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Thursday
February 17, 1983

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Administrative Practice and Procedure
Veterans Administration

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Communications Common Carriers
Federal Communications Commission

Flood Insurance
Federal Emergency Management Agency

Hazardous Materials
Environmental Protection Agency

Natural Gas
Federal Energy Regulatory Commission

Railroads
Interstate Commerce Commission

Water Pollution Control
Environmental Protection Agency

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Rules and Regulations

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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 month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 566]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 18–24, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on February 15, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is easier.

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

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. § 907.866 is added as follows:

§ 907.866 Navel orange regulation 566.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 18, 1983 through February 24, 1983, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

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

Dated: February 16, 1983.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–4239 Filed 2–16–83; 11:55 am]
BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-60-AD; Amdt. 39-4549]

Airworthiness Directives: Boeing Model 707, 727C, and 727-100C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires inspection and repair if necessary, of the main cargo door structure on certain Boeing Model 707, 727C, and 727–100C series airplanes. The AD is prompted by reports of skin cracking and door frame failures. Failure to detect the cracking prior to reaching critical length could result in rapid decompression or loss of a portion of the main cargo door.

DATE: Effective March 21, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, to the main cargo door on certain Boeing Model 707 and 727 series airplanes was published in the **Federal Register** on September 7, 1982 (47 FR 39189). The comment period for the proposal closed on November 8, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

The Air Transport Association of America (ATA) commenting on behalf of its member operators requested that the comment period be extended to February 22, 1983. The ATA stated that this would give industry and the FAA time to review the B727 Supplemental Structural Inspection Document (SSID) presently in development. The FAA does not concur. It has been previously established and is well documented that the structural details covered by the SSID are only those details for which there are no known fatigue cracking history. The fatigue cracking history of the main cargo door skin is well established. As such, the inspection of the affected structure will not be included in the SSID.

The ATA also stated that the proposed AD does not conform with the policy set forth in the FAA letter to the ATA dated June 16, 1982. That letter stated that acceptable incorporation of the SSID items, which are covered by an AD, into the approved airplane maintenance program of an operator constitutes an approved alternate means of AD compliance for these items. This procedure was also recognized in NPRM Docket No. 81-NW-17-AD on Boeing Model 707/720 service bulletin related SSID items. The ATA requested that this procedure be followed for the B707 cargo door skin structure. The FAA concurs. The AD, as adopted, recognizes the approved incorporation of Boeing Model 707/720 SSID as an acceptable alternate means of compliance for B707/720 airplanes.

One commenter stated that it has been inspecting the affected structure on its airplanes, using eddy current techniques, for ten years at intervals of approximately 2000 to 2300 landings. It was stated that there have been no adverse findings. The commenter, therefore, objected to the initial 500 landing threshold and the 750 landing repeat interval. The FAA does not concur. Althouth it is not possible to predict the initiation of fatigue damage, it is possible to estimate the rate of growth of such damage once it has been initiated. The manufacturer in assessing the reported fatigue damage to this structure evaluated the crack growth characteristics of the structure. The inspection times listed in the AD reflect the results of this evaluation. These times ensure that once cracks initiate there will be sufficient opportunities to detect the cracks prior to them reaching critical dimensions.

The manufacturer commented that it had reviewed the service history of the B707 and B727 main cargo door structure and this revealed that the only instance of basic fatigue cracking occurred at approximately 27,000 landings. With approximately sixty percent of the fleet currently exceeding 25,000 landings, the manufacturer believed that its original recommendation of a 10,000 landing threshold was unduly conservative. It recommended that the threshold be changed to 25,000 landings. The FAA concurs that service history supports this threshold and that air safety would not be adversely affected. Therefore, the AD as adopted reflects this change.

There are approximately 147 B707 and 81 B727 airplanes totaling 228 airplanes of U.S. registry which are affected by this AD. Any one of three inspection methods (visual, eddy current or X-ray) is acceptable; however, an X-ray inspection is the most expensive. It is estimated that an X-ray inspection requires three manhours per airplane. It is further estimated that labor cost is $40 per manhour. Based on these figures, the total labor cost impact of this AD per inspection cycle is estimated to be $29,000 if all operators elect to use the more expensive X-ray inspection method. For these reasons, the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Models 707, 727C, and 727-100C series airplanes certificated in all categories listed in Boeing Service Bulletins Number 2999, Revision 3; and Number 727-52-79, Revision 4; or later FAA approved revisions.

Compliance required as indicated unless already accomplished.

