negotiations.

1515.612 Formal source selection.

(a) *Responsibilities for evaluation and selection.* The Source Selection Official (SSO) shall appoint the SEB, TEP, and BEP members prior to issuance of the solicitation to allow the members to participate in the development and review of the solicitation document. Appointments should be recommended in the source selection plan prepared by the Contracting Officer in accordance with FAR 15.612(c). Individuals involved in the evaluation and selection process shall be at the levels specified below.

(1) *Acquisitions having a potential value exceeding $5,000,000:*

(i) SSO—HCA.

(ii) SEB Chairperson—HCA or his/her designee (must be a procurement official).

(iii) SEB Membership—Chief of the Contracting Office, TEP chairperson, BEP chairperson, and other specialists as assigned by the SSO.

(iv) TEP Chairperson—Project Officer (PO).

(v) TEP Membership—At least two members in addition to the Project Officer who are knowledgeable of the procurement's technical aspects.

(vi) BEP Chairperson—Contracting Officer (CO).

(vii) BEP Membership—Contract specialist and cost/price analyst.

(2) *Acquisitions having a potential value of $5,000,000 or less:*

(i) SSO—To be determined by the Chief of the Contracting Office, unless

otherwise restricted in his/her delegation of procurement authority.

(ii) SEB—An SEB need be established only when requested by the program office or determined necessary by the SSO. The SSO shall determine the organizational levels of the individuals to serve on the SEB.

(iii) TEP and BEP chairpersons and memberships shall be constituted as in paragraph (a)(1)(iv) through (vii) of this section. (For contracts valued at $500,000 or less, the Project Officer may be the only member of the TEP and the Contracting Officer or contract specialist may be the only member of the BEP.)

(b) *Source selection decision.*

(1) *Source Evaluation Board Report.* In procurements where an SEB is convened, the SEB shall provide the SSO with a report on its findings. The report shall be submitted after completion of discussions or full negotiations, depending on the source selection method employed, and shall include:

(i) A description of the acquisition;

(ii) A summary of the significant strengths, weaknesses, and risks associated with each offer still in the competitive range. This summary shall generally be an independent assessment of the facts and findings appearing in the TEP and BEP reports. The SEB report contains recommendations for selection; and

(iii) A statement that the SEB members are free from actual or potential personal conflicts of interest.

(2) *Source selection.* (i) The Contracting Officer shall prepare the source selection decision for the SSO's subsequent approval. The decision shall document the consideration given to price or cost, technical merit, and other factors contained in the solicitation. These other factors (e.g., record of prior performance, the offeror's subcontracting plan, etc.) may be used as the unscored discriminating elements for determining the selection of a source between two otherwise substantially equal offers from both a cost and technical standpoint.

(ii) The SEB report to the SSO may serve as the source selection decision provided the recommendation of the SEB is accepted by the SSO and the SEB report includes the information required by 1515.612(b)(2)(i).

Subpart 1515.8—Price Negotiation

1515.804 Cost or pricing data.

1515.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

The Head of the Contracting Activity (HCA) is delegated the authority to waive, in exceptional cases, the requirement for submission of certified cost or pricing data.

Subpart 1515.9—Profit

1515.900 Scope of subpart.

This subpart implements FAR Subpart 15.9 and prescribes the EPA structured approach for determining profit or fee prenegotiation objectives.

1515.902 Policy.

(a) *EPA structured approach.* FAR 15.902 requires that agencies use a structured approach for determining the profit or fee objective in those acquisitions that require cost analysis. The structured approach prescribed in 1515.970 shall be used by EPA Contracting Officers in developing a prenegotiation profit or fee objective except as provided in paragraph (b)(1) of this section. The purpose of the structured approach is:

(1) To provide a standard method of evaluation;

(2) To ensure consideration of all relative factors;

(3) To provide a basis for documentation and explanation of the profit negotiation objective;

(4) To allow Contractors to earn profits commensurate with the assumption of risk;

(5) To reward Contractors who provide their own facilities, financing and personnel; and

(6) To reward Contractors who undertake more difficult work requiring higher risks.

(b)(1) *Other methods.* Contracting Officers may use methods other than those prescibed in 1515.970 for estabishing profit or fee objectives under the following circumstances.

(i) Architect-engineering contracts;

(ii) Personal or professional service contracts;

(iii) Management contracts, e.g., for maintenance or operation of Government facilities;

(iv) Termination settlements;

(v) Engineering services, labor-hour, time and materials contracts which provide for payment on a man-hour, man-day, or man-month basis, and where the contribution by the Contractor constitutes the furnishing of personnel rather than the output of an integrated research, engineering, or manufacturing operation;

(vi) Contruction contracts; and

(vii) Cost-plus-award-fee contracts.

(2) Generally, it is expected that such methods will:

(i) Provide the Contracting Officer with a technique that will ensure consideration of the relative value of the appropriate profit factors described under "Profit Factors," and

(ii) Serve as a basis for documentation of the objective.

(c) Under unusual circumstances, the Head of the Contracting Activity (HCA) may specifically waive the requirement for the use of the guidelines. Such exceptions shall be justified in writing and authorized only in situations where the guidelines method is determined to be unsuitable.

(d) *Limitations.* In the event that any of the methods used would result in establishing a fee objective in violation of limitations established by statute (see FAR 15.903(d), the maximum fee objective bshall be the percentage allowed pursuant to such limitations. No administrative ceilings on profits or fees shall be established.

1515.905 Profit-anaylsis factors.

Profit-analysis factors prescribed in the EPA structured approach in analyzing profit or fee include those prescribed by FAR 15.905-1 and additional factors authorized by FAR 15.905-2 to foster achievement of program objectives. These profit or fee factors are prescribed in 1515.970-2.

1515.970 EPA structured approach for developing profit or fee objectives.

1515.970-1 General.

(a) It is the policy of the Agency to utilize profit to attract Contractors who possess talents and skills necessary to the accomplishment of the objectives of the EPA and to stimulate efficient contract performance. In negotiating profit/fee, it is necessary that all relative factors be considered, and that fair and reasonable amounts be negotiated which give the Contractor a profit objective commensurate with the nature of the work to be done, the Contractor's input to the total performance, and the risks assumed by the Contractor.

(b) To properly reflect differences among contracts and the circumstances relating thereto and to select an appropriate relative profit/fee in consideration of these differences and circumstances, weightings have been developed for application by the Contracting Officer to standard measurement bases representative of the prescribed profit factors cited in FAR 15.905 and paragraph 1515.970-2(a)(1). Each profit factor or subfactor, or component thereof, has been assigned weights relative to their value to the contract's overall effort and the range of weights to be applied to each profit factor.

1515.970–2 EPA structured system.

(a)(1) *Profit factors.* The factors set forth below and the weighted ranges listed after each factor shall be used in all instances where the profit is to be specifically negotiated.

CONTRACTOR'S INPUT TO TOTAL PERFORMANCE

Direct materials	Weight range (percent)
Purchases	1 to 4
Subcontracts	1 to 5
Equipment	1 to 2
Engineering labor	8 to 15
Engineering overhead	6 to 9
Manufacturing labor	5 to 9
Manufacturing overhead	4 to 7
Consultants	2 to 5
Other direct costs	1 to 3
General and administrative expenses	5 to 8
Contractor's assumptions of contract cost risk	8 to 6
Record of contractor's performance	−2 to +2
Cost efficiency	
Management	
Extent of investment	
Reliability of cost estimates	
Inventive and developmental contributions	
Timely performance	
Small business participation	
Labor surplus area participation	
Extent of Government assistance	
Effect of competition	

(2) The Contracting Officer shall first measure the "Contractor's Input to Total Performance" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the Contracting Officer. Such costs are multiplied by the specific percentages to arrive at specific dollar profits. The amount calculated for facilities capital cost of money shall not be included as part of the cost base for the computation of profit or fee. A complete discussion of how facilities capital cost of money is determined and how it is applied and administered is set forth in FAR 31.205–10.

(3) After computing a total dollar profit for the Contractor's Input to Total Performance, the Contracting Officer shall calculate the specific profit dollars assigned for cost risk and performance. This is accomplished by multiplying the total Government cost objective, exclusive of any facilities capital cost of money, by the specific weight assigned to cost risk and performance. The Contracting Officer shall then determine the profit or fee objective by adding the total profit dollars for the Contractor's Input to Total Performance to the specific dollar profits assigned to cost risk and performance. The profit or fee objective shall then be reduced by an amount equal to the amount of facilities capital cost of money allowed. EPA Form 1900–2 shall be used to facilitate the calculation of this profit or fee objective.

(4) The weight factors shown are designed for arriving at profit or fee objectives for other than nonprofit and not-for-profit organizations. Adjustments as explained below are to be made to reflect differences between profit and nonprofit organizations.

(i) For purposes of this subparagraph, nonprofit and not-for-profit organizations are defined as those business entities organized and operated exclusively for charitable, scientific or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under section 51 of the Internal Revenue Code.

(ii) For contracts with nonprofit and not-for-profit organizations where fees are involved, the following adjustments are required:

(A) A special factor of −3 percent shall be assigned in all cases.

(B) The weighted ranges from "Record of Contractor's Performance" shall be halved, i.e., −1 percent to +1 percent rather than −2 percent to +2 percent.

(b) *Assignment of values to specific factors*—(1) *General.* In making his/her judgment of the value of each factor, the Contracting Officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth herein.

(2) *Contractor's input to total performance.* This factor is a measure of how much the Contractor itself is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the Contractor's responsibility for contract performance, takes into account what resources are necessary and what the Contractor itself must do to accomplish a conversion of ideas and materials into the final item called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the Contractor's contribution to total performance. Greater profit opportunity should be provided under contracts requiring a high degree of professional and managerial skill and to prospective contractors whose skills, facilities, and technical assets can be expected to lead to efficient and economical contract performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(i) *Direct materials (purchased parts, subcontracted items, and other material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The Contracting Officer shall also determine whether the Contractor will, for example, obtain the materials by routine orders or readily available supplies (particularly those of substantial value in relation to the total contract costs), or by detailed subcontracts for which the prime Contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime Contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near-standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end-item. In the application of this criterion, it should be recognized that the contribution of the prime Contractor to its purchasing program might be substantial. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime Contractor's representative. Recognized costs proposed as direct material cost such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with FAR 31.205–26(e), they should be excluded from the fee computation. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead. Normally, the lowest weight for direct

material is 2 percent. A weighting of less than 2 percent and would be appropriate only in unusual circumstances when there is a minimal contribution by the Contractor in relation to the total cost of the material.

(ii) *Equipment.* It is the policy of the Agency to contract with individuals or firms who have special capabilities relative to the needs of the EPA. These capabilities include personnel with particular skills, or talents, and facilities (plant and equipment) necessary to complete the contract objectives. For the purpose of profit/fee analysis, equipment includes purchased items which are not to be an integral part of the final product. It would generally consist of production or test equipment. Where the EPA has to provide equipment to be Contractor either as Government-furnished equipment or Contractor-acquired equipment, appropriate profit/fee adjustments are necessary. Generally, a low weight range shall be assigned to the cost of such equipment (1 to 2 percent).

(iii) *Engineering labor and manufactuirng labor.* Analysis of the engineering labor and manufacturing labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, manufacturing skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or source engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Similarly, the variety of manufacturing labor skills required and the Contractor's manpower resources for meeting these requirements should be considered. For the purpose of profit/fee computation, manufacturing labor includes all nonprofessional labor, e.g., secretaries, technicians and carpenters, etc.

(iv) *Engineering overhead, manufacturing overhead, and general and administrative expenses.* (A) Where practicable, analysis of these overhead items of costs should include the evaluation of the make up of the expenses and how much they contribute to contract performance. This analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities, depreciation, and maintenance, and hence given lesser profit consideration given the pools as a whole.

(B) It is not necessary that the Contractor's accounting system break down its overhead expenses within the classification of engineering overhead, manufacturing overhead, and general and administrative expenses. The Contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system to correspond with all the above classifications. Where practicable, the Contracting Officer in his/her evaluation of such a Contractor's overhead rate should break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead, and general and administrative expenses and follow the appropriate evaluation technique. When it is not practicalbe to evaluate the elements of the burden pool, the following rates should usually apply:

	Percent
Engineering overhead	7.5
Manufacturing overhead	5.5
Composite overhead	6.5
G&A	6.5

(C) It is not necessary for the Contracting Officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Once an analysis of the profit weight to be assigned the overhead pool has been made, the weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances.

(v) *Consultants.* Consultant costs, whether related to an individual consultant or consulting firm should be analyzed from the standpoint of what talents and skills the consultants have and how they will be used on the contract. The analysis should consider if the Contractor normally should be expected to have people with comparable expertise employed as full-time staff or if the contract requires skills not normally available on an employer-employee relationship. Where the Contractor is using consultants to perform services which could normally be expected to be done in-house, the rating factor should be generally below 2 to 3 percent. Where noted experts are retained for consultation on the contract, the rating will generally be higher.

(vi) *Other direct costs.* Items of costs, such as travel, subsistence, printing, and computers should generally be assigned a rating of 1 to 3 percent. The analysis of these costs should be similar to the analysis of direct materials.

(3) *Contractor's assumption of contract cost risk.* (i) It is the policy of the Administration to shift the risk of contract costs to the fullest extent practicable to contractors and to compensate them for the assumption of this risk. Evaluation of this risk requires a determination of: (A) The degree of cost responsibility the Contractor assumes, (B) the reliability of the cost estimates in relation to the task assumed, and (C) the chance of the Contractor's success or failure. This factor is specially limited to the risk of contract costs. Thus, such risks of losing potential profits in other fields are not within the scope of this factor.

(ii) The first and basic determination of the degree of cost responsibility assumed by the Contractor is related to the sharing of total risk of contract cost by the Government and the Contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee contract requiring only that the Contractor use its best efforts to perform a task, and a firm-fixed-price contract for a complex item. Such cost-plus-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas such firm-fixed-price contract would reflect a complete assumption of cost responsibility. Therefore, in the first step of determining what value is to be given for the Contractor's assumption of contract cost risk, a zero rating shall be given to a proposed cost-plus-fixed-fee best efforts contract, and a higher rating shall be given to a closely priced firm-fixed-price contract for a new, complex item.

(iii) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the Contractor's assumption of contract cost risk.

(iv) The third determination is that of the difficulty of the Contractor's task. The Contractor's task can be difficult or easy, regardless of the tyne of contract.

(v) Contractors are likely to assume greater cost risks only if the Contracting Officers objectively analyze the risk incident to proposed contracts and are willing to compensate Contractors for it. Generally, a cost-plus-fixed-fee contract would not justify a reward for risk in excess of 1 percent, nor would a firm-fixed-price contract justify a reward of less than 4 percent. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentages ranges:

Type of contract	Percentage ranges
Cost-plus-fixed-fee	0 to 1.
Cost-plus-incentive-fee including cost incentives only.	1 to 2.
Cost-plus-incentive-fee including cost, performance, and delivery incentives	2½ to 3.
Fixed-price-incentive including cost incentives only	2 to 4.
Fixed-price-incentive including cost, performance, and delivery incentives.	3 to 5.
Prospective price determination	4 to 5.
Firm-fixed-price	4 to 6.

(A) These ranges may not be appropriate for all procurement situations. For instance, a fixed-price-incentive contract which is closely priced with a low ceiling price and a high incentive share may be tantamount to a firm-fixed-price contract. In this situation, the Contracting Officer might determine that a basis exists for high confidence in the reasonableness of the estimate, and that little opportunity exists for cost reduction without extraordinary efforts. The Contractor's willingness to accept ceilings on their burden rates should be considered as a risk factor for cost-plus-fixed-fee contracts.

(B) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, consideration should by given to the effect on total contract cost risk as a result of haivng partial performance under a letter contract. Under some circumstances, it may be reasoned that the total amount of cost risk has been effectively reduced by the existence of a letter contract. Under other circumstances, it may be apparent that the Contractor's cost risk remained substantially as great as though a letter contract had not been used. Where a Contractor has begun work under an anticipatory cost letter, the risk assumed is greater than the normal situation. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances, not just to the portion of costs incurred or percentages of work completed, prior to definitization.

(4) *Record of contract performance.* (i) The purpose of this factor is to motivate Contractors to improve their performance by rewarding them for excellent past performance and penalizing them for poor performance. Effective use of this factor requires that: (A) Reports on the various aspects of past performance be obtained and evaluated; and (B) this information be used in such a way as to motivate Contractors to improve their performance.

(ii) The evaluation of a particular Contractor's past performance and the importance placed upon the various subfactors listed below should be done in such a way as to motivate the Contractor to improve its performance. For instance, it might be pointless, in evaluating the performance of an autonomous division of a multidivisional contractor, to place emphasis on the performance of another autonomous division. Under such circumstances, the management of the division being evaluated might have no means of controlling the performance of the other division; therefore, emphasis on this performance by assigning a plus or minus rating to this factor might have a negative effect upon motivation to improve.

(iii) The weight to be assigned to this factor is arrived at on a judgment basis rather than an arithmetical averaging of weights assigned to all factors, depending upon the particular procurement situation, and the relative importance of the various factors. For example, an evaluation of a particular Contractor may indicate that its performance was satisfactory in most areas, except that it showed a preference for doing all work in-house and a disinclination to support Government small business objectives. In such a case the Contracting Officer may feel that the importance of these factors might justify the assignment of a lower overall rating for the record of past performance.

(iv) As stated above, the purpose of this factor is to reward a Contractor for excellent past performance and penalize it for poor performance. Therefore, performance which is rated as merely satisfactory should generally be assigned a weight of zero. However, a Contractor who has consistently met contractual requirements may be awarded a plus.

(v) The following factors are to be considered in evaluating a Contractor's performance record:

(A) *Cost efficiency.* Low cost performance reflecting economic use of facilities and manpower, sound purchasing methods and subcontracting procedures, and effective inventory control are criteria for consideration. Improvement in efficiency through investment in plant modernization, past efficiencies, or lack thereof, effectiveness of the Contractor's make-or-buy program, purchasing and subcontracting system and inventory control should be evaluated.

(B) *Management.* Stability and competence of managment personnel, their willingness and ability to adjust company resources to meet peculiarly difficult and changing control requirements are criteria for consideration. The degree of cooperation by the Contractor with the objectives of the Government should be considered.

(C) *Extent of the contractor's investment.* The extent of a Contractor's total investment (i.e., both equity and borrowed capital) in the performance of the contract will be taken into consideration in determining the amount of the fee or profits.

(D) *Reliability of cost estimates.* Accuracy and reliability of previous cost estimates should be considered. Where substantial overruns have occurred, the Contracting Officer should attempt to determine the reasons.

(E) *Inventive and developmental contributions.* Extent and nature of Contractor-initiated and financed research, development, design work, product engineering, quality control, and manufacturing processes and techniques in the areas of concern to the EPA should be analyzed.

(F) *Timely performance.* The Contractor's performance record, considering excusable delays and the Contractor's efforts to overcome delays, should be analyzed.

(G) *Small business participation.* The Contractor's policies and procedures which energetically support Government small business programs pursuant to FAR Subpart 19.7 should be given favorable consideration. Any unusual effort which the Contractor displays in subscontracting with small concerns, particularly for development type work likely to result in later production opportunities, and overall effectiveness of the Contractor in subcontracting with and furnishing assistance to small concerns should be considered. Conversely, failure or unwillingness on the part of the Contractor to support Government small business policies should be viewed as evidence of poor

performance for the purpose of establishing a profit objective.

(H) *Labor surplus area participation.* A similar review and evaluation (as required in paragraph (b)(4)(v)(G) of this section) should be given to the Contractor's policies and procedures supporting the Government's labor surplus area program pursuant to FAR Part 20. Particular favorable consideration should be given to a Contractor who: (1) Makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (2) promotes maximum subcontractor utilization of certified-eligible concerns, as defined in FAR 20.101.

(I) *Extent of Government assistance.* The Government encourages its Contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. Where extraordinary financial, facilities, or other assistance must be furnished to a Contractor by the Government, such extraordinary assistance should have a modifying effect in determining what constitutes a fair and reasonable profit or fee.

(J) *Effect of competition.* When competition is effective and proposals are on a firm-fixed-price basis, the Contracting Officer normally need not consider in detail the amount of estimated profit included in a price. When effective competition is lacking, and in all cases where cost analysis is performed in accordance with FAR Subpart 15.8, the estimate for profit, target profit or fee, or the proposed fixed fee should be analyzed in the same manner as all other elements of price.

1515.970-3 Documentation.

Determination of the profit or fee objective, in accordance with this subpart shall be fully documented. Since the profit objective is the Contracting Officer's pre-negotiation evaluation of a total profit allowance for the proposed contract, the amounts developed for each category of cost will probably change in the course of negotiation. Furthermore, the negotiated profit will probably vary from the profit objective and from the prenegotiation detailed application of the weights to each element of the Contractor's input to total performance. Since the profit objective is viewed as a whole rather than as its component parts, insignificant variations from the prenegotiation profit objective, as a result of changes to the Contractor's input to total performance, need not be documented in detail. Conversely, significant deviations from the profit objective necessary to reach a final agreement on profit or fee shall be explained in the record of negotiation prepared in accordance with FAR 15.808.

Subpart 1515.10—Preaward and Postaward Notifications, Protests, and Mistakes

1515.1002 Debriefing of unsuccessful offerors.

Debriefings of unsuccessful offerors shall be conducted by the Source Selection Official (SSO), or his/her designee, with participation of the Project Officer and such other specialists as the SSO or designee deems necessary. All debriefings shall be held after contract award.

PART 1516—TYPE OF CONTRACTS

Sec.

1516.000 Scope of part.

Subpart 1516.3—Cost-Reimbursement Contracts

1516.307 Contract clauses.

Subpart 1516.4—Incentive Contracts

1516.404-2 Cost-plus-award-fee contracts.
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1516.405 Contract clauses.

Subpart 1516.5—Indefinite-Delivery Contracts

1516.505 Contract clauses.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1516.000 Scope of part.

This Part implements and supplements FAR Part 16. It provides policy and procedures for cost-plus-award-fee type contracts and prescribes additional contract clauses for use with cost-reimbursement and indefinite-delivery type contracts.

Subpart 1516.3—Cost-Reimbursement Contracts

1516.307 Contract clauses.

The Contracting Officer shall insert the clause in 1552.216-71, Date of Incurrence of Cost, in cost-reimbursement contracts when an anticipatory cost letter has been issued on the project.