To detect cracking of the main cargo door skin and frames and to prevent rapid decompression or loss of a portion of the door accomplish the following in accordance with Boeing Service Bulletins Number 2999, Revision 3; or Number 727-52-79, Revision 4; or later FAA approved revisions.

A. Within the next 500 landings after the effective date of this AD, or prior to accumulating 25,000 landings, whichever occurs later, inspect for cracks in the main cargo door skin between B.S. 505 and B.S. 595 from the lower edge of the door hinge downwards a minimum of six inches, and six inches above and three inches below the center line of stringer 10. Inspect visually or by using eddy current or X-ray procedures as specified in the applicable service bulletin.

B. Repeat the inspections at intervals not to exceed one of the following until the airplane is modified in accordance with the applicable service bulletin listed in paragraph D:

1. 500 landings, if visually inspected, or
2. 750 landings, if eddy current inspected, or
3. 1,000 landings, if X-ray inspected.

C. Cracks are to be repaired prior to further pressurized flight in accordance with the following service bulletins:

1. For Boeing Model 707/720 series airplanes: Boeing Service Bulletin No. 2999, Revision 3, or later FAA approved revisions.
2. For Boeing Models 727C and 727-100C series airplanes: Boeing Service Bulletin No. 727-52-79, Revision 4, or later FAA approved revisions.

D. Modification in accordance with the Boeing Service Bulletin listed in paragraph C. or later FAA approved revisions constitutes terminating action for this AD.

E. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

F. Aircraft may be ferried to a maintenance base for repair in accordance with FAR Sections 21.197 and 21.199.

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

Note.—Acceptable incorporation of the Boeing Model 707/720 Supplemental Structural Inspection Document (SSID) into the approved airplane maintenance program of a B707/720 operator constitutes an approved alternate means of AD compliance for B707/720 airplanes.

The manufacturer's specifications and procedures identified and described in this directive 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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be

examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 21, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the critieria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3956 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-59-AD; Amdt. 39-4548]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection and repair, if necessary, of the forward cargo compartment sidewall frames on certain Boeing Model 727 series airplanes. The AD is prompted by reports of fatigue cracks on the B727 fatigue test airplane and on in-service B727 airplanes. Recently, severe fatigue damage has been reported on multiple frames on Boeing Model 737 airplanes and was the subject of a separate AD. The cargo compartment frames on the B737 and B727 are of very similar construction. This action is necessary to ensure the structural integrity of the forward fuselage of the B727.

DATES: Effective March 21, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, of the forward cargo compartment sidewall frames on certain Boeing Model 727 series airplanes was published in the **Federal Register** on August 23, 1982 (47 FR 36653). The comment period for the proposal closed on October 22, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

The Air Transport Association of America (ATA) commenting on behalf of its member operators requested that the comment period be extended to February 22, 1983. The ATA stated that this would give industry and the FAA time to review the B727 Supplemental Structural Inspection Document (SSID) presently in development. The FAA does not concur. It has been previously established and is well documented that the structural details covered by the SSID include only those details for which there are no known fatigue cracking histories. The fatigue cracking history of the forward cargo compartment frames of the B727 is well established. As such, the inspection of the affected frames will not be included in the SSID.

One commenter requested that the AD include clarification as to which fairings/panels must be removed to accomplish the external inspection. The AD requires that the external skin be inspected from body station 480 to 680. In the absence of specific instructions from the manufacturer, the AD, as adopted, notes that the procedure for gaining access to areas covered by fairings must be acceptable to either an assigned Principal Maintenance Inspector or the Manager, Seattle Aircraft Certification Office. The commenter also requested that the internal inspection only involve the inner chord with the cargo liner removed. The FAA concurs since the only reported cracks have originated in the inner flange of the frame at the liner attach points. Therefore, it is only necessary to remove or displace the blankets sufficiently to expose the frame down to the fail-safe chord. The AD, as adopted, includes this clarification.

One commenter requested that credit be given for previously accomplished inspections. The FAA concurs that this would not have an adverse effect on safety. Therefore, the AD, as adopted, requires compliance as indicated unless already accomplished.

Several commentors suggested that the initial inspection threshold and the external reinspection interval were too conservative based on their experience and should be relaxed. The FAA does not concur. Reported service experience supports the proposed threshold and review of available crack growth characteristics and detection capabilities support the proposed reinspection interval. If acceptable substantiation is submitted which would support changing these times, this may be done in accordance with paragraph F. of the AD.