Subpart 1516.4—Incentive Contracts

1516.404-2 Cost-plus-award-fee contracts.

1516.404-270 Scope.

This subsection establishes the EPA policy and procedures for cost-plus-award-fee (CPAF) type contracts.

1516.404-271 Applicability.

(a) The provisions of this subsection apply to all CPAF type contracts. Contracting Officers shall consider all contract actions conforming to the limitations of FAR 16.404-2(c) and 1516.404-273, which have a potential value of $5,000,000 or more as candidates for award as a CPAF contract. Contracting Officers may utilize CPAF contracts for requirements whose estimated value is less than $5,000,000 when considered appropriate.

(b) The formal procedures established in this subpart apply to contract acquisitions with a potential value exceeding $2,000,000. The simplified procedures prescribed in 1516.404-279 are authorized for CPAF contracts with a potential value of $2,000,000 or less.

1516.404-272 Objectives.

The award fee contract, when determined suitable for use, is a combination of at least three EPA contracting objectives: (a) It provides for the reimbursement of allowable, allocable, and reasonable costs; (b) it fixes a dollar amount beyond the initial estimate of costs that represents the compensation for risk (base fee); and (c) it motivates performance throughout the life of a contract where success breeds additional income (award fee). The CPAF contract is used when the work to be performed is such that specific quantitative objective measurement is not feasible and the required performance extends over a sufficient period of time for the award fee features to be used effectively.

1516.404-273 Limitations.

Contracting Officers should use the CPAF contract in acquiring supplies or nonpersonal services only where the contract amount, period of performance, and expected benefits warrant the additional effort and costs involved in administering this type of contract. Contracting Officers should use the CPAF contract only for those acquisitions where:

(a) The Contracting Officer determines a cost-reimbursement contract is necessary in accordance with FAR 16.301-2 and FAR 16.301-3;

(b) The period of performance is more than one year;

(c) The nature of the work cannot be specifically described and is of a continuous service or level of effort susceptible to monitoring; or

(d) The requirement is of such a nature that the Contractor's performance is susceptible to monitoring.

1516.404-274 Fee limitations.

The base fee should normally be not more than three percent of the estimated cost of the contract. (See FAR 15.903(d), for maximum fee limitations.) At the time of award, the Contracting Officer shall obligate the total amount of base and award fee. However, in incrementally funded contracts, the Contracting Officer shall separate the fee into the base and award fee portions and obligate only the initial increment of cost, base fee, and award fee. The Contracting Officer shall award the total award fee earned for the period being evaluated. The Contracting Officer shall not carry forward into a subsequent evaluation period any award fee not awarded in a previous evaluation period.

1516.404-275 Definitions and responsibilities.

"Award Fee Plan" means a plan, developed by the PEB, which identifies various categories of performance and clearly describes the criteria used by the PEB to evaluate Contractor performance. The plan also allocates the award fee pool among performance categories.

"Award Fee Pool" means that portion of the contract fee set forth in the contract as the amount of fee available to be awarded for Contractor performance in accordance with the criteria contained in the Award Fee Plan.

"Evaluation Coordinator" means a Government official appointed to receive, code, validate, and assess Performance Monitor reports; and to present such Contractor performance information and data to the PEB.

"Fee Determination Official (FDO)" means the Chief of the Contracting Office who reviews the recommendation of the Performance Evaluation Board and makes the final determination of the award fee.

"PEB Executive Secretary" means a Government official who prepares the official PEB report.

"Performance Evaluation Board (PEB)" means a board of Government officials, which performs the in-depth review of all aspects of Contractor performance and recommends an appropriate fee to the FDO.

"Performance Event" means a discrete happening or series of related happenings occurring during the course of performance which indicate or represent Contractor performance. Performance events shall be reported by the performance monitors on EPA Form No. 1900-41B. The Contractor may report performance events directly to the PEB through the Evaluation Coordinator either as they occur or as a summary report of the evaluation period.

"Performance Monitor(s)" means those Government employees designated to observe, assess, and report the performance of the Contractor on a close, continuous day-to-day basis. Performance monitors are of two categories: Technical and business. The technical performance monitors report on the Contractors performing the technical requirements of the contract. The business performance monitors report on the business aspects of the Contractor's performance; these individuals will be the Contracting Officer/Contract Specialist and Cost Analyst most familiar with the specific contractual and financial aspects of the contract.

"Period of Evaluation" means a segment of the contract's period of performance specified in the award fee plan which will be evaluated by the PEB for purposes of establishing the award fee for that period.

1516.404-276 Appointment of personnel.

(a) The Head of the Contracting Activity (HCA) will determine, in concert with the responsible program office, the participants in the award fee process. The Contracting Officer shall prepare the formal appointment memorandum and forward it to the HCA prior to issuance of the solicitation. Individuals shall be designated as follows:

(1) "Chairperson, Performance Evaluation Board and Board Members." The Chairperson of the Performance Evaluation Board shall be the laboratory or division director of the program initiating the procurement. A representative of the responsible contracts operation office shall be a voting member of all PEBs. The Chairperson of the PEB and the Contracting Officer shall recommend other board members.

(2) "Evaluation Coordinator." As recommended by the Chairperson of the PEB.

(3) "Executive Secretary." As recommended by the Chairperson of the PEB.

(4) "Performance Monitors." The PEB Chairperson shall assure that adequate performance monitoring capability is available. These individuals need not be designated in the appointment memorandum.

(b) If any changes in the composition of the PEB are necessary, the following approvals shall be obtained:

(1) Chairperson, PEB—by the FDO.

(2) PEB members—by the Chairperson, PEB.

1516.404-277 Preparation of the award fee plan.

The purpose of the award fee plan is to describe in one document the plan for monitoring, assessing, and evaluating Contractor performance to determine any award fee earned. The PEB shall develop and follow an award fee plan which clearly describes the criteria to be used to determine fee. The PEB shall forward the plan through the Contracting Officer to the HCA for approval prior to issuance of the solicitation. The Contracting Officer shall include the award fee plan in the solicitation. A complete award fee plan should include the following elements:

(a) The base fee amount.

(b) The total award fee pool.

(c) Performance areas to be evaluated.

(d) Criteria to be used in evaluations.

(e) Relative weights to be assigned to performance areas and to the evaluation criteria.

(f) Frequency and timing of award fee determination.

(g) Proportion of the total award fee pool to be available for each evaluation period.

(h) Procedure to be followed (the timing involved) in evaluating performance and determining the award fee.

1516.404-278 Operation of the evaluation system.

(a) *Performance Reporting.* Performance Monitors shall report information in the form of one or more individual Performance Event Reports on EPA Form 1900-41B, CPAF Contract Individual Performance Event, directly to the cognizant Evaluation Coordinator in accordance with intervals specified in the award fee plan. The Performance Monitors shall observe the following definitions of Contractor performance in reporting and judging performance events:

(1) Superior—"+" The performance event exceeds the satisfactory level.

(2) Satisfactory—"0" The performance event is acceptable.

(3) Substandard—"−" The performance event is less than satisfactory.

(b) *Performance Information Coordination.* (1) The Evaluation Coordinator shall receive, code, validate, and assess the Performance Events (PE) reports submitted by the monitors and select all those PEs he/she considers to be significant, i.e., above (+) or below (−) satisfactory performance.

(2) The Evaluation Coordinator shall also prepare separate PE summaries for each performance evaluation category. The summaries will be prepared on EPA Form 1900–41A, Summary of Significant Performance Events, and will incorporate all monitor and contractor reported PEs the coordinator considers significant. The Evaluation Coordinator shall be responsible for preparing and presenting all material the PEB requires for its performance assessment. This material will serve: (i) As the PEB's agenda, and (ii) as the complete documentation package which will support the PEB's fee recommendation. It will be organized into separate sections for each performance evaluation category. Each section will consist of the following material:

(A) Summary of Significant Performance Events, EPA Form 1900–41A.

(B) The Individual PE reports, EPA Form 1900–41B.

(c) *Evaluation of Performance.* The PEB shall perform a review of the performance events against each performance evaluation category to arrive at the recommended award fee for each category as well as the total award fee for the period. The PEB must meet within 30 calendar days after the end of each evaluation period. At the initial PEB meeting the board members shall determine what fee the Contractor would normally receive if the work was being undertaken on a Cost-Plus-Fixed-Fee (CPFF) basis. After determining this amount, the Board shall determine what percentage of the available award fee pool that, when added to the base fee, will equal the amount the Contractor would receive under a CPFF contract. This percentage of award fee will set the baseline for satisfactory performance.

(d) *The Period of Evaluation.* The period of evaluation will be at least every six months. The desired period of evaluation will be every four months.

(e) *Performance Evaluation Report.* Following the PEB meeting at which the award fee recommendation is reached, the Executive Secretary will prepare a Performance Evaluation Report and forward this to the Contracting Officer. The Contracting Officer will prepare a letter for signature of the FDO informing the Contractor's general management of the amount and basis of the fee awarded. The Contracting Officer shall forward the Performance Evaluation Report and the fee determination letter (the Performance Evaluation Report shall be an attachment to the fee determination letter) to the FDO for signature. The FDO will review the performance evaluation and fee recommendation and make a final determination of fee.

1516.404–279 Simplified procedures.

The following CPAF procedures are authorized for procurements of $2,000,000 or less which conform to the limitations in paragraph 1516.404–273.

(a) No appointment of a formal PEB is necessary. The Project Officer and Contracting Officer perform the duties and functions of the PEB members. In lieu of performance monitors reporting to an evaluation coordinator, the Project Officer will personally monitor and assess the technical performance of the Contractor for each evaluation period. The Contracting Officer or contract specialist will monitor the business aspects of the Contractor's performance.

(b) The Chief of the Contracting Office shall approve the award fee plan in lieu of the HCA.

(c) The Project Officer and the Contracting Officer shall report performance events on EPA Form 1900–41B. Use of the summary of significant performance events is not required.

(d) The Project Officer, with input from the Contracting Officer, will prepare the performance evaluation report.

1516.404–2710 Deviation.

Deviation from this section shall be as prescribed in subpart 1501.4.

1516.405 Contract clauses.

The Contracting Officer shall insert the clause at 1552.216–70, Award Fee, in solicitations and contracts when a cost-plus-award-fee contract is contemplated.

Subpart 1516.5—Indefinite-Delivery Contracts

1516.505 Contract clauses.

(a) The Contracting Officer shall insert the clause in 1552.216–72, Ordering—By Designated Ordering Officers, in indefinite delivery/indefinite quantity type solicitations and contracts.

(b) The Contracting Officer shall insert the clause in 1552.216–73, Fixed Rates for Services—Indefinite Delivery/Indefinite Quantity Contract, in solicitations and contracts to specify fixed rates for services.

PART 1517—SPECIAL CONTRACTING METHODS

Subpart 1517.2—Options

Sec.

1517.200 Scope of subpart.
1517.202 Use of options.
1517.207 Exercise of options.
1517.208 Solicitation provisions and contract clauses.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1517.2—Options

1517.200 Scope of subpart.

This subpart does not apply to contracts for services involving: (a) Construction, alteration, or repair of real property; (b) architect-engineering services; (c) automatic data processing equipment systems; and (d) telecommunication equipment and services. However, it does not preclude the use of options in those contracts.

1517.202 Use of options.

(a) The use of options for increased quantities of supplies or services which exceed 50 percent of the base quantity specified in the contract for a particular period shall be approved by the Head of the Contracting Activity (HCA) prior to issuing the solicitation. In the case of supplies, the 50 percent limitation applies only to contracts which have a base quantity of more than one.

(b) The use of option periods which, when combined with the base contract period, results in a total contract period of performance exceeding thirty-six (36) months shall be approved by the Chief of the Contracting Office prior to issuing the solicitation. In no event, however, shall the total of the base and option periods exceed sixty (60) months in duration.

1517.207 Exercise of options.

(a) Unless otherwise approved by the Chief of the Contracting Office, contracts for services employing option periods shall require that a preliminary written notice of the Government's intention to exercise the option be furnished to the Contractor a minimum of sixty (60) calendar days prior to the date for the exercise of the option. Failure to provide such preliminary notice within the timeframe established in the contract waives the Government's right to unilaterally exercise the option and requires the negotiation of a bilateral contract modification in order to extend the period of performance, where such an extension is authorized.

(b) When the term of the service contract coincides with the fiscal year and delays in receipt of authority to

obligate funds for the new fiscal year are anticipated, the Contracting Officer, if the contract so provides (see FAR 17.204(d)), may, within 60 days after the end of the fiscal year, unilaterally exercise an option to extend the term of the contract. The option may be exercised only if funds become available within the 60-day period. In the event that sufficient funding is not available within the 60-day period, the Government waives the right to unilaterally exercise the option, thereby rendering any additional requirements subject to normal competitive procurement procedures.

(c) The Contracting Officer, if the contract so provides, may, subject to the conditions in FAR 17.204(d), 32.703-2, and 32.705-1(a), exercise an option contingent upon the availability of funds. To exercise such an option, the contract must contain the clause in FAR 52.232-18, Availability of Funds. Under no circumstances shall any action be taken which could be construed as creating a legal liability on the part of the Government until a formal notice of availability of funds in the form of a contract modification has been issued by the Contracting Officer.

§ 1517.208 Solicitation provisions and contract clauses.

(a) The Contracting Officer shall insert the solicitation provision at 1552.217-70, Evaluation of Contract Options, in Requests for Proposals when options are included.

(b) The Contracting Officer shall insert the clause at 1552.217-71, Option To Extend the Term of the Contract—Cost-Type Contract, when applicable.

(c) The Contracting Officer shall insert the clause at 1552.217-72, Option To Extend the Term of the Contract—Cost-Plus-Award-Fee Contract, when applicable.

(d) The Contracting Officer shall insert the clause at 1552.217-73, Option for Increased Quantity—Cost-Type Contract, when applicable.

(e) The Contracting Officer shall insert the clause at 1552.217-74, Option for Increased Quantity—Cost-Plus-Award-Fee Contract, when applicable.

(f) The Contracting Officer shall insert the clause at 1552.217-75, Option To Extend the Effective Period of the Contract—Time and Materials or Labor Hour Contract, when applicable.

(g) The Contracting Officer shall insert the clause at 1552.217-76, Option To Extend the Effective Period of the Contract—Indefinite Delivery/Indefinite Quantity Contract, when applicable.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 1519—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Sec.

1519.000 Scope of part.

Subpart 1519.2—Policies

1519.201 Policy.
1519.201-1 Director of Small and Disadvantaged Business Utilization.
1519.201-2 Small and disadvantaged business utilization specialists.
1519.202-5 Data collection and reporting requirements.

Subpart 1519.5—Set-Asides for Small Business

1519.501 Review of acquisitions.
1519.503 Class set-aside for construction.

Subpart 1519.6—Certificates of Competency and Determinations of Eligibility

1519.602-1 Procedures.

Subpart 1519.7—Subcontracting with Small Business and Small Disadvantaged Business Concerns

1519.705-2 Determining the need for a subcontract plan.
1519.705-4 Reviewing the subcontracting plan.
1519.705-70 Synopsis of contracts containing Pub. L. 95-507 subcontracting plans and goals.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1519.000 Scope of part.

This part implements FAR Part 19 and provides policy and procedures for the development and conduct of the Agency small business and small, disadvantaged business utilization programs; for review of acquisitions for small business set-asides; and for subcontracting with small and small disadvantaged business concerns.

Subpart 1519.2—Policies

1519.201 Policy.

Each program's Assistant or Associate Administrator shall be responsible for developing its socioeconomic goals on a fiscal year basis. The goals shall be developed in collaboration with the supporting Chiefs of Contracting Offices and the local Small and Disadvantaged Business Utilization Specialist (SDBUS), and the Office of Small and Disadvantaged Business Utilization (OSDBU). The goals will be based on advance procurement plans and past performance. The goals shall be submitted to the Director, OSDBU, at least thirty (30) days prior to the start of the fiscal year.

1519.201-1 Director of Small and Disadvantaged Business Utilization.

The Director, OSDBU, provides guidance and advice, as appropriate, to Agency program and contracts officials on small and small disadvantaged business programs. The Director, OSDBU, is the central point of contact for inquiries concerning the small and disadvantaged business programs from industry, the Small Business Administration (SBA), and the Congress, and shall advise the Administrator and staff of such inquiries as required. The Director, OSDBU, shall represent the Agency in the negotiations with the other Government agencies on small and small disadvantaged business matters.

1519.201-2 Small and disadvantaged business utilization specialists.

(a) Small and Disadvantaged Business Utilization Specialists (SDBUS) shall be appointed in writing for each contracting office. The SDBUS will normally be appointed from members of staffs of the appointing authority. The SDBUS is administratively responsible directly to the appointing authority and, on matters relating to small and small disadvantaged business program activities, receives technical guidance from the Director, OSDBU. The appointing authorities are the Chiefs of the Contracting Offices.

(b) A copy of each appointment and termination of all SDBU specialists shall be forwarded to the Director, OSDBU. In addition to performing the duties outlined in paragraph (c) of this section that are normally performed in the activity to which assigned, the SDBUS shall perform such additional functions as may be prescribed from time to time in furtherance of overall small and small disadvantaged business utilization program goals. The SDBUS is not precluded from being assigned the responsibility for the labor surplus area program prescribed by FAR Part 20. The SDBUS may be appointed on either a full- or part-time basis; however, when appointed on a part-time basis, the small business duty shall take precedence over collateral responsibilities.

(c) The SDBUS appointed pursuant to (a) above shall perform the following duties as appropriate:

(1) Maintain a program designed to locate capable small business sources for current and future acquisitions;

(2) Coordinate inquiries and requests for advice from small and small disadvantaged business concerns on acquisition matters;

(3) Review all proposed solicitations over $10,000, assure that small business

concerns will be afforded an equitable opportunity to compete, and, as appropriate, initiate recommendations for small business set-asides, or offers of requirements to the SBA for the 8(a) program, and complete EPA Form 1900-37, "Record of Procurement Request Review," as appropriate:

(4) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in an acquisition. When small business concerns cannot be given an opportunity on a current acquisition, initiate action, in writing, with appropriate technical and contracting personnel to ensure that necessary specifications and/or drawings for future acquisitions are available.

(5) Review proposed contracts for possible breakout of items or services suitable for acquisition from small business and small disadvantaged business concerns;

(6) Advise small businesses with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(7) Participate in the evaluation of a prime contractor's small business subcontracting programs;

(8) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in acquisition programs (see 1519.202-5);

(9) Make available to SBA copies of solicitations when so requested;

(10) Act as liaison with the appropriate SBA office or representative in connection with set-asides, certificates of competency, size classification, and any other matter concerning the small or small disadvantaged business programs.

1519.202-5 Data collection and reporting requirements.

(a) As required, monthly reports of factual information, covering acquisition actions and dollars awarded to small businesses, small disadvantaged businesses, women-owned small businesses, the Small Business Administration under the authority of section 8(a) of the Small Business Act, and information on actions and dollars made under small business set-asides shall be submitted by the Procurement and Contracts Management Division, to the Director, OSDBU.

(b) The Financial Management Division will submit to the Director, OSDBU, a copy of the Small Purchase Activity Report that shows by each EPA purchasing activity the following information (cumulative monthly) for small purchases:

(1) Total actions and dollar value of awards;

(2) Total actions and dollar value of awards to all businesses;

(3) Total actions and dollar value of awards to small businesses;

(4) Total actions and dollar value of construction awards to small businesses made by set-aside;

(5) Total actions and dollar value of small business awards made by set-asides, excluding set-asides for construction;

(6) Total actions and dollar value of awards made to the Small Business Administration pursuant to section 8(a) of the Small Business Act; and

(7) Total actions and dollar value of awards made to small disadvantaged businesses.

(c) The reports identified in Paragraphs (a) and (b) of this section are to be submitted to the Director, OSDBU, no later than the 20th day following the end of the reporting period with the exception of the last report of the fiscal year which shall be submitted no later than the 30th day following the end of the fiscal year.

Subpart 1519.5—Set-Asides for Small Business

1519.501 Review of acquisitions.

(a) If no Small Business Administration (SBA) representative is available, the Small and Disadvantaged Business Utilization Specialist (SDBUS) shall initiate recommendations to the Contracting Officer for small business set-asides with respect to individual acquisitions or classes of acquisitions or portions thereof.

(b) When the SDBUS has recommended that all, or a portion, of an individual acquisition or class of acquisitions be set aside for small business, the Contracting Officer shall promptly either: (1) Concur in the recommendation or (2) disapprove the recommendation, stating in writing the reasons for disapproval. If the Contracting Officer disapproves the recommendation of the SDBUS, the SDBUS may appeal to the appropriate appointing authority, whose decision shall be final.

1519.503 Class set-aside for construction.

(a) Each proposed acquisition for construction estimated to cost between $10,000 and $1,000,000 shall be set-aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn in accordance with the procedure of FAR 19.506 only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction acquisitions in excess of $1,000,000 shall be considered on a case-by-case basis.

Subpart 1519.6—Certificates of Competency and Determinations of Eligibility

1519.602-1 Procedures.

A copy of the documentation supporting the determination that a small business concern is not responsible, as required by FAR 19.601-1(a), shall be transmitted to the Director, Office of Small and Disadvantaged Business Utilization, concurrently with the submission of a copy of the documentation to the appropriate Small Business Administration Regional Office.

Subpart 1519.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

1519.705-2 Determining the need for a subcontract plan.

One copy of the determination required by FAR 19.705-2(c) shall be placed in the contract file and one copy provided the Director, Office of Small and Disadvantaged Business Utilization (OSDBU).

1519.705-4 Reviewing the subcontracting plan.

In determining the acceptability of a proposed subcontracting plan, the Contracting Officer shall obtain advice and recommendations from the OSDBU, which shall in turn coordinate review by the Small Business Administration Procurement Center Representative (if any).

1519.705-70 Synopsis of contracts containing Pub. L. 95-507 subcontracting plans and goals.

the synopsis of contract award, where applicable, shall include a statement identifying the contract as one containing Pub. L. 95-507 subcontracting plans and goals.

PART 1520—LABOR SURPLUS AREA CONCERNS

Subpart 1520.1—General

Sec.

1520.102 Labor surplus area goals.

Subpart 1520.3—Labor Surplus Area Subcontracting Program

1520.303 Review of subcontracting program.

Authority: sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1520.1—General

1520.102 Labor surplus area goals.

Labor surplus area goals shall be developed as prescribed in 1519.201.

Subpart 1520.3—Labor Surplus Area Subcontracting Program

1520.303 Review of subcontracting program.

The Contracting Officer, in conjunction with the Office of Small and Disadvantaged Business Utilization, shall review labor surplus area subcontracting programs.

PART 1522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Sec.

1522.000 Scope of part.

Subpart 1522.1—Basic Labor Policies

1522.103 Overtime.
1522.103–4 Approvals.

Subpart 1522.6—Walsh-Healey Public Contracts Act

1522.608 Procedures.
1522.608–3 Protests against eligibility.
1522.608–4 Award pending final determination.
1522.608–6 Postaward.

Subpart 1522.8—Equal Employment Opportunity

1522.803 Responsibilities.
1522.804 Affirmative action programs.
1522.804–2 Construction.
1522.805 Procedures.

Subpart 1522.10—Service Contract Act of 1965

1522.1003 Applicability.

Subpart 1522.13—Special Disabled and Vietnam Era Veterans

1522.1306 Complaint procedures.

Subpart 1522.14—Employment of the Handicapped

1522.1403 Waivers.
1522.1406 Complaint Procedures.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1522.000 Scope of part.

This part implements FAR Part 22 and provide procedures to be followed in obtaining approvals or deteminations from the Small Business Administration (SBA), the Department of Labor (DOL) or the Office of Contract Compliance Programs (OFCCP) on matters related to the application of labor laws.

Subpart 1522.1—Basic Labor Policies

1522.103 Overtime.

1522.103–4 Approvals.

The Chief of the Contracting Office is the Agency approving official.

Subpart 1522.6—Walsh-Healey Public Contracts Act

1522.608 Procedures.

1522.608–3 Protests against eligibility.

The Contracting Officer shall forward the determination of eligibility, after concurrence by legal counsel, to the Head of the Contracting Activity (HCA) for referral to the Department of Labor (DOL) or to the Administrator of SBA if the offeror is a small business.

1522.608–4 Award pending final determination.

If an offeror's eligibility case is pending review by DOL or SBA, the Contracting Officer shall obtain the concurrence of legal counsel and approval of the HCA prior to making an award.

1522.608–6 Postaward.

The Contracting Officer shall follow the procedures in 1522.608–3.

Subpart 1522.8—Equal Employment Opportunity

1522.803 Responsibilities.

If the applicability of E.O. 11246 and implementing regulations are questioned, the Contracting Officer shall route the matter through the Head of the Contracting Activity (HCA) to the EPA Office of Civil Rights.

1522.804 Affirmative action programs.

1522.804–2 Construction.

Each contracting office having construction contract responsibility shall maintain a list of geographical areas subject to affirmative action requirements. The list can be obtained from the Office of Contract Compliance Programs.

1522.805 Procedures.

(a) Preaward clearance requests cited in FAR 22.805(a) (2), (3), and (5) shall be forwarded to the EPA Office of Civil Rights. The Contracting Officer shall submit requests for clearance cited in FAR 22.805(a)(7) through the EPA Office of Civil Rights.

(b) The Contracting Office shall obtain posters entitled "Equal Opportunity Is the Law" from the EPA Office of Civil Rights.

Subpart 1522.10—Service Contract Act of 1965

1522.1003 Applicability.

Requests for determinations and exemptions shall be submitted to the Head of the Contracting Activity for signature and transmittal to the Department of Labor in accordance with FAR 22.1003(e).

Subpart 1522.13—Special Disabled and Vietnam Era Veterans

1522.1306 Complaint procedures.

The Contracting Officer shall forward complaints received to the Head of the Contracting Activity for referral to the Department of Labor.

Subpart 1522.14—Employment of the Handicapped

1522.1403 Waivers.

Contracting Officers shall submit waiver requests to the Head of the Contracting Activity (HCA) for processing. Such requests shall be coordinated with the EPA Office of Civil Rights.

1522.1406 Complaint procedures.

Complaints regarding the administration of the Act shall be coordinated with the EPA Office of Civil Rights prior to submission to the Office of Contract Compliance Programs.

PART 1523—ENVIRONMENTAL, CONSERVATION, AND OCCUPATIONAL SAFETY

Subpart 1523.3—Hazardous Material and Material Safety Data

Sec.

1523.303 Contract clause.
1523.303–70 Protection of human subjects.
1523.303–71 Decontamination of Government-furnished property.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1523.3—Hazardous Material and Material Safety Data

1523.303 Contract clause.

1523.303–70 Protection of human subjects.

Contracting Officers shall insert the contract clause at 1552.223–70 when the contract involves human test subjects.

1523.303–71 Decontamination of Government-furnished property.

Contracting Officers shall insert the contract clause at 1552.245–70, Decontamination of Government-Furnished Property, when it is anticipated that a Contractor will use Government-furnished or Contractor-

acquired property in the clean-up of hazardous or toxic substances in the environment.

PART 1524—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1524.1—Protection of Individual Privacy

Sec.
1524.104 Solicitation provisions.

Subpart 1524.2—Freedom of Information Act

1524.202 Policy.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1524.1—Protection of Individual Privacy

1524.104 Solicitation provisions.

The Contracting Officer shall insert the provision at 1552.224–70, Social Security Numbers of Consultants and Certain Sole Proprietors and Privacy Act Statement, in all solicitations.

Subpart 1524.2—Freedom of Information Act

1524.202 Policy.

The EPA policy on disclosure of EPA records, handling of requests under the Freedom of Information Act, and confidentiality of business information is contained in 40 CFR, Part 2, Public Information.

PART 1525—FOREIGN ACQUISITION

Subpart 1525.1—Buy American Act—Supplies

1525.102 Policy.

The following officials are designated to approve determinations required by FAR 25.102(a)(4):

(a) The Chief of the Contracting Office for contracts estimated not to exceed $1 million; and

(b) The Head of the Contracting Activity (HCA) for contracts estimated to exceed $1 million.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 1527—PATENTS, DATA, AND COPYRIGHTS

Subpart 1527.70—Data Requirements

1527.7001 Contract clauses.

The Contracting Officer shall insert the clause at 1552.227–70, Data Requirements, in all contracts where the Government may have a need for background data related to the contract work.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

PART 1528—BONDS AND INSURANCE

Subpart 1528.3—Insurance

Sec.
1528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.
1528.311–70 Comprehensive Environmental Response, Compensation and Liability Act.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1528.3—Insurance

1528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1528.311–70 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(a) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228–70, Insurance—Liability to Third Persons—Commercial Organizations, when routine (nonemergency) removal or remedial action is being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(b) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228–71, Insurance—Liability to Third Persons—State or Local Governments, in contracts with State or local Governments when routine (nonemergency) removal or remedial action is being undertaken pursuant to the CERCLA.

(c) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228–72, Insurance—Liability to Third Persons—Commercial Organizations (Emergency), in contracts with commercial organizations when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the CERCLA.

(d) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228–73, Insurance—Liability to Third Persons—State or Local Governments (Emergency), in contracts with State or local Governments when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the CERCLA.

PART 1530—COST ACCOUNTING STANDARDS

Subpart 1530.3—CAS Contract Requirements

1530.304 Waiver.

The Head of the Contracting Activity (HCA) has authority to waive Cost Accounting Standards Board requirements.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

PART 1531—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1531.1—Applicability

1531.101 Objectives.

Requests for individual and class deviations shall be submitted to the Head of the Contracting Activity (HCA). The HCA approves individual deviations and coordinates approval of class deviations and Agency supplements with the Chairperson of the Civilian Agency Acquisition Council.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

PART 1532—CONTRACT FINANCING

Sec.
1532.000 Scope of part.

Subpart 1532.1—General

1532.102 Description of contract financing methods.
1532.111 Contract clauses.
1532.170 Forms.

Subpart 1532.4—Advance Payments

1532.402 General.
1532.407 Interest.
1532.409–2 Recommendation for disapproval.
1532.412 Contract clause.

Subpart 1532.8—Assignment of Claims

1532.805 Procedure.
1532.805–70 Forms.

Subpart 1532.70—Prompt Payment Act

1532.7000 Scope of subpart.
1532.7001 Policy.
1532.7002 Exemptions.
1532.7003 Contract Clauses.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1532.000 Scope of part.

This part implements and supplements FAR Part 32 and provides policies and procedures for contract financing and other payment matters. This includes—

(a) Progress payments;

(b) Advance payments;

(c) Prompt Payment Act implementation;

(d) Assignment of claims; and
(e) Selected clauses and forms.

Subpart 1532.1—General

1532.102 Description of contract financing methods.

Progress payments based on a percentage or stage of completion are authorized for use as a payment method under EPA contracts or subcontracts for construction and alteration of repair of buildings, structures, or other real property. For all other contracts, progress payment provisions shall be based on costs, except that progress payments based on a percentage or stage of completion may be authorized by the Head of the Contracting Activity (HCA) when a determination is made that progress payments based on costs cannot be practically employed and that there are adequate safeguards provided for the administration of the progress payments.

1532.111 Contract clauses.

The Contracting Officer shall insert the clause at 1552.232–73, Payments—Fixed Rate Services Contract, in solicitations and indefinite delivery/indefinite quantity contracts when services are being acquired on a fixed-rate basis.

1532.170 Forms.

(a) EPA Form 1900–10 Contractor's Cumulative Claim and Reconciliation, at 1553.232–74, shall be used for an accounting of the cumulative charges and costs for cost-reimbursement contracts from inception of the contract to completion. It shall be submitted by the Contractor upon submission of the completion voucher.

(b) EPA Form 1900–34, Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Reimbursement Type Contracts, at 1553.232–75, shall be inserted or incorporated by reference in all cost-reimbursement type contracts.

(c) EPA Form 1900–34A, Guide for the Preparation of Contractor's Claims for Reimbursement Under Cost-Plus-Award-Fee (CPAF) Type Contracts, at 1553.232–76, shall be inserted or incorporated by reference in all CPAF contracts.

Subpart 1532.4—Advance Payments

1532.402 General.

(a) The Chief of the Contracting Office is responsible for making findings and determinations supporting the use of advance payments and approving contract terms concerning advance payments.

(b) The Contracting Officer prepares findings and determinations and other contractual data with respect to advance payments and coordinates proposed advance payment authorizations with the finance office.

1532.407 Interest.

The Chief of the Contracting Office is authorized to approve advance payments without interest.

1532.409–2 Recommendation for disapproval.

The procedures for recommending disapproval of advance payments are the same as that for recommending approval (see 1532.402).

1532.412 Contract clause.

The Chief of the Contracting Office may waive the countersignature requirements. Waivers will be documented in findings and determinations which authorize advance payments.

Subpart 1532.8—Assignment of Claims

1532.805 Procedure.

1532.805–70 Forms.

(a) EPA Form 1900–3, Assignee's Release, at 1553.232–70 is required to be submitted by the assignee for cost-reimbursement contracts prior to final payment under the contract.

(b) EPA Form 1900–4, Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts, at 1553.232–71 must accompany the assignee's release prior to final payment under cost-reimbursement contracts.

(c) EPA Form 1900–5, Contractor's Assignment of Refunds, Rebates and Credits, at 1553.232–72 must be prepared by the Contractor prior to final payment under cost-reimbursement contracts and must accompany the Contractor's Release.

(d) EPA Form 1900–6, Contractor's Release, at 1553.232–73 must be submitted by the Contractor prior to final payment under cost-reimbursement contracts.

Subpart 1532.70—Prompt Payment Act

1532.7000 Scope of subpart.

This implements the provisions of the Prompt Payment Act (Pub. L. 97–177, May 21, 1982, 31 U.S.C. 1801) and Office of Management and Budget (OBM) Circular A–125. The Act was specifically designed to encourage Federal Government managers to improve their bill paying procedures by authorizing the charging of an interest penalty when agencies fail to pay their bills on time or when discounts are taken after the discount period. It also prescribes contractual clauses designed to implement wire transfer procedures to make contract payments under the Department of Treasury Financial Communications System for making Treasury disbursed vendor payments in excess of $25,000.

1532.7001 Policy.

It is the policy of the Government to include payment terms in contracts and to make payments by the due dates determined in accordance with such terms. Adherence to this policy is intended to result in the avoidance of interest penalties on overdue payments, established better business relationships with suppliers, and increase competition for Government contracts.

1532.7002 Exemptions.

The provisions of this part are not applicable to the following types of contracts:

(a) Contracts when payments are made for financing purposes before receipt of complete delivered items of property or service.

(b) Contracts for utilities (gas, water, electricity, etc.) that include provisions for late payments charges established by tariff or State Regulatory Commissions.

(c) Informal contracts for the purchase of utilities under a tariff when such tariff provides for late payment charges.

1532.7003 Contract clauses

(a) The clause at 1552.232–70 shall be included in all contracts authorizing advance, provisional, or progress payments.

(b) The clause at 1552.232–71 shall be included in all contracts when delivery is on an f.o.b. destination basis and no advance , provisional, or progress payments are involved.

(c) The clause at 1552.232–72 shall be included in all contracts when delivery is on an f.o.b. origin basis and no advance, provisional, or progress payments are involved.

PART 1533—DISPUTES AND APPEALS

Sec.
1533.000 Scope of part.
1533.003 Applicability.
1533.009 Suspected fraudulent claims.
1533.011 Contracting Officer's decision.
1533.012 Contracting Officer's duties upon appeal.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1533.000 Scope of part.

This part implements and supplements FAR Part 33 and prescribes

policies and procedures for processing contract disputes and appeals.

1533.003 Applicability.

Pursuant to an interagency agreement between the EPA and the Department of the Interior Board of Contract Appeals (IBCA), the IBCA will hear appeals from final decisions of EPA Contracting Officers issued pursuant to the "Disputes" clause in EPA contracts. The rules and regulations of the IBCA appear in 43 CFR Part 4.

1533.009 Suspected fraudulent claims.

The Contracting Officer shall refer matters relating to suspected fraudulent claims under the Contract Disputes Act to the Inspector General through the Head of the Contracting Activity (HCA).

1533.011 Contracting Officer's decision.

Final decisions of Contracting Officers under the Contract Disputes Act shall be reviewed by legal counsel and the Chief of the Contracting Office prior to issuance.

1533.012 Contracting Officer's duties upon appeal.

Upon receipt of notice of appeal, the Contracting Officer shall take the following actions:

(a) *Submission of the notice of appeal to IBCA.* (1) When a notice of appeal in any form has been received, the Contracting Officer shall endorse on it the date of the notice's mailing (or the date of receipt if the notice was otherwise conveyed) and within 5 days shall forward the notice of appeal to the IBCA by certified mail. The Contracting Officer shall verbally notify the legal counsel that the appeal has been received.

(2) A notice of appeal, whether filed within the time prescribed by the "Disputes" clause or not, shall be submitted to the IBCA. The Contracting Officer shall forward promptly every notice of appeal to IBCA even if the intention to appeal is only vaguely or indirectly expressed, and regardless of the form of the notice, or of the method by which the notice was furnished to the Contracting Officer.

(3) Copies of the notice of appeal shall be sent simultaneously to the Policy and Quality Assurance Branch, Procurement and Contracts Management Division and to legal counsel.

(b) *Establishment and submission of appeal files to IBCA.* (1) Following receipt of a notice of appeal, or advice that an appeal has been filed, the Contracting Officer shall promptly compile the appeal file (copies of all documents pertinent to the appeal), and four duplicate appeal files. The file shall include the following:

(i) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(ii) The contract, and pertinent plans, specifications, amendments, and change orders;

(iii) Correspondence between the parties and other data pertinent to the appeal;

(iv) Transcripts of any testimony taken during the course of proceedings and affidavits, or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(v) Such additional information as may be considered material.

(2) In addition to the above, the Contracting Officer shall prepare an index listing each document included in the file submitted to the IBCA, and place copies of such index in the submission and duplicate files.

(3) Contracting Officers, in making the submission, may not submit original documents which are a part of the official contract file. Copies of the pertinent documents shall be submitted.

(4) Within 15 days of receipt or advice of a notice of appeal, the official and two duplicate files shall be forwarded through legal counsel to the Procurement and Contracts Management Division for review. The Procurement and Contracts Management Division shall forward the official appeal file to the IBCA within the 30-day time limitation set forth in 43 CFR 4.104(a). One duplicate file shall be retained by the Contracting Officer, one by the Procurement and Contracts Management Division, and one by legal counsel.

(5) If for any reason the Contracting Officer anticipates that a timely submission cannot be made, he/she shall immediately advise legal counsel by telephone of the extent of the anticipated delay and the reasons therefor. However, every effort will be exerted to make timely submissions.

(6) At the time of transmittal of the appeal file to the Board, the Contracting Officer shall notify the appellant of the transmittal and provide a copy of the appeal file to the appellant. Within the transmittal to the IBCA, the Contracting Officer shall indicate that the appellant has been provided with a copy of the appeal file.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 1534—MAJOR SYSTEM ACQUISITION

Sec.

1534.000 Scope of part.
1534.000–70 General requirements of OMB Circular A–109.
1534.000–71 Definitions.
1534.003 Responsibilities.
1534.004 Acquisition strategy.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1534.000 Scope of part.

This part implements and supplements FAR Part 34 and prescribes EPA policies, procedures, and acquisition strategy for use in acquiring major systems consistent with the requirements of OMB Circular A–109, Major System Acquisitions.

1534.000–70 General requirements of OMB Circular A–109.

OMB Circular A–109 establishes policies to be followed by executive branch agencies in the acquisition of major systems. The policies of the Circular are to assure the effectiveness and efficiency of the process of acquiring major systems. Major system acquisition objectives include assuring that each major system fulfills a mission need and that an acquisition strategy is tailored for each program. Management structures are required, with the designation of an acquisition executive, to intergrate and unify the agency's major systems acquisitions. Clear lines of authority, responsibility, and accountability are required. Program managers are to be designated for each major system acquisition program and given a writen charter of his/her authority, responsibility, and accountability for accomplishing program objectives.

1534.000–71 Definitions.

For the purpose of implementing OMB Circular A–109, the following definitions apply:

(a) "Acquisition Executive" is the Assistant Administrator for Administration and Resources Management.

(b) "Agency component" or major organizational subdivision of an agency is hereby construed in EPA to be the Offices of the Assistant Associate, and Regional Administrators.

(c) "Agency Component Head" is the Assistant or Associate Administrator or the Regional Administrator responsible for the Agency component defined in paragraph (b) of this section.

(d) "Major system" is hereby further defined as:

(1) Any system whose estimated cumulative cost to EPA in current year dollars will equal $50 million or more during its research, development, test and evaluation (RDT&E) and/or production (procurement) phases; or

(2) Any acquisition so designated by the Administrator, Deputy Administrator, any one of the Assistant or Associate Administrators, or any one of the Regional Administrators that: (i) Is directed at and critical to fulfilling an Agency mission; (ii) entails the allocation of relatively large resources; (iii) warrants special management attention; and (iv) has been recommended by the head of an operating activity, e.g., laboratory director, office director, division director, and approved by one of the individuals listed in (c) above. Assistant or Associate Administrators or Regional Administrators may designate an acquisition as major only for those acquisitions within their respective programs.

(e) "Program Manager" is that individual meeting the qualifications required by OMB Circular A–109 and receiving a written charter to manage acquisition of a major system.

1534.003 Responsibilities.

As required by OMB Circular A–109, the following responsibilities shall be carried out by the officials designated below.

(a) The Administrator shall:

(1) Ensure general compliance with OMB Circular A–109, as implemented within the Environmental Protection Agency;

(2) Retain the four key decision points identified in paragraph 9. of OMB Circular A–109;

(3) Early in the system acquisition process, communicate to Congress the relationship of major system acquisition programs to Agency needs. This communication should follow the requirements of OMB Circular A–109; and

(4) Ensure compliance with paragraph 14., 51.a., and 15.b. of OMB Circular A–109.

(b) The Deputy Administrator shall:

(1) Establish and maintain clear lines of authority, responsibility, and accountability for management of major system acquisition programs; abolish and preclude management layering and the placing of excessive reporting requirements on program managers and contractors; and

(2) Where more than one Agency component is involved in the acquisition of a major system, determine and assign the roles and responsibilities of each component.

(c) The Assistant Administrator for Administration and Resources Management shall:

(1) Ensure that each major system fulfills a mission need;

(2) Ensure that needs are expressed in mission terms and not equipment terms;

(3) Ensure appropriate trade-offs among investment costs, ownership costs, schedules, and performance characteristics;

(4) Integrate and unify the management process and monitor implementation of the policy and practices set forth in OMB Circular A–109.

(5) Approve program manager designation; and

(6) Ensure compliance with paragraphs 17 a, b, and c of OMB Circular A–109.

(d) The Assistant, Associate, and Regional Administrators, as Component Heads, shall: nominate, to the Acquisition Executive, a program manager for each major system acquisition program and issue a written charter of his/her authority, responsibility, and accountability for accomplishing approved program objectives. The program manager nominated must met the qualification criteria prescribed in OMB Circular A–109 for project managers and the nomination is subject to approval by the Acquisition Executive.

(e) The Agency Comptroller shall:

(1) Provide budget support to the Administrator to ensure implementation of the Administrator's responsibilities under paragraphs (4), (5), and (6) of OMB Circular A–109.

(2) Monitor for compliance with OMB Circular A–76 as applicable.

(3) As part of the Agency budget process, develop, implement, and accomplish acquisition planning built on an analysis of Agency missions.

(f) The Deputy Assistant Administrator for Administration and Resources Management, as Senior Agency Administrative Officer, shall:

(1) Provide to the program manager the business management, procurement, and contracting portions of the acquisition strategy or approve those developed by the program manager;

(2) Provide to the program manager contract placement and procurement management support and necessary procurement training;

(3) Develop system acquisitions orientation program; and

(4) Coordinate cost estimating capability required by paragraph 7g of OMB Circular A–109.

(g) The Program Manager shall:

(1) Express program objectives in mission terms and not in equipment terms;

(2) Place emphasis on the initial activities of the system acquisition process to allow and encourage innovation and competition in creating, exploring, and developing alternative system design concepts to meet needs and achieve objectives;

(3) Ensure that the major system operates effectively in its intended environment and demonstrates an acceptable level of performance and reliability;

(4) Provide strong checks and balances by ensuring adequate system test and evaluation; and

(5) Tailor and acquisition strategy for the major system to be acquired and refine the strategy as the program proceeds. The business management, procurement and contracting portions of the acquisition strategy will be acquired from, or approved by, the Deputy Assistant Administrator for Administration and Resources Management.