It is estimated that 327 airplanes of U.S. registry are affected by this AD, that it will take approximately 76 manhours per airplane to accomplish the required inspections, and that the average labor cost is $40 per manhour. Based on these figures, the total cost impact of the required inspections is estimated to be $994,000. Repair costs have not been included in this estimate since it is not possible to estimate the extent of damage existing in the fleet. For these reasons the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes, line numbers 1 through 478 and 480 certificated in all categories.

Compliance required as indicated unless already accomplished.

To ensure the structural integrity of the forward cargo compartment sidewall frames, accomplish the following:

A. To detect cracks in the forward cargo compartment sidewall frames accomplish one of the following in accordance with Boeing Service Bulletin No. 727-53-68, Revision 2, or later FAA approved revisions:

1. Within the next 2,000 landings after the effective date of this AD or prior to accumulating 15,600 landings, whichever occurs later, and thereafter at intervals not to exceed 4,000 landings, visually inspect externally the forward cargo compartment skins from Body Station 480 to 680 and between stringers 17L and 26L, and 17R and 26R for cracks, or

2. Within the next 2,000 landings after the effective date of this AD or prior to accumulating 15,600 landings, whichever occurs later, and thereafter at intervals not to exceed 9,000 landings, visually inspect internally, the forward cargo compartment sidewall frames from Body Station 480 to 680 for cracks.

Note.—To inspect the frames internally, it is only necessary to remove and/or displace the insulation blankets sufficient to expose the frames down to the fail-safe chord. For external inspections, in lieu of complete fairing removal, the procedure for gaining access to areas covered by fairings must be acceptable to an assigned Principal Maintenance Inspector or the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Repair cracked structure before further pressurized flight in accordance with Boeing Service Bulletin No. 727-53-68, Original Issue, or later FAA approved revisions. Repaired structure shall continue to be inspected in accordance with paragraph A. until the terminating action in paragraph C. is accomplished.

C. Modification of the affected structure in accordance with Accomplishment Instructions, Part I or Part II, as applicable, of Boeing Service Bulletin No. 727-53-68, Original Issue, or later FAA approved revisions, eliminates the repetitive inspection requirements of paragraph A. and constitutes terminating action for the requirements of this AD.

D. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

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

The manufacturer's specifications and procedures identified and described in this directive 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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 21, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the captions "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3955 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-76-AD; Amdt. 39-4550]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires modifications in the area of the wheel well on certain Boeing 747 airplanes. This action is necessary to prevent accumulated water in the wing center section from dripping onto portions of the lateral control system. Freezing of this water has resulted in reduced lateral control capability. There have been twelve instances in service where this occurred, and it was necessary in some cases for the pilot to apply excessive force to control the airplane.

DATE: Effective March 21, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The Boeing service bulletins specified in this AD may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, telephone (206) 767-2516. Mailing address: FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the modification of the existing lateral control system in the wing gear wheel well area on certain Boeing airplanes was published in the **Federal Register** on November 16, 1981 (46 FR 56206). The comment period for the proposal closed on December 31, 1981.

The proposal was prompted by reports of numerous occurrences of binding in the aileron control system. The cause of the binding is the accumulation of ice on the aileron control system in the wing gear wheel well area. This ice is caused by water accumulating in the wing center section, and then dripping through the pressure seals where the aileron cables or speed brake cables pass through the pressure bulkhead, or leaking by the water drain valve onto the aileron control system and freezing. The presence of ice on the aileron control system has resulted in reduced lateral control capability.

Boeing has issued Service Bulletins Number 27-2065, 27-2095, and 27-2161 that direct raising the level of the pressure seals above any possible water accumulation in the wing center section, and Service Bulletin 51-2032 which reduces the possibility of drain leakage. These design improvements prevent water from draining onto the aileron control system. Later production aircraft have an equivalent change incorporated during manufacture.

Since this condition is likely to exist or develop in other airplanes of the same type design, this AD requires modifications of certain Boeing 747 series airplanes within 3000 hours time in service after the effective date of the AD. Each numbered paragraph of this AD lists the service bulletin which identifies the serial numbers of the airplanes affected by that paragraph and the related corrective action.

Interested persons have been afforded an opportunity to participate in the making of this AD. Due consideration has been given to all comments received.

The manufacturer requested that the compliance time be increased to allow adequate time for kits to be made

available. It is estimated that it will require approximately 30 weeks for the kits' delivery. Based on this delivery schedule, the FAA concurs that the 1500 hours time in service compliance time can be increased to 3000 hours time in service without compromising safety, and the rule as adopted incorporates this change.

Comments were received from thirteen operators and the Air Transport Association of America. Their major concern was the proposed compliance time. The FAA believes that the extension of compliance to 3000 hours time in service is sufficient so that no operator will be unduly burdened by it.

It is estimated that 122 airplanes of U.S. registry will be affected by this AD, that it will take approximately 43 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated at $535 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $275,110. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 747 series aircraft certificated in all categories. Serial numbers as indicated in the following service bulletins.

Within the next 3000 hours time in service after the effective date of this AD, unless previously accomplished, modify the aircraft as noted below in accordance with the following service bulletins or later FAA approved revisions:

1. Applies to aircraft listed in Boeing 747 Service Bulletin 27-2065 dated February 22, 1971. To prevent icing of the aileron control cables in the right wing gear wheel well, modify the aircraft in accordance with the Accomplishment Instructions of Boeing 747 Service Bulletin 27-2065 dated February 22, 1971.

2. Applies to aircraft listed in Boeing 747 Service Bulletin 27-2095 dated June 5, 1972. To prevent icing of the aileron control cables in the left wing gear wheel well, modify the aircraft in accordance with the Accomplishment Instructions of Boeing 747 Service Bulletin 27-2095 dated June 5, 1972.

3. Applies to aircraft listed in Boeing 747 Service Bulletin 27-2161 dated March 4, 1977. To prevent icing of the aileron control cables in the left wing gear wheel well, modify the aircraft in accordance with the Accomplishment Instructions of Boeing 747 Service Bulletin 27-2161 dated March 4, 1977.

4. Applies to aircraft listed in Boeing 747 Service Bulletin 51-2032 dated November 20, 1981. To prevent icing of the aileron control cables in the left wing gear wheel well, modify the aircraft by installation of an MS28778-8 "O" ring or replace the knurled nut with an AN818L-10 nut in accordance with Boeing 747 Service Bulletin 51-2032 dated November 20, 1981.

5. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, Northwest Mountain Region.

6. Aircraft may be ferried to a base for maintenance in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

The manufacturer's specifications and procedures identified and described in this directive 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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 21, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION.**"

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3957 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-96-AD; Amdt. 39-4546]

Airworthiness Directives: Gates Learjet Models 24E/F and 25D/F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing AD (81-16-08) to permit installation of FAA approved modifications. AD 81-16-08 restricts the maximum operating altitude to 45,000 feet due to the aircraft's aerodynamic characteristics which make response to certain control system malfunctions more critical at higher altitudes. Installation of the modifications permits removal of the 45,000 feet limitation, thereby allowing the airplane to operate at the maximum certificated altitude of 51,000 feet.

DATE: Effective February 17, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: Gates Learjet Corporation Airplane Modification Kit AMK 81-12, AMK 82-6, AMK 81-13, AMK 82-4, and AAK 82-5 pertain to this matter. These kits may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277; telephone (316) 946-2000.

FOR FURTHER INFORMATION CONTACT: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7008.

SUPPLEMENTARY INFORMATION: AD 81-16-08, Amendment 39-4184 (46 FR 39990, August 6, 1981), was issued because it had been determined that Gates Learjet Models 24E/F and 25D/F aerodynamic response may be such that the crew may not have sufficient time to react in the event of certain malfunctions. It restricted the maximum operation altitude of 45,000 feet and required modification of several flight control systems on Model 25D/F. AD 81-16-08R1, Amendment 39-4295 (47 FR 2477, January 18, 1982), changed the method of how the pitch axis trim actuator could be modified and authorized the airplane modification kit to be installed at a FAA

certificated maintenance repair agency separate from the agencies performing the detail modification of the actuator. AD 81-16-08R2, Amendment 39-4338 (47 FR 9813, March 8, 1982), changed the compliance date from February 28, 1982, to May 31, 1982. This amendment will be AD 81-16-08R3.

Installation of the following modification kits and incorporation of associated Flight Manual Changes reestablish the maximum operating altitude of 51,000 feet.

Gates Learjet Corporation has made available an optional Aircraft Modification Kit AMK 82-6 for affected Model 24E/F, S/N 350, 352, 353, 354, 356, and subsequent, which provides engine stall warning. A prerequisite for installation of AMK 82-6 is prior or concurrent installation of: (1) AMK 81-13 which provides horizontal stabilizer modifications and autopilot improvements, (2) AMK 82-4 which provides reduced autopilot pitch limits, and (3) AAK 82-5 which provides autopilot roll rate limits.