1534.004 Acquisition strategy.

(a) OMB Circular A–109 provides that, when acquiring major systems Federal agencies will express needs in mission terms based on an analysis of an agency's mission. For purposes of implementing the Circular, the following guidance on the EPA mission, its research and development mission areas, and possible major system areas is provided.

(1) *Agency mission.* The Environmental Protection Agency is a regulatory agency whose mission is to protect the health and welfare of the American people by controlling pollution hazards. EPA's pollution control responsibilities are generally coordinated with and in partnership with State and local Governments. In carrying out its mission, the Agency:

(i) Sets and enforce hazardous waste management and toxic substances standards;

(ii) Establishes and enforces air and water quality standards and emission limitations for sources of pollutants;

(iii) Monitors the quality of the environment;

(iv) Controls the use and availability of pesticides;

(v) Sets and enforces noise-producing product standards and sets general ambient standards for radiation;

(vi) Endeavors to improve the planning for the management and disposal of environmental pollutants;

(vii) Conducts research and demonstration projects; and

(viii) Provides financial and technical assistance to State and local Governments.

(2) *Research and development mission areas.* In all phases of the planning process, research and

development activities are grouped into five major program areas. These are:

(i) Health and ecological effects;

(ii) Energy;

(iii) Industrial processes;

(iv) Public sector activities; and

(v) Monitoring and technical support.

These will be considered the mission areas for the purposes of this acquisition strategy.

(3) *Possible major system areas in EPA.* The following are major systems to which the acquisition strategy applies when they meet the criteria prescribed in 1534.000–71(d).

(i) Automatic data processing system which results in the continuous and repetitive output of data, reports, charts, etc., and may include hardware, equipment software, construction, or other improvements of real property.

(ii) Federal construction which includes the construction of a facility for the use of the Environmental Protection Agency.

(iii) Improvement which includes improvement(s) to a Federal facility under the complete control and jurisdiction of the Environmental Protection Agency.

(iv) Real property acquisition which includes the acquisition of land and/or facility for the use of the Environmental Protection Agency.

(v) Demonstration project which is a full-scale engineering demonstration of a new or improved pollution control or waste management process.

(b) The following procedures shall be followed in major systems acquisition:

(1) System acquisition process initiation.

(i) The need for a major system acquisition will be initially reflected in the agency budget preview process. The need will be separately and distinctly highlighted as a major system acquisition and will address the following elements.

(A) How does the major system fulfill a mission need?

(B) What is the major system priority in terms of other mission needs, by fiscal year?

(C) What are the resource requirements to initially develop the system as well as to operate and maintain the system; and

(D) What alternative(s) to the major system will be considered?

(ii) In the OMB and congressional submissions, in addition to discussing the needs under the appropriate budget activity, a special section will be included for major system acquisitions.

(iii) There may be situations when there is the need for a major system prior to and after the normal preview and budget process. In such cases, the need will be transmitted separately to OMB and to Congress for the upcoming budget year.

(2) Program manager charter.

(i) *Initiating the charter:* Upon identification of a major system acquisition, the head of the EPA component or the designated component head, when more than one EPA component is involved, shall nominate a program manager for approval by the Acquisition Executive. Upon approval of the program manager by the Acquisition Executive, the head of the component, or the designated component head in the case of a multi-component program, shall prepare, negotiate, and issue a program manager charter. The charter shall be jointly approved by the head of each EPA component when more than one EPA component is involved.

(ii) *Charter outline:* The program manager charter shall, as a minimum, set forth the following:

(A) The name of the individual assigned as the program manager.

(B) The EPA component elements, or parts thereof, for which the program manager will be responsible.

(C) The interface, relationship, and direct communication channels between the program manager and the participating organizations identified that will be required to participate in fulfilling the goals of the major system acquisition.

(D) Provisions for control by the program manager of the allocation and utilization of resources approved by the Acquisition Executive for the major system acquisition. Obligations of the Government resulting from contracts awarded in support of the major system acquisition shall be the responsibility of the Contracting Officer supporting the program manager.

(E) The primary location of the program management office and the identified organizations that will provide the administrative support specified.

(F) Any special delegations of authority within the authority of the component head and the Acquisition Executive that are considered necessary for the program manager.

(G) Program objectives stated in mission terms rather than equipment terms.

(H) Reporting requirements of the program manager to the component head and the Acquisition Executive.

(iii) *Charter implementation.* The program manager in implementing the charter shall, as a minimum, provide to the Acquisition Executive for approval a major system acquisition plan to accomplish the major system objective set forth in the program manager charter. The plan shall, as a minimum, include interim goals, milestones, decision points and projected resource requirements for the entire acquisition process. In addition, the plan should determine the need for contractor participation in the acquisition process and the methodology to be used in monitoring the accomplishment of the acquisition goals such as monitoring:

(A) Schedules and costs input/output;

(B) Contingency trade-off, including shifts in resources and decisions to contract;

(C) The need to refine the plan as the program proceeds; and

(D) Contractor performance.

(iv) *Charter review.* The Acquisition Executive shall periodically review all major system acquisition programs established in EPA, and shall terminate use of this management technique totally, or in stages, as the program achieves the principal goals established in the charter and approved acquisition plan.

(3) Congressional notification.

(i) Congress will be notified in the normal budget process of a major system acquisition, thereby conforming with OMB Circulars A–10 and A–11. This will be applicable to supplemental requests or to budget amendments. Procedures for notifying the authorizing committees of Congress will be arranged by OMB.

(ii) If a decision is made to proceed with the actual acquisition of a system without competitive selection and demonstration, the congressional authorization and appropriation committees will be notified.

(4) Commercial or industrial products or services. In the implementation of a major system, the provisions related to OMB Circular A–76 (Revised) are applicable.

PART 1535—RESEARCH AND DEVELOPMENT CONTRACTING

Sec.

1535.007 Solicitations.

1535.007–70 Contract clauses.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1535.007 Solicitations.

1535.007–70 Contract clauses.

The following clauses are prescribed for research and development (R&D) contracts. They may also be used in other than R&D contracts when applicable (see 1537.110).

(a) The Contracting Officer shall insert the contract clause at 1552.235–70, Screening Business Information for Claims of Confidentiality, in contracts

when the Contracting Officer has determined that during performance of this contract, the Contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confidential by the business that has the right to the information.

(b) The Contracting Officer shall insert the contract clause at 1552.235–71, Treatment of Confidential Business Information, in contracts when the Contracting Officer has determined that in the performance of a contract EPA may furnish confidential business information to the Contractor that EPA may furnish confidential business information to the Contractor that EPA obtained under the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 301 et seq.), of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). EPA regulations on confidentiality of business information in 40 CFR Part 2, Subpart B require that the Contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the Contractor.

(c) The Contracting Officer shall insert the contract clause at 1552.235–72, Data Security—FIFRA and/or TSCA Confidential Business Information, when the contract involves access to confidential business information related to either the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) or the Toxic Substances Control Act (TSCA) and the Treatment of Confidential Business Information clause (1552.235–71) and Screening Business Information for Claims of Confidentiality clause (1552.235–70) are included.

PART 1536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1536.2—Special Aspects of Contracting for Construction

Sec.

1536.201 Evaluation of contractor performance.
1536.203 Government estimate of construction costs.
1536.209 Construction contracts with architect-engineer firms.

Subpart 1536.3—Special Aspects of Formal Advertising in Construction Contracts

Sec.

1536.303 Invitations for bids.
1536.303–70 Additive or deductive items.

Subpart 1536.5—Contract Clauses

1536.521 Specifications and drawings for construction.
1536.570 Additive or deductive items.

Subpart 1536.6—Architect-Engineer Services

1536.602 Selection of firms for architect-engineer contracts.
1536.602–2 Establishment of evaluation boards.
1536.602–4 Selection authority.
1536.602–5 Short selection processes for contracts not to exceed $10,000.
1536.604 Performance evaluation.
1536.605 Government estimate for architect-engineer work.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1536.2—Special Aspects of Contracting for Construction

1536.201 Evaluation of contracting performance.

(a) The Contracting Officer will obtain input from the Project Officer on the contractor's performance. The Contracting Officer will prepare the contractor performance report as prescribed in FAR 36.201 within two weeks after final acceptance of the work or contract termination.

(b) Prior to submitting any report or unsatisfactory performance to the reviewing official, the Contracting Officer will advise the contractor of any proposed unsatisfactory rating (see FAR 36.201(a)(3)).

(c) The official at one level above the Contracting Officer will review each performance report.

(d) The Contracting Officer will forward the original of the performance report to the Quality Assurance Section, Procurement and Contracts Management Division. The Quality Assurance Section will file the form in the contractor performance evaluation files which it maintains.

(e) The Quality Assurance Section will review the report when it is received and compare it with recent evaluations of that contractor. If the Quality Assurance Section discerns a pattern of unsatisfactory performance, it will notify the Contracting Officer for possible action, which may include referral of the matter to the Compliance Staff or to the Inspector General for investigation.

(f) Information from the performance report shall not be released outside of the Agency, except to other Government agencies at their written request, and on condition that the information will not be made available outside the Government. Requests from non-Government sources for information from performance reports shall be processed in accordance with EPA's Freedom of Information Act procedures at 40 CFR Part 2.

1536.203 Government estimate of construction costs.

The overall amount of the Government's estimate shall not be disclosed under any circumstance to persons other than Government personnel whose official duties, in the judgment of the Contracting Officer, require knowledge of the estimate.

1536.209 Construction contracts with architect-engineer firms.

No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates, except with the approval of the Head of the Contracting Activity (HCA).

Subpart 1536.3—Special Aspects of Formal Advertising in Construction Contracting

1536.303 Invitations for bids.

1536.303–70 Additive or deductive items.

Prior to the issuance of an Invitation for Bids, the Contracting Officer shall ascertain that adequate funds have been certified as being available for the proposed procurement action. However, if funds available appear to be insufficient for all features of the Government's requirement, the Contracting Officer shall insert in the Invitation provisions for a base bid and for one or more additive or deductive items. If the Invitation provides for additive or deductive items, the Contracting Officer shall state an order of priority for the additive or deductive items in the schedule and, prior to opening of bids, determine and record the amount of funds available (see 1536.570 and 1552.236–71).

Subpart 1536.5—Contract Clauses

1536.521 Specifications and drawings for construction.

The Contracting Officer shall insert the clause at 1552.236–70, Samples and Certificates, in soliciations and contracts when a fixed price construction contract is expected to exceed the small purchase limitation. The clause may be inserted in solicitations and contracts when the contract is expected to be within the small purchase limitation.

1536.570 Additive or deductive items.

As prescribed in 1536.303–70, in those circumstances where funds certified as available appear to be insufficient for all features of the Government's requirement's insert the clause at 1552.236–71.

Subpart 1536.6—Architect-Engineer Services

1536.602 Selection of firms for architect-engineer contracts.

1536.602–2 Establishment of evaluation boards.

(a) The Environmental Protection Agency Architect-Engineer Evaluation Board is established as a central permanent board located at Headquarters EPA under authority delegated to the Director, Procurement and Contracts Management Division. The Board shall perform all architect-engineer evaluations on an agency basis. The Agency Board shall be composed of not less than three nor more than five voting members and one non-voting advisory member from the contracting office. The following constitutes the minimum composition of the Board:

(1) *Member and Chairman.* Chief, Facilities Engineering Section, Facilities Engineering and Real Estate Branch, Facilities and Support Services Division;

(2) *Member.* A professional engineer or architect from EPA Headquarters to be designated by the Chairman;

(3) *Member.* A program official initiating the requirement or a designated representative; and

(4) *Advisory Member.* A Contracting Officer or his/her representative.

(b) The Director, Procurement and Contracts Management Division, may appoint either one or two additional voting members as may be appropriate for a particular project.

(c) In the event of an emergency or extended absence, a member may designate, in writing, with the concurrence of the Chairman, an alternate experienced in architecture, engineering, or construction to serve in his absence.

(d) The duties of the advisory member shall include, but not be limited to, the following:

(1) Assuring that the criteria set forth in the public notice is applied in the evaluation process; and

(2) That actions taken during the evaluation process do not compromise subsequent procurement actions.

1536.602–4 Selection authority.

The Director, Procurement and Contracts Management division, shall serve as the EPA selection authority.

1536.602–5 Short selection processes for contracts not to exceed $10,000.

Authorization is given for use of both short selection processes permitted by FAR 36.602–5.

1536.604 Performance evaluation.

Evaluation of architect-engineer contracts shall be in accordance with the procedures prescribed in 1536.201 and FAR 36.604.

1536.605 Government estimate for architect-engineer work.

The overall amount of the Government's estimate shall not be disclosed under any circumstance to persons other than Government personnel whose official duties, in the judgment of the Contracting Officer, require knowledge of the estimate.

PART 1537—SERVICE CONTRACTING

Subpart 1537.1—Service Contracts—General

Sec.

1537.110 Solicitation provisions and contract clauses.

Subpart 1537.2—Consulting Services

1537.200 Scope of subpart.
1537.202 General.
1537.203 Types of consulting services.
1537.205 Management controls.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1537.1—Service Contracts—General

1537.110 Solicitation provisions and contract clauses.

The following clauses are prescribed for service contracts. They may also be used in research and development contracts when applicable (see 1535.007–70).

(a) The Contracting Officer shall insert the clause at 1552.237–70, Contract Publication Review Procedures, in solicitations and contracts when the products of the contract are subject to contract publication review.

(b) The Contracting Officer shall insert the clause at 1552.237–71, Technical Direction, in cost-reimbursement type solicitations and contracts.

(c) The Contracting Officer shall insert the clause at 1552.237–72, Key Personnel, in solicitations and contracts when it is necessary for contract performance to identify Contractor key personnel.

(d) The Contracting Officer shall insert the clause at 1552.237–73, Consultant Services and Consent, in solicitations and contracts where the services of consultants are required.

(e) The Contracting Officer shall insert the clause at 1552.237–74, Publicity, in solicitations and contracts pertaining to the removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(f) The Contracting Officer shall insert the clause at 1552.237–75, Paperwork Reduction Act, in solicitations and contracts requiring the collection of identical information from (10) or more public respondents.

Subpart 1537.2—Consulting Services

1537.200 Scope of subpart

This subpart provides additional examples of services that are considered consulting services and management controls for the acquisition of such services.

1537.202 General.

This subpart applies only to the types of services shown in FAR 37.203 and those shown in 1537.203 below. It does not apply to professional and management services unless the Contracting Officer has defined such service requirements to be consulting services.

1537.203 Types of consulting services.

The following supplements the examples cited in FAR 37.203(a).

(a) Examples of services that are considered consulting services are provided below:

(1) Advice on the feasibility of instituting a transfer pricing system in the Procurement and Contracts Management Division and advice on how such a system could improve management of contracts by procurement personnel.

(2) Analysis of EPA's management and agency services support functions and advice on how to improve the performance of these functions, such as through reorganization of the Office of Administration.

(3) Analysis of alternative strategies for implementing requirements of the Hazardous Substance Response Program regulations and advice on resource needs associated with each alternative strategy.

(4) Analysis of EPA procedures for drafting and issuing permits to municipal and nonmunicipal dischargers and advice on how to simplify these procedures.

(5) Advice on how to coordinate and integrate toxic substance policies and activities with those of other EPA programs.

(6) Advice on the different strategies for implementing merit pay at EPA, and

conduct of one 2-hour training course on one of these strategies. The primary purpose of the contract is to provide advice on the strategies for implementing merit pay.

(7) External peer review of programs, projects, and publications for the Office of Research and Development (ORD) laboratories to assure conceptual soundness of scientific methods and validity of results. The objective is to obtain highly competent technical examinations and analyses of the research planned or performed by ORD laboratories in order to obtain the benefit of additional viewpoints and perspectives and to advise the ORD staff on the state-of-the-art in areas that impact laboratory research programs. Three separate types of reviews are required.

(i) Program reviews and analyses which include critiques of laboratory research programs and advice on upgrading the program direction or management.

(ii) Project reviews and analyses which focus on the scientific/technical details of a single project with an in-depth examination of the project plan and the progress being made in pursuing the plan, a review of the data analyses, and an interpretation of the data analyses.

(iii) Review and analysis of research results for publication clearance in accordance with the "ORD Technical Information Policy and Guide."

(b) Examples of services which are not considered consulting services are provided below:

(1) Regulatory impact analyses, including economic impact analyses of effluent guidelines on specific industries, such as the organic chemicals industry.

(2) Analyses required by the Clean Water Act to determine economically achievable standards.

(3) Design and implementation of a computerized management information system for the Office of Administration.

(4) Development of sampling and analytical techniques to identify and measure pollutants in the ambient air.

(5) Conduct of a training course for Project Officers with particular emphasis on the Project Officer's role in the source evaluation and selection process.

(6) Development of a manual on security procedures for handling confidential business information.

(7) Conduct of a study to assess the consequences of pollutant loadings in the Chesapeake Bay.

(8) Evaluation of the strategy proposed by the Personnel Management Division for implementing merit pay at EPA with the primary purpose being the conduct of 15 separate eight-hour training sesions on how to draft critical job elements and performance standards.

1537.205 Management controls.

(a) In addition to those controls set forth in FAR 37.205(b) the office initiating the Procurement Request/Order (EPA Form 1900–8) for consulting services shall prepare the justification for such services, obtain appropriate approvals, and distribute copies of the approved justification as prescribed in paragraph (b) below. The justification shall be set forth in an attachment to EPA Form 1900–8, Procurement Request/Order. The Agency is required to report on the planned use of consulting services, including planned obligations and justifications of needs, in the Agency's formal budget request to the Office of Management and Budget. If the proposed acquisition was reported in the budget request, the planned obligation for the procurement as set forth in the budget request shall be indicated. Whenever the estimated value of the proposed acquisition varies significantly from the planned obligation set forth in the budget request or in those cases where the proposed acquisition for management consulting services was not reported in the budget request, an explanation shall be included in the justification.

(b) The program office initiating the requirement shall obtain approval for use of consulting services as follows:

(1) Requirements that may be purchased pursuant to the small purchase procedures shall be approved at a level above the organization initating the requirement or at the second level when award is to be made during the fourth fiscal quarter.

(2) All other requirements shall be approved by the Associate, Assistant or Regional Administrator.

(3) Copies of the written justification for consulting services valued at $50,000 or more (including options) shall be forwarded to the EPA Inspector General within 10 days of approval of the justification. The program office shall also forward a copy of the justification, regardless of dollar value, to the Budget Preparation and Control Branch Office of Comptroller, within 10 days of approval of the justification.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 1542—CONTRACT ADMINISTRATION

Sec.

1542.000 Scope of part.

Subpart 1542.7—Indirect Cost Rates

1542.700 Scope of subpart.
1542.705 Final indirect cost rates.
1542.705–1 Contracting Officer's determination procedure.
1542.705–70 Solicitation and contract clause.
1542.708 Quick-closeout procedures.

Subpart 1542.12—Novation and Change of Name Agreements

1542.1200 Scope of subpart.
1542.1202 Responsibility for executing agreements.
1542.1203 Processing agreements.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1542.000 Scope of part.

This part implements FAR Part 42 and prescribes general policies and procedures for performing contract administration functions and related audit services.

Subpart 1542.7—Indirect Cost Rates

1542.700 Scope of subpart.

This subpart implements and supplements FAR Subpart 42.7 and prescribes policies and procedures for establishing: (a) Billing rates and (b) final indirect costs.

1542.705 Final indirect cost rates.

The EPA shall use the Contracting Officer determination procedure for all business units for which it shall be required to negotiate final indirect cost rates.

1542.705–1 Contracting officer's determination procedure.

(a) *Applicability and responsibility.* The Cost Policy and Rate Negotiation Section (CPRN), Procurement and Contracts Management Division, is responsible for negotiating indirect cost rates in accordance with EPA Contracting Officer determination procedures.

(b) *Procedures.* FAR 42.703 provides that a single agency shall be responsible for establishing indirect cost rates (final and billing) for each business unit, which shall be binding on all Government agencies and their contracting activities. Depending upon the particular contractor involved, EPA may or may not be the cognizant Agency for establishing indirect cost rates. The following procedures shall be followed in establishing and incorporating final indirect cost rates into contracts.

(1) *Where EPA is the cognizant agency.* (i) The Cost Policy and Rate Negotiation Section (CPRN) shall coordinate with the audit activity and the affected Federal Government agencies to develop a negotiation postion, conduct negotiations with the Contractor, prepare the rate agreement, and be responsible for the execution of

the agreement as provided in FAR 42.705–1(b).

(ii) CPRN shall obtain from the Contractor a Certificate of Current Cost or Pricing Data where required by FAR 15.804–4.

(iii) CPRN shall distribute executed copies of the rate agreement to all EPA contracting officers (as applicable), the three cost advisory offices at Headquarters, Research Triangle Park, and Cincinnati, the finance office, other interested parties (e.g., audit offices, Office of the Inspector General), and to each affected Federal agency.

(iv) CPRN shall maintain, as required by FAR 4.801, a file for all indirect cost rates (final and billing).

(v) Upon receipt of the executed agreement, each EPA contracting activity shall place a copy in each official contract file.

(2) *Where EPA is not the cognizant agency.* (i) CPRN shall coordinate with audit and/or the cognizant agency to develop a negotiation positon and to receive a copy of an executed rate agreement.

(ii) CPRN shall distribute copies of the executed rate agreement to all EPA contracting offices (as applicable), the three cost advisory offices, the finance office, and other interested parties (e.g., Office of the Inspector General).

(iii) CPRN shall maintain, as required by FAR 4.801, a file for all indirect cost rates (final and billing).

(iv) Upon receipt of the executed agreement, each EPA contracting office shall place a copy in each official contract file.

(3) *Newly awarded contracts.* The EPA contract specialist, with the assistance of the cost advisory offices, shall place the established billing rate(s) in newly awarded contracts. Billing rates, like final indirect cost rates, may be established or revised by CPRN, the auditing activity, or another Federal Government agency.

1542.705–70 Solicitation and contract clause.

The Contracting Officer shall insert the clause in 1552.242–70, Indirect Costs, in solicitations and contracts where indirect costs apply.

1542.708 Quick-closeout procedures.

(a) The Contracting Officer or contract administrator, as appropriate, may use quick-closeout procedures for settlement of indirect costs on cost-reimbursement contracts prior to a final audit certification when the conditions specified by FAR 42.708(a) (1) through (3) have been met and: (1) The contract has an estimated cost, excluding fee of $500,000, or less, and (2) the cumulative estimated costs of one Contrator's contracts closed out using these quick-closeout procedures do not exceed $1,000,000 per contract office.

(b) Under the quick-closeout procedures, if final rates have been negotiated for all but one of the fiscal years and 25 percent or less of the total costs claimed are for that fiscal year, the Contracting Officer or contract administrator shall close the contract using one of the following rates:

(1) The previous year final rates.

(2) The subsequent year final rates.

(3) Provisional rates, if less than the rates in (b) (1) or (2) above.

(4) Any other rates claimed by the Contractor if they are less than those in (b) (1), (2), or (3) above.

(c) When the final rates have not been negotiated and the procedures in paragraph (b) of this section do not apply, the Contracting Officer or contract administrator shall request the Cost Policy and Rate Negotiation Section (CPRN), Procurement and Contracts Management Division to negotiate or to obtain final rates.

Subpart 1542.12—Novation and Change of Name Agreements

1542.1200 Scope of subpart.

This subpart implements FAR Subpart 42.12 and provides policies and procedures for executing and processing novation and change-of-name agreements.

1542.1202 Responsibility for executing agreements.

(a) Any EPA contracting office upon being notified of a successor in interest to, or change of name of, one of its Contractors shall promptly report such information by memorandum to the Director, Procurement and Contracts Management Division (PCMD).

(b) To avoid duplication of effort on the part of EPA contracting offices in preparing and executing agreements to recognize a change of name or successor in interest, only one supplemental agreement will be prepared to effect necessary changes for all contracts between EPA and the Contractor involved. The Chief of the Policy and Quality Assurance Branch (PCMD) will, in each case, designate the contracting office responsible for taking all necessary and appropriate action with respect to either recognizing or not recognizing a successor in interest, or recognizing a change-of-name agreement.

1542.1203 Processing agreements.

(a) The responsible contracting office shall:

(1) Obtain from the Contractor a list of all affected contracts, the names and addresses of the contracting offices responsible for these contracts, and the required documentary evidence.

(2) Verify the accuracy of the list of contracts through the Contract Information System.

(3) Draft and execute a supplemental agreement to one of the contracts affected but covering all applicable outstanding and incomplete contracts affected by the transfer of assets or change of name. A supplemental agreement number need not be obtained for contracts other than for the one under which the supplemental agreement is written. The supplemental agreement will contain a list of the contracts affected and, for distribution purposes, the names and addresses of the contracting offices having contracts subject to the supplemental agreement.

(b) Agreements and supporting documents covering successors in interest shall be reviewed for legal sufficiency by legal counsel.

(c) After execution of the supplemental agreement, the designated office shall forward an authenticated copy of the supplemental agreement to the Director, Procurement and Contracts Management Division, and to each affected contract office.

PART 1545—GOVERNMENT PROPERTY

Sec.

1545.000 Scope of part.

Subpart 1545.1—General

1545.106 Government property clauses.

Subpart 1545.3—Providing Government Property to Contractors

1545.309 Providing Government production and research property under special restrictions.

Subpart 1545.4—Contractor Use and Rental of Government Property

1545.403 Rental—Use and Charges clause.

Subpart 1545.5—Management of Government Property in the Possession of Contractors

1545.502 Contractor responsibility.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1545.000 Scope of part.

This part implements FAR Part 45, Government Property, and sets forth policy and procedures with respect to providing property for use by contractors in performance of EPA contracts.

Subpart 1545.1—General

1545.106 Government property clauses.

(a) In accordance with 1523.303–71, the Contracting Officer shall insert the contract clause at 1552.245–70 when it is anticipated that a Contractor will use Government-furnished or Contractor-acquired property in the cleanup of hazardous or toxic substances in the environment.

(b) The Contracting Officer shall insert the contract clause at 1552.245–71, Government-Furnished Data, in any contract in which the Government is to furnish data to the Contractor. The data to be provide shall be identified in the clause.

(c) The Contracting Officer shall insert the contract clause at 1552.245–72, Fabrication or Acquisition of Nonexpendable Property, in all cost-reimbursement type contracts or contracts with cost-reimbursement portions.

Subpart 1545.3—Providing Government Property to Contractors

1545.309 Providing Government production and research property under special restrictions.

Government production and research property, other than foundations and similar improvements necessary for installing special tooling, special test equipment, or plant equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be nonseverable unless the contract under which the property is provided contains—

(a) One of the provisions in FAR 45.309(a);

(b) A requirement that the Government will have the right to abandon in place all nonseverable Government property provided; and

(c) A requirement that the Government will not have any obligation to disassemble or remove the property or to restore or to rehabilitate the premises on which the property is located.

Subpart 1545.4—Contractor Use and Rental of Government Property

1545.403 Rental—Use and Charges clause.

The Head of the Contracting Activity is the designee for determinations that rent may be charged on the basis of use, or some other equitable basis, rather than a rental period for production and research property classes other than plant equipment as indicated in FAR 45.403.

Subpart 1545.5—Management of Government Property in the Possession of Contractors

1545.502 Contractor responsibility.

Guidance regarding Contractor responsibility for management and control of Government property in their possession is contained in the EPA "Guide for Control of Government Property By Contractors," which is available from the Facilities and Support Services Division.

PART 1546—QUALITY ASSURANCE

Sec.
1546.000 Scope of part.

Subpart 1546.2—Contract Quality Requirements

1546.201 General.

Subpart 1546.7—Warranties

1546.704 Authority for use of warranties.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1546.000 Scope of part.

This part implements and supplements FAR Part 46 and provides EPA policy and procedures on contract quality assurance requirements and warranties. It includes selected clauses and guidance on their use.

Subpart 1546.2—Contract Quality Requirements

1546.201 General.

(a) The Contracting Officer shall ensure that Procurement Request/Orders (EPA Form 1900–8) in excess of $25,000 be accompanied by a Quality Assurance (QA) review form for those acquisitions in the object classifications prescribed in Chapter 2 of the "Contracts Management Manual" which covers procurement request preparation.

(b) Where the QA review form provides for the submission of a QA program plan in an offeror's proposal, the Contracting Officer shall use the provision shown in 1552.246–70 in the solicitation.

(c)(1) The Contracting Officer shall include the provision contained in 1552.246–71 in the solicitation when a QA project plan is required as part of the proposal submission. The QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specification in a Statement of Work.

(2) When a QA project plan is not a required part of the technical proposal, the Contracting Officer may require the QA project plan as a deliverable under the contract by use of the clause in 1552.246–72.

Subpart 1546.7—Warranties

1546.704 Authority for use of warranties.

The Contracting Officer shall ensure that the use of a warranty clause in a contract has the concurrence of the Project Officer.

PART 1548—VALUE ENGINEERING

Subpart 1548.1—Policies and Procedures

1548.102 Policies.

The EPA is exempt from the requirements of FAR Part 48 as authorized in FAR 48.102(a).

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c))

SUBCHAPTER H—CLAUSES AND FORMS

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1552.2—Texts of Provisions and Clauses

Sec.
1552.203–70 Current/former agency employee involvement certification.
1552.208–70 Printing.
1552.209–70 Organizational conflict of interest notification.
1552.209–71 Organizational conflicts of interest.
1552.209–72 Organizational conflict of interest certification.
1552.210–70 Reports of work.
1552.210–71 Monthly progress report—short form.
1552.210–72 Monthly progress report—cost-type contract.
1552.210–73 Monthly progress report—time and materials or labor hour, or indefinite delivery/indefinite quantity fixed rate services contract.
1552.210–74 Working files.
1552.210–75 Legal analysis.
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1552.212–70 Level of effort—cost-reimbursement term contract.
1552.212–71 Work assignments.
1552.213–70 Notice to suppliers of equipment.
1552.214–70 Past performance.
1552.214–71 Contract award—other factors—formal advertising.
1552.215–70 EPA source evaluation and selection procedures—negotiated procurement.
1552.215–71 Evaluation factors for award.
1552.215–72 Past performance.
1552.215–73 Instructions for the preparation of technical and cost or pricing proposals.
1552.215–74 Cost proposal instructions.
1552.215–75 Additional representations, certifications, and statements of offerors whose proposals are in the competitive range.

Sec.
1552.215–76 General financial and organizational information.
1552.216–70 Award fee.
1552.216–71 Date of incurrence of cost.
1552.216–72 Ordering—by designated ordering officers.
1552.216–73 Fixed rates for services—indefinite delivery/indefinite quantity contract.
1552.217–70 Evaluation of contract options.
1552.217–71 Option to extend the term of the contract—cost-type contract.
1552.217–72 Option to extend the term of the contract—cost-plus-award-fee contract.
1552.217–73 Option for increased quantity—cost-type contract.
1552.217–74 Option for increased quantity—cost-plus-award-fee contract.
1552.217–75 Option to extend the effective period of the contract—time and materials or labor hour contract.
1552.217–76 Option to extend the effective period of the contract—indefinite delivery-indefinite quantity contract.
1552.233–70 Protection of human subjects.
1552.224–70 Social security numbers of consultants and certain sole proprietors and Privacy Act statement.
1552.227–70 Data requirements.
1552.228–70 Insurance—liability to third persons—commercial organizations.
1552.228–71 Insurance—liability to third persons—state or local governments.
1552.228–72 Insurance—liability to third persons—commercial organizations (emergency).
1552.228–73 Insurance—liability to third persons—state or local governments (emergency).
1552.232–70 Application of Prompt Payment Act—contracts with advance, progress, or provisional payments.
1552.232–71 Application of the Prompt Payment Act—contract with f.o.b. destination deliverables.
1552.232–72 Application of the Prompt Payment Act—contracts with f.o.b. origin deliverables.
1552.232–73 Payments—fixed rate services contract.
1552.235–70 Screening business information for claims of confidentiality.
1552.235–71 Treatment of confidential business information.
1552.235–72 Data security—FIFRA and/or TSCA confidential business information.
1552.236–70 Samples and certificates.
1552.236–71 Additive or deductive items.
1552.237–70 Contract publication review procedure.
1552.237–71 Technical direction.
1552.237–72 Key personnel.
1552.237–73 Consultant services and consent.
1552.237–74 Publicity.
1552.237–75 Paperwork Reduction Act.
1552.242–70 Indirect costs.
1552.245–70 Decontamination of government property.
1552.245–71 Government-furnished data.
1552.245–72 Fabrication or acquisition of nonexpendable property.
1552.246–70 Quality assurance (QA) Program Plan.
1552.246–71 Quality Assurance (QA) Project Plan.
Sec.
1552.246–72 Quality Assurance (QA) Project Plan documentation.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1552.2—Texts of Provisions and Clauses

1552.203–70 Current/former agency employee involvement certification.

As prescribed in 1503.603, insert the following solicitation provision in all EPA solicitation documents for noncompetitive procurements.

Current/Former Agency Employee Involvement Certification (Apr 1984)

The offeror (quoter) hereby certifies that:

(a) He is [ ] is not [ ] a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote).

(b) He does [ ] does not [ ] employ or propose to employ a current/former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote) and who has been or will be involved, directly or indirectly, in developing or negotiating this offer (quote) for the offeror (quoter), or in the management, administration or performance of any contract resulting from this offer (quote).

(c) He does [ ] does not [ ] employ or propose to employ as a consultant or subcontractor under any contract resulting from this offer (quote) a current/former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote).

(d) A former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote) or such former employee's spouse or minor child does [ ] does not [ ] own or substantially own or control the offeror's (quoter's) firm.

(e) See EPAAR Part 1503 for definitions of the terms "regular" and "special employee."

(End of provision)

1552.208–70 Printing.

As prescribed in 1508.870, insert the following contract clause in all type contracts which require printing, duplication, binding, reproduction, and related services and are subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the United States.

Printing (Apr 1984)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10¾ by 14¼ inches, will not be deemed to be printing.

(End of clause)

1552.209–70 Organizational conflict of interest notification.

As prescribed in 1509.508(b), insert the following solicitation provision in all solicitations except:

(a) When specific notices or clauses are required per EPAAR Part 1509;

(b) When the procurement is with another federal agency (however, the provision is included in solicitations issued under the Small Business Administration's (SBA) 8(a) program); and

(c) When the procurement is accomplished through small purchase procedures (use is optional for small purchases).

Organizational Conflict of Interest Notification (Apr 1984)

(a) The prospective Contractor certifies, to the best of its knowledge and belief, that it is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the prospective Contractor cannot so certify, it shall provide a disclosure statement in its proposal which describes all relevant information concerning any past, present, or planned interests bearing on whether it (including its chief executives and directors, or any proposed consultant or subcontractor) may have a potential organizational conflict of interest.

(b) Prospective Contractors should refer to FAR Subpart 9.5 and EPAAR Part 1509 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest.

(c) If the Contracting Officer determines that a potential conflict exists, the prospective Contractor shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

(End of provision)

1552.209–71 Organizational conflicts of interest.

As prescribed in 1509.508(c), insert the following contract clause in all contracts except:

(a) When specific clauses are required per EPAAR Part 1509;

(b) When the procurement is with another Federal agency (however, the provision is included in contracts with SBA and its subcontractor under the 8(a) program); and

(c) When the procurement is accomplished through small purchase procedures (use is optional for small purchases).

Organizational Conflicts of Interest (Apr 1984)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neturalize the actual or potential conflict.

(c) Remedies—The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misprepresented relevant information to the Contracting officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert in any subcontract or consultant agreement hereunder, provisions which shall conform substantially to the language of this clause, including this paragraph (d).

(End of clause)

1552.209-72 Organizational conflict of interest certification.

As prescribed in 1509.508(b), insert the following provision in all solicitation documents when applicable.

Organizational Conflict of Interest Certification (Apr 1984)

The offeror [ ] is [ ] is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement describing this information. (See Section L of the solicitation for further information.)

(End of provision)

1552.210-70 Reports of work.

As prescribed in 1510.011-70, insert one of the contract clauses in this subsection when the contract requires the delivery of reports. The basic clause should be used when reports are specified in a contract attachment. Alternate I is to be used to specify reports in the contract schedule.

Reports of Work (Apr 1984)

The Contractor shall prepare and deliver reports in accordance with Attachment.* * *

The OMB clearance number for progress reports delivered under this contract is 2030-0005 with an expiration date of May 31, 1986.

(End of clause)

Reports of Work (Apr 1984) Alternate I (Apr 1984)

The Contractor shall prepare and deliver the below listed reports to the designated addressees. Each report shall cite the contract number and identify the Environmental Protection Agency as the sponsoring agency.

The OMB clearance number for progress reports delivered under this contract is 2030-0005 with an expiration date of May 31, 1986. Required reports are:

Reports description	No. copies	Addressees

(End of clause)

1552.210-71 Monthly progress report—short form.

As prescribed in 1510.011-71, insert the following contract clause when monthly progress reports are required and the duration of the contract is contemplated to be less than six months.

Monthly Progress Report—Short Form (Apr 1984)

The Contractor shall furnish . . . copies of monthly progress reports briefly stating the progress made, including the percentage of the project completed or of work ordered and completed as of the end of the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. If this contract includes cost-reimbursement elements, the report shall also provide the cumulative amount of funds expended from the effective date of the contract through the last day of the reporting period, as well as the amount of funds expended expressed as a percentage of the total contract funds. The reports shall be submitted to the following addressees on or before the . . . of each month following the first complete calendar month of the contract. Distribute reports as follows:

No. of copies	Addressee
	Project Officer.
	Contracting Officer.

(End of clause)

1552.210-72 Monthly progress report—cost-type contract.

As prescribed in 1510.001-72, insert the following contract clause in cost-reimbursement contracts when monthly progress reports are required and the duration of the contract is expected to be six months or longer. This clause may also be used in cost-reimbursement contracts with a duration of less than six months.

Monthly Progress Report—Cost-Type Contract (Apr 1984)

The Contractor shall furnish . . . copies of a combined monthly technical and financial progress report briefly stating the progress made, including the percentage of the project completed during the reporting period. If work is ordered using work assignments include the percentage of work ordered and completed during the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. In addition, the report shall specify contract financial status as follows:

(a) For term from contracts, provide:

(1) Cumulative costs and direct labor hours expended from the effective date of the contract through the last day of the current reporting month. Include a cumulative incurred cost per direct labor hour average computation and compare the result to the cumulative average cost per direct labor hour derived from the estimated cost of the contract.

(2) Actual costs and direct labor hours expended during the current reporting month.

(3) Estimated costs and direct labor hours to be expended during the next reporting period.

(4) Actual costs and direct labor hours incurred for each work assignment issued and estimates of costs and man hours required to complete each work assignment.

(b) For completion form contracts, provide a graph using a vertical axis for dollars and a horizontal axis for time increments that shows the actual and projected rate of expenditures against the total estimated cost of the contract.

(c) This submission does not change the notification requirements of the "Limitation of Cost" or "Limitation of Funds" clauses requiring separate written notice to the Contracting Officer.

(d) The reports shall be submitted to the following addressees on or before the —— of each month following the first complete calendar month of the contract. Distribute reports as follows:

No. of copies	Addressee
.....	Project Officer.
.....	Contracting Officer.

(End of clause)

1552.210-73 Monthly PROGRESS REPORT-TIME AND MATERIALS OR LABOR HOURS, OR INDEFINITE DELIVERY-INDEFINITE QUANITY FIXED RATE SERVICES CONTRACT. (Apr 1984

As prescribed in 1510.011-73, insert the following clause in all time and materials, labor hour, and indefinite delivery/indefinite quantity type contracts with fixed rates for services that have a period of performance of six months or longer. The clause may also be used in these contract types when the performance period is less than six months.

Monthly Progress Report—Time and Materials or Labor Hour, or Indefinite Delivery/Indefinite Quantity Fixed Rate Services Contract. (Apr. 1984)

The Contractor shall furnish —— copies of a combined monthly technical and financial progress report briefly stating the progress made, including the percentage of the project completed during the reporting period. If the contract is an indefinite delivery/indefinite quantity type, include the percentage of the work ordered and completed during the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. In addition, the report shall specify contract financial status by:

(a) Cumulative costs and labor hours expended from the effective date of the contract through the last day of the current reporting month.

(b) Actual costs and labor hours expended during the current reporting month.

(c) Estimated costs and labor hours to be expended during the next reporting period.

(d) For indefinite quantity contracts, actual costs and direct labor hours incurred for each delivery order issued and estimates of costs and man hours required to complete each delivery order.

(e) The reports shall be submitted to the following addressee on or before the—— of each month following the first complete calendar month of the contract. Distribute reports as follows:

No. of copies	Addressee
.....	Project Officer.
.....	Contracting Officer.

(End of clause)

1552.210-74 Working files.

As prescribed in 1510.011-74, insert the following clause in all applicable EPA contracts.

Working Files (Apr 1984)

The Contractor shall maintain accurate working files (by task or work assignment) on all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this contract. The Contractor shall provide the information contained in its working files upon request of the Contracting Officer.

(End of clause)

1552.210-75 Legal analysis.

As prescribed in 1510.011-75, insert this contract clause when it is determined that the contract involves legal analysis.

Legal Analysis (Apr 1984)

The Contractor shall furnish to the Project Officer one (1) copy of any draft legal analysis. The Government will provide a response to the Contractor within thirty (30) calendar days after receipt. The Contractor shall not finalize the analysis until the Government has given approval.

(End of clause)

1552.210-76 Final reports.

As prescribed in 1510.011-76, insert this contract clause when a contract requires a draft and a final report.

Final Reports (Apr 1984)

(a) "Draft Report"—The Contractor shall submit to the Project Officer —— copies of the draft final report on or before —— (date) —— The Contractor shall furnish to the Contracsting Officer a copy of the letter transmitting the draft. The draft shall be typed double-spaced or space-and-a-half and shall include all pertinent material required in the final report. The Government will review for approval or disapproval the draft and provide a response to the Contractor within —— calendar days after receipt. If the Government does not provide a response within the allotted review time, the Contractor immediately shall notify the Contracting Officer in writing.

(b) "Final Report"—The Contractor shall deliver a final report on or before the last day of the period of performance specified in the contract. Distribution is as follows:

No. of copies	Addressee
1.....	EPA Library.
1.....	Contracting Officer.
1.....	Project Officer.

(End of clause)

1552.210-77 Management consulting services.

As prescribed in 1510.011-77, insert the following contract clause in all contracts for management consulting services.

Management Consulting Services (Apr 1984)

All reports containing recommendations to the Environmental Protection Agency shall include the following information on the cover of each report: (a) name and business address of the contractor; (b) contract number; (c) contract dollar amount; (d) whether the contract was competitively or non-competitively awarded; (e) name of the EPA Project Officer and the EPA Project Officer's office identification and location; and (f) date of report.

(End of clause)

1552.212-70 Level of effort--cost-reimbursement term contract.

As prescribed in 1512.104(a), insert the following contract clause in cost-reimbursement term contracts including cost contracts without fee, cost-sharing contracts, cost-plus-fixed-fee (CPFF) contracts, cost-plus-incentive-fee contracts (CPIF), and cost-plus-award-fee contracts (CPAF).

Level of Effort—Cost-Reimbursement Term Contract (Apr 1984)

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government hereby orders——direct labor hours for the base period, which represents the Government's best estimate of the level of effort to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, and programmers and not support personnel such as company management, typists, and key punch operators even though such support personnel are normally treated as direct labor by the Contractor. The level of effort specified in paragraph (a) includes Contractor, subcontractor, and consultant labor hours.

(c) If the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period ordered, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be acumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(End of clause)

1552.212-71 Work assignments.

As prescribed in 1512.104(b), insert the follwing contract clause in cost-

reimbursement type term form contracts when work assignments are to be used.

Work Assignments (Apr 1984)

(a) The contractor shall perform work under this contract as specified in written work assignments issued by the Contracting Officer.

(b) Each work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, and (4) the description of the work.

(c) The Contractor shall acknowledge receipt of each work assignment by returning to the Contracting Officer a signed copy of the work assignment within —— calendar days after its receipt. The Contractor shall begin work immediately upon receipt of a work assignment. Within —— calendar days after receipt of a work assignment, the Contractor shall submit —— copies of a work plan to the Project Officer and —— copies to the Contracting Officer. The work plan shall include a detailed technical and staffing plan and a detailed cost estimate. Within —— calendar days after recipt of the work plan, the Contracting Officer will provide written approval or disapproval of it to the Contractor. If the Contractor has not received approval on a work plan within —— calendar days after its submission, the Contractor shall stop work on that work assignment. Also, if the Contracting Officer disapproves a work plan, the Contractor shall stop work until the problem causing the disapproval is resolved. In either case, the Contractor shall resume work only when the Contracting Officer finally approves the work plan.

(d) This clause does not change the requirements of the "Level of Effort" clause, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(e) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the Contractor shall immediately notify the Contracting Officer.

(End of clause)

1552.213-70 Notice to suppliers of equipment.

As prescribed in 1513.507(b), the Contracting Officer shall insert the following contract clause in orders for or lease of commercially available equipment.

Notice to Suppliers of Equipment (Apr 1984)

(a) It is the general policy of the environmental Protection Agency that Contractor or vendor prescribed leases or maintenance agreements for equipment will NOT be executed.

(b) Performance in accordance with the terms and conditions of the vendor's commercial lease, or customer service maintenance agreement, unless specified in the Schedule, may render the vendor's performance unacceptable, thereby permitting the Government to apply such contractual remedies as may be permitted by law, regulation, or the terms of this order.

(End of clause)

1552.214-70 Past performance.

As prescribed in 1514.201-6(a), insert this solicitation provision in all formally advertised solicitation documents.

Past Performance (Apr 1984)

Bidders shall provide as part of their bids submission: a list of Government contracts received during the last two years for identical or similar work to that being procured under this solicitation. For each contract, state the contract number, the Government agency placing the contract, the type of contract, and a brief description of the work.

(End of provision)

1552.214-71 Contract award—other factors—formal advertising.

As prescribed in 1514.201-6(b), insert the following solicitation provision in invitations for bids (IFB) when it is appropriate to describe other factors that will be used in evaluating bids for award. This provision is used to describe the other factors mentioned in the solicitation provisions "Contract Award—Formal Advertising" (FAR 52.214-10), and "Contract Award—Construction" (FAR 52.214-19). All other evaluation provisions in the IFB (e.g., evaluation of options) should be cross-referenced in this provision. The other factors set forth in the provision should represent a consolidated statement of the exact basis upon which bids will be evaluated for award.

Contract Award—Other Factors—Formal Advertising (Apr 1984)

The Government will award a contract resulting from this solicitation as stated in the "Contract Award" provision. The other factors that will be considered are:

_____

_____

_____

(End of provision)

1552.215-70 EPA source evaluation and selection procedures—negotiated procurements.

As prescribed in 1515.605, insert the following solicitation provision in Requests for Proposals.

EPA Source Evaluation and Selection Procedures—Negotiated Procurements (Apr 1984)

(a) The Government will select an offeror for negotiation and award in accordance with FAR Part 15 and the EPA Source Evaluation and Selection Procedures in EPAAR Part 1515 (48 CFR Part 1515). The significant features of this procedure are:

(1) The Government will evaluate cost or price in accordance with FAR Part 31. In addition the Government will evaluate proposals to determine cost realism. Cost realism relates to an offeror's demonstrating that the proposed cost or price provides an adequate reflection of its understanding of the requirements of this solicitation.

(2) The Technical Evaluation Panel will evaluate and score technical proposals against the specified Technical Evaluation Criteria.

(b) In addition to evaluation of the previously discussed elements, the Government will consider in any award decision the responsibility factors set forth in FAR Part 9.

(End of provision)

1552.215-71 Evaluation factors for award.

As prescribed in 1515.605, insert one of the following solicitation provisions in Requests for Proposals. The first provision states that technical quality is more important than cost or price. The Alternate I provision states that cost or price is more important than technical quality provided an offeror's technical proposal establishes that the minimum needs of the Government can be met. The "other factors" listed in paragraph (a) of the provisions may be revised at the discretion of the Contracting Officer. Technical evaluation criteria should be prepared in accordance with FAR 15.605 and inserted into paragraph (b) of the provision.

Evaluation Factors for Award (Apr 1984)

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government, cost or price and other factors considered. For this solicitation, technical quality is more important than cost or price. The Government will consider other factors, as listed below in descending order of importance, secondary to both technical quality and cost or price:

(1) Small business concerns which are also labor surplus area concerns;

(2) Other small business concerns;

(3) Other concerns which are also labor surplus area concerns;

(4) Record of past performance.

As proposals become more equal in their technical merit, the evaluated cost or price becomes more important. As the technical merit and the evaluated cost of price become essentially equal, other factors may become a determining factor.

(b) Technical Evaluation Criteria——

_____

(End of provision)

Evaluation Factors for Award (Apr 1984)

Alternate I (Apr 1984)

(a) The Government will make award to the responsible offeror whose offer conforms to the solicitation and is most advantageous to the Government, cost or price, technical quality and other factors considered. The Government will award a contract only to concerns whose technical proposals establish that they can meet the minimum needs of the Government. However, among concerns in this category, the Government considers cost or price more important than relative technical quality differences.

The Government will consider other factors, as listed below in descending order of importance, secondary to both cost of price or technical quality:

(1) Small business concerns which are also labor surplus area concerns;

(2) Other small business concerns;

(3) Other concerns which are also labor surplus area concern;

(4) Record of past performance.

As the evaluated cost/price becomes more equal, relative technical quality becomes more important. As the evaluated cost/price and technical merit become essentially equal, other factors may become a determining factor.

(b) Technical Evaluation Criteria——

(End of provision)

1552.215-72 Past performance.

As prescribed in 1515.407(a), insert this solicitation provision in all negotiated solicitation documents.

Past Performance (Apr 1984)

Offerors shall provide the following required information as part of their initial submission:

(a) A list of Governmenmt contracts received during the last two years for identical or similar work to that being procured under this solicitation. For each contract, state the contract number, the Government agency placing the contract, the type of contract, and a brief description of the work.

(b) If the offeror has overrun any cost-type Government contract or subcontract in the last two years, list the agency funding the work, the contract number, the amont of the contract, the overrun, and the reason for the overrun.

(End of provision)

1552.215-73 Instructions for the preparation of technical and cost or pricing proposals.

As prescribed in 1515.407(a), insert the following solicitation provision in all negotiated solicitation documents. Enter any special technical proposal instructions in (a)(2) or insert "none."

Instructions for the Preparation of Technical and Cost or Pricing Proposals (Apr 1984)

(a) Technical proposal instructions.

(1) Submit your technical proposal as a separate part of the total proposal package. Omit all cost or pricing details from the technical proposal. Include the following elements in your techical proposal (see also the Statement of Work and the Technical Evaluation Criteria):

(i) Technical approach;

(ii) Technical management;

(iii) Key technical personnel;

(iv) Assumptions, deviations, and exceptions (as necessary); and

(v) Additional information.

(2) Special technical proposal instructions.

(b) Cost or pricing proposal instructions.

Your cost or price proposal shall be specific, complete in every detail, and separate from your technical proposal.

(1) General—Submit cost or pricing data on Standard Form 1411, Contract Pricing Proposal Cover Sheet, prepared in accordance with FAR 15.804-6, FAR Table 15-3, and the following:

(i) Clearly identify separate cost or pricing data associated with any:

(A) Options to extend the term of the contract;

(B) Options for the Government to order incremental quantities; and/or

(C) Major tasks, if required by the special instructions. You may indicate the above cost or price detailed data in narrative form or on a spread sheet, provided that all cost or pricing data is adequately and clearly described. Place recap/summary information on the SF 1411.

(ii) Clearly identify all costs and data in support of the proposed cost/price.

(iii) Submit a current financial statement, including a balance sheet and a statment of profit and loss for the last completed fiscal year. Specify resources available to perform the contract without assistance from any outside source. If sufficient resources are not available, indicate in your proposal the amount required and the anticipated source (i.e., bank loans, letter or lines of credit, etc.).

(iv) If other division, subsidiaries, a parent or affiliated companies will perform work or furnish materials under this proposed contract, please provide the name and location of such affiliate and your intercompany pricing policy.

(v) If the contract schedule includes a "Fixed Rates for Services" clause, please provide in your cost proposal a schedule duplicating the format in the clause and include your proposed fixed hourly rates per labor category for the base and any option contract periods.

(vi) If the contract includes the clause at EPAAR 1552.232-73 "Payments—Fixed-Rate Services Contract," or the clause at FAR 52.232-7 "Payments Under Time and Materials and Labor-Hour Contracts," include in your cost proposal any burden rate you will apply to materials, other direct costs, or subcontracts. The Government will include the burden factor as part of its cost proposal evaluation.

(2) Direct Labor.

(i) Attach support schedules indicating types or categories of labor together with labor hours for each category, indicating rate of compensation. Indicate the method used in computing the labor rate. If individual labor rates are proposed, give employee names.

(ii) Indicate whether current rates or escalated rates are used. If excalation is included, state the degree (percent) and methodology.

(iii) State whether any additional direct labor (new hires) will be required during the performance period of this acquisition. If so, state the number required.

(iv) With respect to educational institutions, include the following information for those professional staff members whose salary is expected to be covered by a stipulated salary support agreement pursuant to OMB Circular A-21.

(A) Individual's name;

(B) Annual salary and the period for which the salary is applicable;

(C) List of other research projects or proposals for which salary is allocated, and the proportionate time charged to each; and

(D) Other duties, such as teaching assigments, adminstrative assigments, and other institutional activities. Show the proportionate time charged to each.

(3) Indirect costs (overhead, general, and administrative expenses). Unless your proposed indirect rate(s) have recently been accepted by a contracting agency of the Government, provide detailed supporting computations. These computations may include historical as well as budgeted data. Indicate whether your computations are based upon historical or projected data.

(4) Travel expense.

Attach a schedule illustrating how travel was computed.

(5) Consultant service.

Identify the contemplated consultants. State the amount of service estimated to be required and the consultant's quoted daily or hourly rate.

(6) When the cost of a subcontract is substantial (25 percent of the estimated contract value or $10,000, whichever is less), include details of subcontract costs in the same format as the prime Contractor's costs.

(7) Other direct costs.

Attach a schedule illustrating how other direct costs were computed.

(c) Facilities and special equipment, including tooling.

(1) If special purpose facilities or equipment is being proposed, provide a description of the items, details of the proposed cost including competitive prices, and a justification as to why the Government should furnish the equipment or allow its purchase with contract funds.

(2) If fabrication by the prime Contractor is contemplated, include details of material, labor, and overhead.

(3) Identify Government-owned property in the possession of the offeror or proposed to be used in the performance of the contract, and the Government agency which has cognizance over the property.

(End of provision)

§ 1552.215-74 Cost proposal instructions.

As prescribed in 1515.407(c), insert a provision substantially as follows in negotiated procurement solicitation documents when cost or pricing data is required in an offeror's proposal and it is necessary to obtain the detailed cost data specified in the provision. While designed to obtain cost data for procurements under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) ("Super Fund") program, the provision may be used in other negotiated solicitations.

Cost Proposal Instructions (Apr 1984)

Offerors are instructed to prepare their cost proposals in sufficient detail to permit thorough and complete evaluation by the Government. Categories of labor to be

employed, for example, and the associated number of estimated hours per category, shall be clearly identified. All items of equipment, together with estimated usage hours, shall be set forth. All material costs, travel and per diem costs, analysis costs, and tansportation and disposal costs shall be identified as well. Where proposed rates are not based upon catalog or list prices, the basis for the proposed rates shall be identified. Equipment rates may be proposed on any basis (e.g., hourly, daily, weekly, monthly).

The cost proposal shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet, prepared in accordance with general instructions in FAR 15.804-6 and FAR Table 15-3. Summary data should be placed on SF 1411, and the following format should be followed in preparing the detailed cost proposal. All items which are subcontracted should be clearly identified and should include the name and address of the proposed subcontractor. Written quotations for all subcontracted services must accompany your cost proposal.

(a) Labor.

Labor categories	Estimated hours	Rate per hour (dollars)	Total (dollars)
Labor cost subtotal			

(b) Equipment.

Item description	Estimated usage	Rate (dollars)	Total (dollars)
Equipment cost subtotal			

(c) Travel and Subsistence.

(1) Travel.

Number of persons	From	To	Mileage	Cost per trip (dollars)	Total (dollars)

(2) Subsistence.

Number of persons	Number of days	Rate per day (dollars)	Total (dollars)
Travel and per diem subtotal			

(d) Materials and Safety Equipment.

Item description	Estimated quantity	Unit price (dollars)	Total (dollars)
Material cost subtotal			

(e) Sampling and Analytical Services.

Type of analysis	Number of analyses	Price per analysis (dollars)	Total (dollars)
Analytical cost subtotal			

(f) Transportation.

Type of material	Size of load	Number of miles	Estimated number of loads	Dollar per mile or dollar per load	Total (dollars)
Transportation cost subtotal					

(g) Disposal.

Type of material	Method of disposal	Estimated quantity	Dollar per gallon or dollar per ton	Total (dollars)
Disposal cost subtotal				

(h) Other Miscellaneous Services or Charges.

Include in this category any costs associated with mobilization and/or demobilization, handling charges on materials or subcontracts, and any other estimated costs not included in the above categories.

(Please Itemize and Provide Breakdowns Where Applicable)

Other Costs Subtotal $ ———

(End of provision)

1552.215-75 Additional representations, certifications, and statements of offerors whose proposals are in the competitive range.

As prescribed in 1515.407(a), insert the following provision in all negotiated solicitations.

Additional Representations, Certifications, and Statements of Offerors Whose Proposals are in the Competitive Range (Apr 1984)

An offeror whose proposal is determined to be within the competitive range will be requested to:

(a) Certify the validity of all General Financial and Organizational Information (GFOI) currently on file at EPA;

(b) Update all outdated GFOI on file at EPA; or

(c) Provide all GFOI which may be required and which has not been previously provided.

(End of provision)

1552.215-76 General financial and organizational information.

As prescribed in 1515.407(b), insert the following provision in documentation to offerors (quoters) of negotiated solicitations who are in the competitive range.

General Financial and Organizational Information (Apr 1984)

Offerors or quoters are requested to provide information regarding the following items in sufficient detail to allow a full and complete business evaluation. If the question indicated is not applicable or the answer is none, it should be annotated. If the offeror has previously submitted the information, it should certify the validity of that data currently on file at EPA or update all outdated information on file.

(a) Contractor's Name: ———.

(b) Address (If financial records are maintained at some other location, show the address of the place where the records are kept):

(c) Telephone Number: ———.

(d) Individual(s) to contact re this proposal:

(e) Cognizant Government:
Audit Agency: ———
Address: ———
Auditor: ———

(f)(1) Work Distribution for the Last Completed Fiscal Accounting Period:

Sales:
Government cost-reimbursement type prime contracts and subcontracts ..... $.....
Government fixed-price prime contracts and subcontracts ..... $.....
Commercial Sales ..... $.....
Total Sales ..... $.....

(2) Total Sales for first and second fiscal years immediately preceding last completed fiscal year.

Total Sales for first Preceding Fiscal Year ..... $.....
Total Sales for Second Preceding Fiscal Year ..... $.....

(g) Is company a separate entity or division?

If a division or subsidiary corporation, name parent company:

(h) Date Company Organized: ———.

(i) Manpower:
Total Employer: ———

Direct: ———
Indirect: ———
Standard Work Week (Hours): ———
(j) Commercial Products: ———.
(k) Attach a current organizational chart of the company.
(l) Description of Contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks.)

	Estimated/actual cost	Standard cost
Estimating System:		
Job Order		
Process		
Accumulating System:		
Job Order		
Process		

Has your cost estimating system been approved by any Government agency?
Yes —— No ——
If yes, give name and address of agency:

Has your cost accumulation system been approved by any Government agency?
Yes —— No ——
If yes, give name and address of agency:

(m) What is your fiscal year period? (Give month-to-month dates):

What were the indirect cost rates for your last completed fiscal year?

Fiscal year	Indirect cost rate	Basis of allocation
Fringe Benefits		
Overhead		
G&A Expense		
Other		

(n) Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency?
Yes —— No ——
If yes, name and location of the Government agency:

Date of last preaward audit review by a Government agency: ———.
(If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G&A must be furnished.)
(o) Cost estimating is performed by:
Accounting Department———
Contracting Department ———
Other ———

(describe).

(p) Has system of control of Government property been approved by a Government agency?
Yes —— No ——
If yes, name and location of the Government agency:

(q) Purchasing Procedures:
Are purchasing procedures written?
Yes —— No ——
Has your purchasing system been approved by a Government agency?
Yes —— No ——
If yes, name and location of the Government agency

(r) Does your firm have an established written incentive competition or bonus plan?
Yes —— No ——

(End of provision)

1552.216-70 Award fee.

As prescribed in 1516.405, insert the following contract clause in cost-plus-award-fee contracts.

Award Fee (Apr 1984)

The amount of award fee the Contractor earns, if any, is based on a subjective evaluation by the Government of the quality of the Contractor's performance in accordance with the award fee plan. The Government will determine the amount of award fee every ——— months beginning ———. The fee Determination Official (FDO) will unilaterally determine the amount of award fee. The FDO's determination will be in writing to the Contractor and is not subject to the "Disputes" clause. The Government may unilaterally change the award fee plan at any time and will provide such changes in writing to the Contractor prior to the beginning of the applicable evaluation period. The Contractor may submit a voucher for the earned award fee. Available award fee not earned during one period does not carry over to subsequent periods.

(End of clause)

1552.216-71 Date of incurrence of cost.

At prescribed in 1516.307, insert the following contract clause in cost-reimbursement contracts when an anticipatory cost letter has been issued on the project. The beginning dates and the not-to-exceed amount to be inserted in the clause should be those in the anticipatory cost letter.

Date of Incurrence of Cost (Apr 1984)

The Contractor is entitled to reimbursement for allowable, allocable costs incurred during the period of ——— to the award date of this contract in an amount not to exceed
$ ———
All terms and conditions of this contract are in effect from ———

(End of clause)

1552.216-72 Ordering—by designated ordering officers.

As prescribed in 1516.505(a), insert the following in indefinite delivery/indefinite quantity contracts.

Ordering—By Designated Ordering Officers (Apr 1984)

(a) The Government will order any supplies and services to be furnished under this contract by issuing delivery orders on Optional Form 347, or any agency prescribed form, from ——— through ———. In addition to the Contracting Officer, the following individuals are authorized ordering officers.

———
———

(b) A Standard Form 30 will be the method of amending delivery orders.
(c) The Contractor shall acknowledge receipt of each order and shall prepare and forward to the Ordering Officer within ten (10) calendar days the proposed staffing plan for accomplishing the assigned task within the period specified.
(d) If the Contractor considers the estimated labor hours or specified work completion date to be unreasonable, he/she shall promptly notify the Ordering Officer and Contracting Officer in writing within 10 calendar days, stating why the estimated labor hours or specified completion date is considered unreasonable.
(e) Each delivery order will have a ceiling price, which the Contractor may not exceed. When the Contractor has reason to believe that the labor payment and support costs for the order, which will accrue in the next thirty (30) days, will bring total cost to over 85 percent of the ceiling price specified in the order, the Contractor shall notify the Ordering Officer.
(f) Paragraphs (c), (d), and (e) of this clause apply only when services are being ordered.

(End of clause)

1552.216-73 Fixed rates for services—indefinite delivery/indefinite quantity contract.

As prescribed in 1516.505(b), insert the following clause to specify fixed rates for services in indefinite delivery/indefinite quantity contracts. When the contract contains options, the clause should be modified to reflect the information and data for the base period and any option periods.

Fixed Rates for Services—Indefinite Delivery/Indefinite Quantity Contract (Apr 1984)

The following fixed rates shall apply for payment purposes for the duration of the contact.

Personnel classification	Skill level	Estimated direct labor hours	Fixed hourly rate	Total

The rate, or rates, set forth above cover all expenses, including report preparation, salaries, overhead, general and administrative expenses, and profit.
The Contractor shall voucher for only the time of the personnel whose services are applied directly to the work called for in individual Delivery Orders and accepted by the EPA Project Officer. The Government shall pay the Contractor for the life of a delivery order at rates in effect when the delivery order was issued, even if performance under the delivery order crosses into another period. The Contractor shall maintain time and labor distribution records

for all employees who work under the contract. These records must document time worked and work performed by each individual on all Delivery Orders.

(End of clause)

1552.217-70 Evaluation of contract options.

As prescribed in 1517.208(a), insert the following solicitation provision in Requests for Proposals when the solicitation contains options.

Evaluation of Contract Options (Apr 1984)

For award purposes, in addition to an offeror's response to the basic requirement, the Government will evaluate its response to all options, both technical and cost. Evaluation of options will not obligate the Government to exercise the options. For this solicitation the options are as specified in Section H.

(End of provision)

1552.217-71 Option to extend the term of the contract—cost-type contract.

As prescribed in 1517.208(b), insert this contract clause in cost-reimbursement type term form contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, the clause may be modified accordingly.

Option to Extend the Term of the Contract—Cost-Type Contract (Apr 1984)

The Government has the option to extend the term of this contract for ——— additional period(s). If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. The Government's estimated level of effort is ——— direct labor hours for the first option period and ——— for the second. Use of an option will result in the following contract modifications:

(a) The "Period of Performance" clause will be amended to cover a base period from —— to —— and option periods from —— to —— and —— to ——.

(b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of —— for the first option period and a new and separate level of effort of —— for the second option period.

(c) The "Estimated Cost and Fixed Fee" clause will be amended to reflect increased estimated costs and fixed fee for each option period as follows:

	Option 1	Option 2
Estimated cost		
Fixed fee		
Total		

(d) If the contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

Other direct cost item	Option 1	Option 2

(End of clause)

1552.217-72 Option to extend the term of the contract—cost-plus-award-fee contract.

As prescribed in 1517.208(c), insert this contract clause in cost-plus-award-fee term contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, modify the clause accordingly.

Option To Extend the Term of the Contract—Cost-Plus-Award-Fee Contract (Apr 1984)

(a) The Government has the option to extend the term of this contract for ——— additional periods. If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. The Government's estimated level of effort is ——— direct labor hours for the first option period and ——— for the second. Use of an option will result in the following contract modifications:

(b) The "Period of Performance" clause will be amended to cover a base period from —— to —— and option periods from —— to —— and —— to ——.

(c) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of —— for the first option period and a new and separate level of effort of —— for the second option period.

(d) The "Estimated Cost Base Fee and Award Fee" clause will be amended by reflect increased estimated costs and base fee and award fee pool for each option period as follows:

	Option 1	Option 2
Estimated cost		
Base fee		
Award fee pool		
Total		

(e) If this contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

Other direct cost item	Option 1	Option 2

(End of clause)

1552.217-73 Option for increased quantity—cost-type contract.

As prescribed in 1517.208(d), insert this contract clause in cost-reimbursement type term form contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, modify the clause accordingly.

Option for Increased Quantity—Cost-Type Contract (Apr 1984)

By issuing a contract modification, the Government may increase the estimated level of effort by ——— direct labor hours during the base period, ——— during the first option period, and ——— during the second option period. The Government may issue a maximum of ——— orders to increase the level of effort in blocks of ——— hours during any given period. The estimated cost and fixed fee of each block of hours is as follows:

	Base period	Option 1	Option 2
Estimated cost			
Fixed fee			
Total			

When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost and Fixed Fee" clause will be modified accordingly.

(End of clause)

1552.217-74 Option for increased quantity—cost-plus-award-fee contract.

As prescribed in 1517.208(e), insert this contract clause in cost-plus-award-fee term contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, the clause may be modified accordingly

Option for Increased Quantity—Cost-Plus-Award-Fee Contract (Apr 1984)

By issuing a contract modification, the Government may increase the estimated level of effort by ——— direct labor hours during the base period, ——— during the first option period, and ——— during the second option period. The Government may issue a maximum of ——— orders to increase the level of effort in blocks of ——— hours during any given period. The estimated cost, base fee, and award fee pool of each block of hours is as follows:

	Base period	Option 1	Option 2
Estimated cost			
Base fee			
Award fee pool			
Total			

When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost, Base Fee, and Award Fee" clause will be modified accordingly.

(End of clause)

1552.217-75 Option to extend the effect period of the contract—time and materials or labor hour contract.

As prescribed in 1517.208(f), insert this clause in time and materials or labor hour type contracts when applicable. This clause will be modified to eflect the actual number of option periods for the acquisition. If only one option period is used, modify (c) accordingly.

Option to Extend the Effective Period of the Contract—Time and Materials or Labor Hour Contract (Apr 1984)

(a) The Government has the option to extend the effective period of this contract for ——— additional period(s). If more than sixty (60) days remain in the contract effective period, the Government, without prior written notification, may exercise this option by issuing a contract modification. To unilaterally exercise this option within the last 60 days of the effective period, the Government must issue written notification of its intent to exercise the option prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

(b) If the option(s) are exercised, the "Ceiling Price" clause will be modified to reflect a new and separate ceiling price of $—— for the first option period and a new and seperate ceiling price of $—— for the second option period.

(c) The "Effective Period of the Contract" clause will be modified to cover a base period from ——— to ——— and option periods from ——— to ——— and ——— to ———.

(End of clause)

1552.217-76 Option to extend the effective period of the contract—indefinite delivery/indefinite quantity contract.

As prescribed in 1517.208(g), the following is used in indefinite delivery/indefinite quantity type contracts with options to extend the effective period of the contract. The clause may be adjusted depending upon the number of options. If only one option period is used, modify (b) and (c) accordingly.

Option to Extend the Effective Period of the Contract—Indefinite Delivery/Indefinite Quantity Contract

(a) The Government has the option to extend the effective period of this contract for ——— additional period(s). If more than sixty (60) days remain in the contract effective period, the Government, without prior written notification, may exercise this option by issuing a contract modification. To unilaterally exercise this option within the last 60 days of the effective period, the Government must issue written notification of its intent to exercise the option prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

(b) If the options are exercised, the "Minimum and Maximum Contract Amount" clause will be modified to reflect new and separate minimums of ——— for the first option period and ——— for the second option period, and new and separate maximums of ——— for the first option period and ——— for the second option period.

(c) The "Effective Period of the Contract" clause will be modified to cover a base period from ——— to ——— and option periods from ——— to ——— and ——— to ———.

(End of clause)

1552.223-70 Protection of human subjects.

As prescribed in 1523.303-70, insert the following contract clause when the contract involves human test subjects.

Protection of Human Subjects (Apr 1984)

(a) The Contractor shall protect the rights and welfare of human subjects in accordance with the procedures specified in its current Institutional Assurance on file with the Agency. The Contractor shall certify at least annually that an appropriate institutional committee has reviewed and approved the procedures which involve human subjects in accordance with the appliable Institutional Assurance accepted by the Agency.

(b) The Contractor shall bear full responsibility for the proper and safe performance of all work and services involving the use of human subjects under this contract.

(End of clause)

1552.224-70 Social security numbers of consultants and certain sole proprietors and Privacy Act statement.

As prescribed in 1524.104, insert the following provision in all solicitations.

Social Security Numbers of Consultants and Certain Sole Proprietors and Privacy Act Statement (Apr 1984)

(a) Section 6041 of Title 26 of the U.S. Code requires EPA to file Internal Revenue Service (IRS) Form 1099 with respect to individuals who receive payments from EPA under purchase orders or contracts. Section 6109 of Title 26 of the U.S. Code authorizes collection by EPA of the social security numbers of such individuals for the purpose of filing IRS Form 1099. Social security numbers obtained for this purpose will be used by EPA for the sole purpose of filing IRS Form 1099 in compliance with Section 6041 of Title 26 of the U.S. Code.

(b) If the offeror or quoter is an individual, consultant, or sole proprietor and has no Employer Identification Number, insert the offeror's or quoter's social security number on the following line.

(End of provision)

1552.227-70 Data requirements.

As prescribed in 1527.7001, insert the following contract clause in all types of contracts as required.

Data Requirements (Apr 1984)

(a) To the extent that the following data is not elsewhere required to be furnished to the Government under this contract, and is of the type customarily retained in the normal course of business, the Contractor, upon written request of the Contracting Officer at any time during contract performance or within one year after final payment, shall furnish the following:

(1) A set of engineering drawings which will be sufficient to enable the manufacture of items or equipment furnished under this contract (other than components or items of standard commercial design, or items fabricated heretofore) by a firm skilled in the art of manufacturing items or equipment of the general type and character of the items or equipment furnished under this contract or a set of flow sheets and engineering drawings which will be sufficient to enable performance of any process developed with this contract by a firm skilled in the art of practicing processes of the general type and character of such process. Such set or sets of drawings and flow sheets shall be reproducible copies incorporating all changes made in the equipment or process in the form in which it was delivered to the Government.

(2) Any of the following data which is necessary to explain or help Government technical personnel understand any equipment, items, or process developed under the contract and furnished to the Government.

(i) A copy (which shall be a reproducible master if one is so requested) of drawings and other technical data used in or prepared in connection with the development, practice, and testing of any process or processes required under the contract, or with the development, fabrication, and testing of prototype models of equipment or items (other than items of standard commercial design or items fabricated heretofore), if required under the contract.

(ii) A report of all studies made in planning the work, and in developing background research for the work, including citation references to all such background research, and a copy of all compilations, digests, or analyses of such background research compiled in connection with the performance of this contract.

(iii) A copy (which shall be a reproducible master if one is so requested) of design studies, research notes, parameter and tolerance studies, drawings, including Contractor's identification of symbols and markings, specifications, test results, and any other technical information used in any research, development, design, engineering, and testing required in the performance of this contract, including test equipment and related items, together with any information as to safety precautions which may be

necessary in connection with the manufacture, storage, or use of the equipment, material, or process, if any, in the event that equipment, material, or process is the subject of research under this contract.

The Contractor shall not be required to furnish any background data which may be described in (ii) and (iii) above unless such data is essential and closely related to the contract work.

(b) Nothing contained in this "Data Requirements" clause shall require the Contractor to deliver data previously developed by parties other than the Contractor, independently of this contract and acquired by the Contractor prior to this contract under conditions restricting the Contractor's right to disclose the same. Unless otherwise directed by the Contracting Officer if any of the data requested is in the public domain or copyrighted, it will be sufficient for the Contractor to identify the data and furnish a citation as to where it may be found.

(c) Any reproducible copies requested under this "Data Requirements" clause shall be of a type and prepared in accordance with good commercial practice.

(d) In the event the Contracting Officer requests the delivery of data by the Contractor, as contemplated by (a) above, prior to final payment, such request shall be treated as a change under the clause of this contract entitled "Changes" and an equitable adjustment in the price, if this is a fixed-price contract, or estimated cost and any fee, if this is a cost-type contract, shall be made to cover the cost of preparing drawings called for in (a)(1) above, and of collecting, preparing, editing, duplicating, assembling, and shipping the data requested under (a) above, but only to the extent that the Contractor warrants that such costs were not included in the price (or estimated cost and fixed fee) of the contract. The Contractor shall comply with requests of the Contracting Officer made under (a) above, within one year following final payment, provided that suitable provision is made for reimbursement of the additional costs of complying with such request, together with a reasonable fee or profit thereon, such additional costs being limited to the costs set forth above, and warranted to have been excluded from the price (or estimated cost and fixed fee) of the contract. Any adjustment or payment under this paragraph shall not include any amount for the value of the data, as distinguished from the costs set forth above.

(End of clause)

1552.228-70 Insurance—liability to third persons—commercial organizations.

As prescribed in 1528.311-70, insert the following contract clause in contracts with commercial organizations when routine (nonemergency) removal or remedial action is being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

Insurance—Liability to Third Persons—Commercial Organizations (Apr 1984)

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including that required by FAR Part 28, in effect as of the date of execution of this contract, and any such insurance as the Contracting Officer may, from time to time, require with respect to performance of this contract.

(b) At a minimum, the Contractor shall procure and maintain the following types of insurance:

(1) Workmen's compensation and occupational disease insurance in amounts to satisfy State law;

(2) Employer's liability insurance in the minimum amount of $100,000 per occurrence;

(3) Comprehensive general liability insurance for bodily injury, death or loss of or damage to property of third persons in the minumum amount of $1,000,000 per occurrence;

(4) When vessels are used in the performance of the contract, vessel collision liability and protection and indemnity liability insurance in such amounts as the Contracting Officer may require or approve: provided, that the Contractor may, with the approval of the contracting Officer, maintain a self-insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form and for such periods of time as the Contracting Officer may, from time to time, require or approve and with insurers approved by the Contracting Officer.

(c) The Contractor agrees, to the extent and in the manner required by the contracting Officer, to submit for the approval of the contracting Officer any other insurance maintained by the contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(d) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance (including reserves for self-insurance) as required or approved pursuant to the provisions of this contract clause.

(e) The Government will hold harmless and indemnify the contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. Reimbursement for such liabilities to third persons will not cover liabilities for which the contractor has failed to insure as required or to maintain insurance as approved by the Contracting Officer. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(g) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions in this clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishings of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. Similar indemnification may be provided for subcontractors at any time upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Government will indemnify the Contractor with respect to his obligations to subcontractors under such subcontract provisions. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(h) If insurance coverage required or approved by the Contracting Officer is reduced without the Contracting Officer's approval, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(i) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Government; and

(3) Immediately furnish the Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(j) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Government. This agreement to reimburse the Contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.228-71 Insurance—liability to third persons—state or local governments.

As prescribed in 1528.311-70, insert the following contract clause in contracts with State or local Governments when routine (nonemergency) removal or remedial action is being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

Insurance—Liability to Third Persons—State or Local Governments (Apr 1984)

(a) The Contractor shall procure and maintain such insurance as the Contracting Officer may, from time to time, require with respect to performance of this contract.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract (including any self-insurance) and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance (including reserves for self-insurance) as required or approved pursuant to the provisions of this contract clause.

(d) The Federal Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. Reimbursement for such liabilities to third persons will not cover liabilities for which the Contractor has failed to insure as required or to maintain insurance as approved by the Contracting Officer. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(e) The Federal Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(f) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions in this contract clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this contract clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contracting Officer of any claim or action against the subcontractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Federal Government will indemnify the Contractor with respect to its obligations to subcontractors under such subcontract provisions. The Federal Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(g) If insurance coverage required or approved by the Contracting Officer is reduced without the Contracting Officer's approval, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(h) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Federal Government; and

(3) Immediately furnish the Federal Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Federal Government's directions, and execute any authorizations required in regard to such settlement or defense.

(i) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Federal Government. This agreement to reimburse the Contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.228-72 Insurance—liability to third persons—commercial organizations (emergency).

As prescribed in 1528.311-70, insert the following contract clause in contracts with commercial organizations when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

Insurance—Liability to Third Persons—Commercial Organizations (Emergency) (Apr 1984)

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including that required by FAR Part 28 in effect as of the date of execution of this contract, and any such insurance as the Contracting Officer may, from time to time, require with respect to performance of this contract.

(b) At a minimum, the Contractor shall procure and maintain the following types of insurance:

(1) Workmen's compensation and occupational disease insurance in amounts to satisfy state law;

(2) Employer's liability insurance;

(3) Comprehensive general liability (bodily injury) insurance;

(4) Comprehensive automobile liability (bodily injury and property damage) insurance;

(5) When aircraft are used in the performance of the contract, aircraft public and passenger liability insurance; and

(6) When vessels are used in the performance of the contract, vessel collision liability and protection and indemnity liability insurance: Provided, that the Contractor may maintain a self-insurance program.

(c) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance maintained by the Contractor, including reserves for self-insurance.

(d) The Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(e) The Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(f) The Contractor may include in any subcontract under this contract the same provisions in this contract clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this contract clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contracting Officer of any claim or action against the subcontractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Government will idemnify the Contractor with respect to his obligations to subcontractors under such subcontract provisions. The Government may may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(g) If insurance maintained by the Contractor is reduced, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(h) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Government; and

(3) Immediately furnish the Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assistant the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(i) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilties are represented by final judgments or by settlements approved in writing by the Government. This agreement to reimburse the Contractor for certain liabilities shall not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.228-73 Insurance—Liability to third persons—state or local governments (emergency).

As prescribed in 1528.311-70, insert the following contract clause in contracts with State or local governments when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

Insurance—Liability to Third Persons—State or Local Governments (Emergency) (Apr 1984)

(a) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance maintained by the Contractor, including reserves for self-insurance.

(b) The Federal Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(c) The Federal Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(d) The Contractor may include in any subcontract under this contract the same provisions in this contract clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this contract clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contracting Officer of any claim or action against the subcontractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Federal Government will indemnify the Contractor with respect to its obligations to subcontractors under such subcontract provisions. The Federal Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(e) If insurance maintained by the Contractor is reduced, the liability of the Federal Government under this contract clause shall not be increased by reason of such reduction.

(f) The contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Federal Government; and

(3) Immediately furnish the Federal Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Federal Government's directions, and execute any authorizations required in regard to such settlement or defense.

(g) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Federal Government. This agreement to reimburse the Contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.232-70 Application of Prompt Payment Act—contracts with advance, progress, or provisional payments.

As prescribed in 1532.7003(a), insert the following contract clause in contracts authorizing advance, progress, or provisional payments.

Application of Prompt Payment Act—Contracts With Advance, Progress, or Provisional payments (Apr 1984)

The provisions of the Prompt Payment Act, Pub. L. 97-177 (96 Stat. 84, 31 U.S.C. 1801-06) apply only to the final payment to be made following completion of the services required by the Statement of Work. Provisional and progress payments made during performance of the contract are not subject to interest on overdue payments.

(a) Payment due date.

(1) A final voucher for the balance of the contract shall be submitted by the Contractor together with appropriate contractor releases of claims. This final voucher, if a proper voucher, shall be paid within 30 days of actual receipt in the office designated to review the invoice.

(2) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(b) Invoices.

(1) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice under a cost-reimbursement contract must be proper in accordance with EPA Form 1900-34, "Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Reimbursement Type Contracts" or EPA Form 1900-34A, "Guide for the Preparation of Contractor's Claims for Reimbursement of

Costs and Fees Under Cost-Plus-Award-Fee (CPAF) Type Contracts," and include as applicable the following:

(i) Invoice date;

(ii) Name of contractor;

(iii) Contract number (including order number, if any), contract line item number, contract description of supplies or services, quantity, contract unit of measure or unit price, and extended total;

(iv) Shipment number and date of shipment (bill of lading number and weight of shipment will be shown for shipments on Government bills of lading);

(v) Name and address to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(vi) Any other information or documentation required by other provisions of the contract (such as evidence of shipment);

(vii) If a cost-reimbursement term form contract with work assignments, a summary of amounts claimed against each work assignment;

(viii) If an indefinite delivery/indefinite quantity contract, a summary of amounts claimed against each delivery order.

(2) Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified.

(c) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Pub. L. 97-177):

(1) A proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment terms (e.g., "net 20") offered by the Contractor will not be deemed "required payment dates"; and

(3) The following periods of time will not be included:

(i) After receipt of an imporper invoice and prior to notice of any defect or impropriety, but not to exceed fifteen (15) days (or any lesser period established by this contract);

(ii) Between the date of a notice of any defect or impropriety and the date a proper invoice is received. (When the notice is in writing, it shall be considered made on the date shown on the notice.)

(End of clause)

1552.232-71 Application of the Prompt Payment Act—contract with f.o.b. destination deliverables.

As prescribed in 1532.7003(b), insert the following contract clause in contracts when there is an f.o.b. destination deliverable and no progress payments are involved. The 30th calendar day in (a)(1) of the clause may be altered to reflect the need for some other number of days. The number of days necessary for inspection, acceptance, and other necessary actions should be inserted in (a)(2).

Application of the Prompt Payment Act—Contract With f.o.b. Destination Deliverables (Apr 1984)

(a) Payment due date.

(1) Payments under this contract will be due on the 30th calendar day after the later of:

(i) The date of actual receipt of a proper invoice in the office designated to receive the invoice; or

(ii) The date the supplies, reports, and/or services are accepted by the Government.

(2) For the purposes of determining the due date for payment and for no other purpose, acceptance will be deemed to occur on the _____ calendar day after the date of delivery of the supplies in accordance with the terms of the contract.

(3) If the supplies are rejected for failure to conform to the technical requirements of the contract, or for damage in transit or otherwise, the provisions in paragraph (2) of this contract clause will apply to the new delivery of replacement supplies.

(4) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(b) Invoices.

(1) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice must include as applicable the following:

(i) Invoice date;

(ii) Name of contractor;

(iii) Contract number (including order number, if any), contract line item number, contract description of supplies or services, quantity, contract unit of measure or unit price, and extended total;

(iv) Shipment number and date of shipment (bill of lading number and weight of shipment will be shown for shipments on Government bills of lading);

(v) Name and address to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(vi) Any other information or documentation required by other provisions of the contract (such as evidence of shipment).

(2) Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified to the accounting operations specified in block (12 of SF 26 or 25 on SF 33). The Contractor should submit any questions concerning payment of invoices to the accounting operations officer.

(c) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Pub. L. 97-177):

(1) A proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment terms (e.g., "net 20") offered by the Contractor will not be deemed "required payment dates"; and

(3) The following periods of time will not be included: after receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed fifteen (15) days (or any lesser period established by this contract); or between the date of a notice of any defect or impropriety and the date a proper invoice is received. (When the notice is in writing, it shall be considered made on the date shown on the notice.)

(End of clause)

1552.232-72 Application of the Prompt Payment Act—contracts with f.o.b. origin deliverables.

As prescribed in 1532.7003(c), insert the following contract clause in contracts when there is an f.o.b. origin deliverable and no advance, provisional, or progress payments are involved.

Application of the Prompt Payment Act—Contracts With f.o.b. Origin Deliverables (Apr 1984)

(a) Payments under this contract will be due on the 30th calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice.

(b) The date of the check issued in payment shall be considered to be the date payment is made.

(End of clause)

1552.232-73 Payments—fixed-rate services contract.

As prescribed in 1532.111, insert the following in indefinite delivery/indefinite quantity contracts with fixed services rates.

Payments—Fixed-Rate Services Contract (Apr 1984)

The Government shall pay the Contractor as follows upon the submission of invoices or vouchers approved by the Contracting Officer:

(a) Hourly rate.

(1) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expenses, and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the paying office. The Contractor shall substantiate vouchers by evidence of actual payment and by individual daily job, timecards, or other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract and subject to the terms of (e) below, pay the voucher as approved by the Contracting Officer.

(2) Unless otherwise prescribed in the Schedule, the Contracting Officer shall withhold 5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed $50,000. The amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) below.

(3) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.

If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the "Disputes" clause of this contract. If the Schedule provides rates for overtime the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) Materials, other direct costs, and subcontracts.

(1) The allowability of direct materials and other direct costs shall be determined by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract. Reasonable and allocable material handling costs or indirect costs may be included in the charge for material or other direct costs to the extent they are clearly excluded from the hourly rate. Material handling and/or indirect cost rates are specified in the "Indirect Costs" clause. Material handling costs are comprised of indirect costs, including, when appropriate, general and administrative expense allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with Subpart 31.2 of the FAR. The Contractor shall be reimbursed for items and services purchased directly for the contract only when cash, checks, or other forms of actual payment have been made for such purchased items or services. Direct materials or other direct costs, as used in this clause, are those items which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of the end product.

(2) Subcontracted effort may be included in the fixed hourly rates discussed in paragraph (a)(1) above and will be reimbursed as discussed in that paragraph. Otherwise, the cost of subcontracts that are authorized under the subcontracts clause of this contract shall be reimbursable costs under this clause provided that the costs are consistent with subparagraph (3) below. Reimbursable costs in connection with subcontracts shall be limited to the amounts paid to the subcontractor in the same manner as for items and services purchased directly for the contract under subparagraph (1) above; however, this requirement shall not apply to a Contractor that is a small business concern. Reimbursable costs shall not include any costs arising from the letting, administration, or supervision of performance of the subcontract, if the costs are included in the hourly rates payable under (a)(1) above.

(3) To the extent able, the Contractor shall (i) obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and (ii) take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. Credit shall be given to the Government for cash and trade discounts, rebates, allowances, credits, salvage, the value of any appreciable scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

(4) If the nature of the work to be performed requires the Contractor to furnish material which is regularly sold to the general public in the normal course of business by the Contractor, the price to be paid for such material, notwithstanding (b)(1) above, shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Government; provided, that in no event shall such price be in excess of the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

(c) Contracting Officer notification. For contract administration purposes, the Contractor shall notify the Contracting Officer in writing when the total value of all delivery orders issued exceeds 85 percent of the maximum price specified in the schedule.

(d) Maximum amount. The Government shall not be obligated to pay the Contractor any amount in excess of the maximum amount in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the maximum amount set forth in the Schedule, unless or until the Contracting Officer shall have notified the Contractor in writing that the maximum amount has been increased and shall have specified in the notice a revised maximum that shall constitute the maximum amount for performance under this contract. When and to the extent that the maximum amount set forth in the Schedule has been increased, any hours expended, and material or other direct costs incurred by the Contractor in excess of the maximum amount before the increase, shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the maximum amount.

(e) Audit. At any time before final payment under this contract, the Contracting Officer may request audit of the invoices or vouchers and substantiating material. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices or vouchers, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of (f) and (g) below), the Government shall promptly pay any balance due the Contractor. The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event, later than one year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(f) Assignment. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(g) Refunds. The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest) in form and substance satisfactory to the Contracting Officer.

(End of clause)

1552.235-70 Screening business information for claims of confidentiality.

As prescribed in 1535.007-70(a), insert the following contract clause in all types of contracts when the Contracting Officer has determined that during performance of this contract, the Contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confidential by the business that has the right to the information. The following clause enables EPA to resolve any claims of confidentiality concerning the

information that the Contractor will furnish under a contract. The clause entitled "Treatment of Confidential Business Information" shall also be included in the contract:

Screening Business Information for Claims of Confidentiality (Apr 1984)

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the U.S. Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(C) The contractor shall, in accordance with FAR Part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.

(ii) Upon receiving the information, the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor collect information.

(End of clause)

1552.235-71 Treatment of confidential business information.

As prescribed in 1535.007-70(b), insert the following contract clause in all types of contracts when the Contracting Officer has determined that in the performance of a contract, EPA may furnish confidential business information to the Contractor that EPA obtained under the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), or the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). EPA regulations on confidentiality of business information in 40 CFR Part 2 Subpart B require that the Contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the Contractor:

Treatment of Confidential Business Information (Apr 1984)

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the confidential information only under the following conditions:

(1) The Contractor and Contractor's Employees shall: (i) use the confidential information only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(4) The Contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates.

(b) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of confidential business information by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded, pursuant to this contract, that require the furnishing of confidential business information to the subcontractor.

(End of clause)

1552.235-72 Data security—FIFRA and/or TSCA confidential business information.

As prescribed in 1535.007-70(c), insert the following contract clause when the contract involves access to confidential business information related to either the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) or the Toxic Substances Control Act (TSCA) and the "Treatment of Confidential Business Information" clause (1552.235-71) and the "Screening Business Information for Claims of Confidentiality" clause (1552.235-70) are also used.

Data Security—FIFRA and/or TSCA Confidential Business Information (Apr 1984)

The Contractor shall handle Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) and/or Toxic Substances Control Act (TSCA) confidential business information in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality," the provisions set forth below, and the Contractor's approved detailed security plan.

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor shall protect the confidential business information and confidential business information used in its computer operations in accordance with the following requirements.

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the Contractor's security plan(s) approved by EPA.

(2) The Contractor shall, upon request by the Contracting Officer, permit access to and inspection of the Contractor's facilities in use under this contract by representatives of

EPA's Assistant Administrator for Administration and Resources Management, EPA's Program Support Division of the Office of Pesticide Programs, EPA's Management Support Division of the Office of Toxic Substances, EPA's Management Information System Division or by the Project Officer.

(3) The Contractor Document Control Officer (DCO) shall obtain a signed copy of the FIFRA/TSCA "Contractor Employee Confidentiality Agreement" from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(b) The Contractor agrees that these requirements concerning protection of confidential business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(c) The Contractor understands that confidential business information obtained by EPA under the Fungicide, Insecticide, and Rodenticide Act and/or the Toxic Substances Control Act may not be disclosed except as authorized by the Act(s), and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in FIFRA [7 U.S.C. 136h(f)] and/or TSCA [15 U.S.C. 2613(d)]. For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those disclosures set forth in the clause entitled "Treatment of Confidential Business Information."

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of confidential business information to the subcontractor.

(e) The Contractor shall return all logs and employee confidentiality agreements to EPA at the end of the contract.

(f) If, subsequent to the date of this contract, the Government changes the security requirements, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(End of clause)

1552.236-70 Samples and certificates.

As prescribed in 1536.521, insert the following contract clause in construction contracts.

Samples and Certificates (Apr 1984)

When required by the specifications or the Contracting Officer, samples, certificates, and test data shall be submitted after award of the contract, prepaid, in time for proper action by the Contracting Officer or his/her designated representative. Certificates and test data shall be submitted in triplicate to show compliance of materials and construction specified in the contract performance requirements. Samples shall be submitted in duplicate by the Contractor, except as otherwise specified, to show compliance with the contract requirements. Materials or equipment for which samples, certifications or test data are required shall not be used in the work until approved in writing by the Contracting Officer.

(End of clause)

1552.236-71 Additive or deductive items.

As prescribed in 1536.570, insert the following solicitation provision in Invitations for Bids for construction that provides for additive or deductive items.

Additive or Deductive Items (Apr 1984)

The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the base bid item, plus or minus (in the order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added if award thereon can be made within such funds.

For example, when the amount available is $100,000 and a bidder's base bid and four successive additives are $85,000, $10,000, $8,000, $6,000, and $4,000, the aggregate amount of the bid for purposes of award would be $99,000 for the base bid plus the first and fourth additives, the second and third additives being skipped because each of them would cause the aggregate bid to exceed $100,000. In any case, all bids shall be evaluated on the basis of the same additive or deductive bid items, determined as above provided. The listed order or priority need be followed only for determining the low bidder. If the amount of funds determined and recorded in the contract file by the Contracting Officer as available for the project prior to the opening of bids proves insufficient so as to preclude an award, the low bidder for purposes of award shall be the conforming responsible bidder offering the low amount for the base bid item, exclusive of any additive or deductive items. After determination of the low bidder as stated, award in the best interests of the Government may be made on the selected base bid and any combination of additive or deductive items for which funds are determined to be available at the time of the award, provided that award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items. After the contract has been awarded, any work which should have been part of the contract offered by the solicitation originally (i.e., any additive or deductive item) may be procured by any one of the following methods of procurement listed in descending order of priority:

(a) Competition resulting in a new contract.

(b) Negotiation of a supplemental agreement to the existing contract.

(c) Negotiation of a new contract pursuant to 41 U.S.C. 252(c)(10)(a)(15) as implemented by FAR 15.210(b)(17).

(End of provision)

1552.237-70 Contract publication review procedures.

As prescribed in 1537.110, insert the following contract clause when the products of the contract are subject to contract publication review.

Contract Publication Review Procedures (Apr 1984)

(a) Material generated under this contract intended for release to the public is subject to the Agency's publication review process in accordance with the EPA Order on this subject and the following.

(b) Except as indicated in paragraph (c) below, the Contractor shall not independently publish or print material generated under this contract until after completion of the EPA review process. The Project Officer will notify the Contractor of review completion within —— calendar days after the Contractor's transmittal to the Project Officer of material generated under this contract. If the Contractor does not receive Project Officer notification within this period, the Contractor shall immediately notify the Contracting Officer in writing.

(c) The Contractor may publish, in a scientific journal, material resulting directly or indirectly from work performed under this contract, subject to the following:

(1) The Contractor shall submit to the Contracting Officer and the Project Officer, at least 30 days prior to publication, a copy of any paper, article, or other dissemination of information intended for publication.

(2) The Contractor shall include the following statement in a journal article which has not been subjected to EPA review: "Although the research described in this article has been funded wholly or in part by the United States Environmental Protection Agency contract (number) to (Name of Contractor), it has not been subject to the Agency's review and therefore does not necessarily reflect the views of the Agency, and no official endorsement should be inferred."

(3) Following publication of the journal article, the Contractor shall submit five copies of the journal article to the Project Officer, and one copy to the Contracting Officer.

(d) If the Government has completed the review process and agreed that the contract material may be attributed to EPA, the Contractor shall include the following statement in the document:

This material has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name). It has been subject to the Agency's review, and it has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(e) If the Government has completed the review process, but decides not to publish the material, the Contractor may independently publish and distribute the material for its own use and its own expense, and shall

include the following statement in any independent publication:

Although the information described in this article has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name), it does not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(End of clause)

1552.237-71 Technical direction.

As prescribed in 1537.110, insert the following contract clause in cost-reimbursement contracts.

Technical Direction (Apr 1984)

(a) The Project Officer will provide technical direction on contract performance. Technical direction includes:

(1) Direction to the Contractor which assists him in accomplishing the Statement of Work.

(2) Comments on and approval of reports or other deliverables.

(b) Technical direction must be within the contract Statement of Work. The Project Officer does not have the authority to issue technical direction which (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract.

(c) Technical direction will be issued in writing by the Project Officer or confirmed by him in writing within five (5) calendar days after verbal issuance.

(End of clause)

1552.237-72 Key personnel.

As prescribed in 1537.110, insert the following contract clause when it is necessary for contract performance to identify Contractor key personnel.

Key Personnel (Apr 1984)

(a) The Contractor shall assign to this contract the following key personnel:

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

(End of clause)

1552.237-73 Consultant services and consent.

As prescribed in 1537.110, insert the following contract clause in contracts where the services of consultants are required. Enter "none" in paragraph (b) if consent is not given for one or more consultants at the time of award.

Consultant Services and Consent (Apr 1984)

(a) The Contractor shall obtain the consent of the Contracting Officer prior to using any consultant on this contract. The Contractor shall determine whether any consultant that is used has in effect an agreement with another Federal agency for similar or like services and, if so, shall notify the Contracting Officer.

(b) The Contractor may use the following consultants for the period of time at the rate shown.

Name	Number of (days) (hours)	Not to exceed the (daily) (hourly) rate of
		$.....
		$.....

(End of clause)

1552.237-74 Publicity.

As prescribed in 1537.110, insert the following contract clause in contracts pertaining to the removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) ("Super Fund") program. The term "on-scene coordinator" may be substituted with "Project Officer."

Publicity (Apr 1984)

(a) The Contractor agrees to notify and obtain the verbal approval of the on-scene coordinator (or Project Officer) prior to releasing any information to the news media regarding the removal or remedial activities being conducted under this contract.

(b) It is also agreed that the Contractor shall acknowledge EPA support whenever the work funded in whole or in part by this contract is publicized in any news media.

(End of clause)

1552.237-75 Paperwork Reduction Act.

As prescribed in 1537.110, insert this contract clause in any contract requiring the collection of identical information from ten (10) or more public respondents.

Paperwork Reduction Act (Apr 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting officer that the required Office of Management and Budget (OMB) final clearance was received.

(End of Clause)

1552.242-70 Indirect costs.

As prescribed in 1542.705-70, insert the following clause in all cost-reimbursement type contracts. If ceilings are not being established, enter "not applicable" in (c).

Indirect Costs (Apr 1984)

(a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following designated Contracting Officer: Environmental Protection Agency, Chief, Cost Policy and Rate Negotiation Section (PM-214-F), Procurement and Contracts Management Division, Washington, DC 20460.

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an executed Certificate of Current Cost or Pricing Data (see FAR 15.804-4) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

(b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, subject to adjustment when the final rates are established. The established billing rates are currently as follows:

Cost center	Period	Rate	Base

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the

Contractor, to prevent substantial overpayment or underpayment.

(c) Notwithstanding the provisions of paragraphs (a) and (b) above, ceilings are hereby established on indirect costs reimbursable under this contract. The Government shall not be obligated to pay the Contractor any additional amount on account of indirect costs in excess of the ceiling rates listed below:

Cost center	Period	Rate	Base

(End of clause)

1552.245-70 Decontamination of government property.

As prescribed in 1545.106(a) and 1545.303-71, insert the following contract clause when it is anticipated that a Contractor will use Government-furnished or Contractor-acquired property in the cleanup of hazardous or toxic substances in the environment.

Decontamination of Government Property (Apr 1984)

In addition to the requirements of the "Government Property" clause, the Contractor shall certify in writing that any Government-furnished property or Contractor-acquired property is returned to the Government free from contamination by any hazardous or toxic substances.

(End of clause)

1552.245-71 Government-furnished data.

As prescribed in 1545.106(b), insert the following contract clause in any contract that the Government is to furnish the Contractor data. Identify in the clause the data to be provided.

Government-furnished data (Apr 1984)

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The following data will be furnished to the Contractor on or about the time indicated:

_____

_____

_____

(End of clause)

1552.245-72 Fabrication or acquisition of nonexpendable property.

As prescribed in 1545.106(c), insert the following contract clause in all cost-reimbursement type contracts or contracts with cost-reimbursement portions.

Fabrication or acquisition of nonexpendable property (Apr 1984)

The Contractor shall not fabricate nor acquire under this contract, either directly or indirectly through a subcontract, any item of nonexpendable property without written approval from the Contracting Officer.

(End of clause)

1552.246-70 Quality Assurance (QA) Program plan.

As prescribed in 1546.201(b), insert the following solicitation provision in Requests for Proposals if a program plan is required. A QA program plan is a general statement of an offeror's capability for QA.

Quality Assurance (QA) Program Plan (Apr 1984)

Each offeror, as a separate and identifiable part of its technical proposal, shall submit a Quality Assurance (QA) program plan setting forth the offeror's capability for quality assurance. The plan shall address the following:

(a) A statement of policy concerning the organization's commitment to implement a Quality Control/Quality Assurance program to assure generation of measurement data of adequate quality to meet the requirements of the Statement of Work.

(b) An organizational chart showing the position of a QA function or person within the organization. It is highly desirable that the QA function or person be independent of the functional groups which generate measurement data.

(c) A delineation of the authority and responsibilities of the QA function or person and the related data quality responsibilities of other functional groups of the organization.

(d) The type and degree of experience in developing and applying Quality Control/Quality Assurance procedures to the proposed sampling and measurement methods needed for performance of the Statement of Work.

(e) The background and experience of the proposed personnel relevant to accomplish the QA specifications in the Statement of Work.

(f) The offeror's general approach for accomplishing the QA specifications in the Statement of Work.

(End of provision)

1552.246-71 Quality Assurance (QA) Project Plan.

As prescribed in 1546.201(c)(1), insert the following solicitation provision in Requests for Proposals when a QA project plan is required as part of the proposal submission. A QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specifications in a Statement of Work. When offerors are required to submit a project plan, a program plan may or may not be required. The project plan may be a part of an offeror's technical proposal, or a deliverable under the contract.

Quality Assurance (QA) Project Plan (Apr 1984)

The offeror, as a separate and identifiable part of its technical proposal, shall submit a Quality Assurance (QA) project plan which shall prescribe specific procedures and responsibilities needed to accomplish the QA specifications in the Statement of Work. The project plan shall consist of the following form and content:

(a) Title page, with provision for approval signatures.

(b) Table of contents.

(c) Project description.

(d) Project organization(s) and responsibilities.

(e) Quality Assurance objectives for measurement data, in terms of precision, accuracy, completeness, representativeness and comparability.

(f) Sampling procedures.

(g) Sample custody.

(h) Calibration procedures, references, and frequency.

(i) Analytical procedures.

(j) Data reduction, validation, and reporting.

(k) Internal quality control checks and frequency.

(l) Quality assurance performance audits, system audits, and frequency.

(m) Quality Assurance reports to management.

(n) Preventive maintenance procedures and schedules.

(o) Specific procedures to be used in routinely assessing data precision and accuracy, representativeness, comparability, and completeness of the specific measurement parameters involved.

(p) Correction action.

(End of provision)

1552.246-72 Quality Assurance (QA) Project Plan documentation.

As prescribed in 1546.201(c)(2), insert the following clause in negotiated contracts when QA Project Plan Documentation is needed. A QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specifications in a Statement of Work. When offerors are required to submit a project plan, a program plan may or may not be required. When a QA project plan was not a required part of the technical proposal, the project plan may be required as a deliverable under the contract by use of the following. However, the Statement of Work must contain a specification for the form and content of the project plan before this paragraph may be used.

Quality Assurance (QA) Project Plan Documentation (Apr 1984)

(a) The Contractor shall submit to the Project Officer —— copies of a Draft Project Plan for Quality Assurance within —— days after the effective date of the contract.

(b) The Government will review and return the Draft Project Plan indicating approval or disapproval, and comments, if necessary, within ——— calendar days. In the event the government delays review and return of the Draft Project Plan beyond the period specified, the Contractor shall immediately notify the Contracting Officer in writing. The Contractor shall deliver the Final Project Plan within ——— days after the effective date of the contract.

(c) The Contracting Officer will incorporate the approved Quality Assurance Project Plan into the contract.

(End of clause)

PART 1553—FORMS

Sec.

1553.000 Scope of part.

Subpart 1553.2—Prescription of Forms

1553.209 Contractor qualifications.
1553.209–70 EPA Form 1900–26, Contracting Officer's Evaluation of Contractor Performance.
1553.209–71 EPA Form 1900–27, Project Officer's Evaluation of Contractor Performance.
1553.213 Small purchases and other simplified purchase procedures.
1553.213–70 EPA Form 1900–8, Procurement Request/Order.
1553.216 Types of contracts.
1553.216–70 EPA Form 1900–41A, CPAF Contract Summary of Significant Performance Observation.
1553.216–71 EPA Form 1900–41B, CPAF Contract Individual Performance Event.
1553.232 Contract financing.
1553.232–70 EPA Form 1900–3, Assignee's Release.
1553.232–71 EPA Form 1900–4, Assignee's Assignment of Refunds, Rebates, Credits and Other Amounts.
1553.232–72 EPA Form 1900–5, Contractor's Assignment of Refunds, Rebates, and Credits.
1553.232–73 EPA Form 1900–6, Contractor's Release.
1553.232–74 EPA Form 1900–10, Contractor's Cumulative Claim and Reconciliation.
1553.232–75 EPA Form 1900–34, Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Reimbursement Type Contracts.
1553.232–76 EPA Form 1900–34A, Guide for the Preparation of Contractor's Claims for Reimbursement Under Cost-Plus-Award-Fee (CPAF) Type Contracts.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1553.000 Scope of part.

This Part prescribes Agency forms for use in acquisitions and contains requirements and information generally applicable to the forms.

Subpart 1553.2—Prescription of Forms

1553.209 Contractor qualifications.

1553.209–70 EPA Form 1900–26, Contracting Officer's Evaluation of Contractor Performance.

As prescribed in 1509.170–4(a), EPA Form 1900–26 shall be used by the Contracting Officer to record his/her evaluation of Contractor performance.

1553.209–71 EPA Form 1900–27, Project Officer's Evaluation of Contractor Performance.

As prescribed in 1509.170–4(a), EPA Form 1900–27 shall be used by the Project Officer to record his/her evaluation of Contractor performance.

1553.213 Small purchases and other simplified purchase procedures.

1553.213–70 EPA Form 1900–8, Procurement Request/Order.

As prescribed in 1513.505–2, EPA Form 1900–8 may be used in lieu of Optional Forms 347 and 348 for individual purchases.

1553.216 Types of contracts.

1553.216–70 EPA Form 1900–41A, CPAF Contract Summary of Significant Performance Observation.

As prescribed in 1516.404–278, EPA Form 1900–41A shall be used to document significant performance observations under CPAF contracts

1553.216–71 EPA Form 1900–41B, CPAF Contract Individual Performance Event.

As prescribed in 1516.404–278, EPA Form 1900–41B shall be used to document individual performance events under CPAF contracts.

1553.232 Contract financing.

1553.232–70 EPA Form 1900–3, Assignee's Release.

As prescribed in 1532.805–70(a), the EPA Form 1900–3 is required to be submitted by the assignee for cost-reimbursement contracts prior to final payment under the contract.

1553.232–71 EPA Form 1900–4, Assignee's Assignment of Refunds, Rebates, Credits and Other Amounts.

As prescribed in 1532.805–70(b), the EPA Form 1900–4 must accompany the assignee's release prior to final payment under cost-reimbursement contracts.

1553.232–72 EPA Form 1900–5, Contractor's Assignment of Refunds, Rebates, and Credits.

As prescribed in 1532.805–70(c), the EPA Form 1900–5 must be prepared by the Contractor prior to final payment under cost-reimbursement contracts and must accompany the Contractor's release.

1553.232–73 EPA Form 1900–6, Contractor's Release.

As prescribed in 1532.805–70(d), the EPA Form 1900–6 must be submitted by the Contractor under cost-reimbursement contracts prior to final payment thereunder.

1553.232–74 EPA Form 1900–10, Contractor's Cumulative Claim and Reconciliation.

As prescribed in 1532.170(a), the EPA Form 1900–10 shall be used for an accounting of the cumulative charges and costs for cost-reimbursement contracts from the inception of the contract to completion. It shall be submitted by the Contractor along with the completion voucher.

1553.232–75 EPA Form 1900–34, Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Reimbursement Type Contracts.

As prescribed in 1532.170(b), the Contracting Officer shall insert EPA Form 1900–34 in all cost-reimbursement type contracts awarded to Contractors unfamiliar with the Guide.

1553.232–76 EPA Form 1900–34A, Guide for the Preparation of Contractor's Claims for Reimbursement Under Cost-Plus-Award-Fee (CPAF) Type Contracts.

As prescribed in 1532.170(c), the Contracting Officer shall insert EPA Form 1900–34A in all CPAF contracts awarded to Contractors unfamiliar with the Guide.

[FR Doc. 84–5952 Filed 3–7–84; 8:45 am]

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Thursday, March 8, 1984

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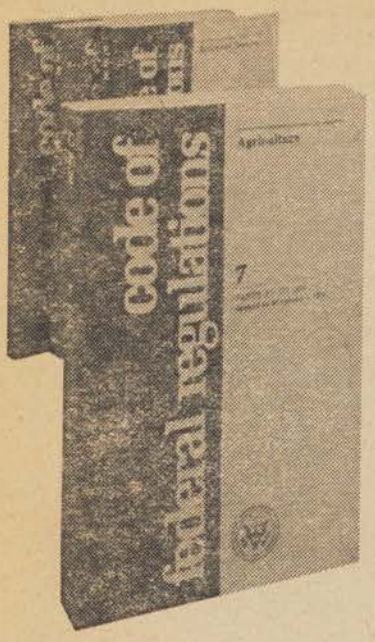
Designating March 6, 1984, as "Frozen Food Day". (Mar. 5, 1984; 98 Stat. 51) Price: $1.50

H.J. Res. 422/Pub. L. 98-227

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