Gates Learjet Corporation has also made available optional Aircraft Modification Kit AMK 81-12, for Model 25D/F, S/N 230 thru 341, and 343 thru 362, which provides engine stall warning (S/N 342, 363, and subsequent have been modified for 51,000 feet operation by the manufacturer). A prerequisite for installation of AMK 81-12 is prior or concurrent installation of: (1) AMK 81-7 (Reference AD 81-16-08) which provides horizontal stabilizer modifications and autopilot improvements for aircraft S/N 230 thru 341 except S/N 337, (2) AMK 82-4 which provides reduced autopilot pitch limits, and (3) AAK 82-5 which provides autopilot roll rate limits.

The following Airplane Flight Manual changes must be incorporated at the time of Kit Installations as follows: (1) Change 9 for Model 24E, (2) Change 7 for Model 24F, (3) Change 8 for Model 25D/F, (4) Airplane Flight Manual Supplement W1018 for Models 24E/F, and (5) Airplane Flight Manual Supplement W1008, Change 1, for Model 25D/F.

Since this amendment provides terminating action, and compliance will impact only those operators desiring to return to the maximum operating altitude of 51,000 feet, it has no adverse economic impact and imposes no additional burden on those persons not choosing to incorporate it. Therefore, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Regulation (14 CFR 39.13) is amended by further amending AD 81-16-08, Amendment 39-4184 (46 FR 39990, August 6, 1981) as amended by Amendment 39-4295 (47 FR 2477, January 18, 1982) and Amendment 39-4338 (47 FR 9813, March 8, 1982), by reidentifying existing paragraphs (E) and (F) as (H) and (I) respectively and adding new paragraphs (E), (F), and (G) as follows:

* * * * *

(E) Operators of Model 24E, and 24F, S/N 350, 352, 353, 354, 256, and subsequent, desiring to remove the 45,000 feet limitation of paragraph (A), above, may do so by accomplishing the following requirements of this paragraph at a FAA certified maintenance repair agency. However, the modification and inspection of the horizontal stabilizer trim actuator as required in the airplane modification kits referenced in subparagraph 1 below may be performed by another FAA certificated repair agency utilizing qualified technicians who must have recent accessory overhaul experience performing the overhaul and test of the Gates Learjet Horizontal Stabilizer Trim Actuator with the necessary shop equipment (Attachment I hereto) as referenced in Learjet Repair Manual Number 1711-9, or the equivalent equipment.

1. Install AMK 82-6, Engine Stall Warning System, and concurrently required kits called out in "PARTS REQUIRED," namely: AMK 81-13, Horizontal Stabilizer Trim and Autopilot Improvement, AMK 82-4 Autopilot Pitch Nose Down Limiter, and AAK 82-5 Autopilot Roll Rate Limiter.

2. Incorporate FAA approved Airplane Flight Manual (AFM) Change 9 for Model 24E and Change 7 for Model 24F, which supersedes AFM revisions previously required by paragraph (A), above, and delete superseded AFM revisions previously required by paragraphs (A)2, (A)5, and (A)6 of AD 80-19-11.

3. Insert FAA approved AFM Supplement AFMS: W1018, which supersedes previous AFM supplements for FC-110 autopilot.

(F) Operators of Model 25D and 25F, S/N 230 thru 341, and 343 thru 362, desiring to remove the 45,000 feet limitation of paragraph (A), above, may do so by accomplishing the following requirements at an FAA certificated maintenance repair agency.

1. Install AMK 81-12 Engine Stall Warning System, and concurrently required kits called out in "PARTS REQUIRED," namely: AMK 82-4 Autopilot pitch nose down limiter and AAK 82-5 Autopilot Roll Rate Limiter.

2. Incorporate FAA approved Airplane Flight Manual (AFM) Change 8 to the FAA approved Airplane Flight Manual which supersedes AFM revisions previously required by paragraph (A), above.

3. Insert FAA approved AFM Supplement AFMS: W1008, Change 1, which supersedes previous AFM supplements for FC-110 autopilot.

(G) The modifications described above have been incorporated by the manufacturer on airplanes Model 25D and 25F, S/N 342, 363, and subsequent.

The manufacturer's specifications and procedures identified and described in this directive 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 from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. These documents may also be examined at FAA, Central Region, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective February 17, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier, the Federal Aviation Administration has determined that this document involves an amendment that does not impose any additional burden on any person. Therefore: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it does not warrant preparation of a regulatory evaluation. Further, I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it effects few small entities.

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3952 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-29]

Alteration of VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, V-492, and Establishment of V-531 and V-529

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, and V-492 in Central and South Florida. This action renumbers certain alternate airway segments in support of the International Civil Aviation Organization (ICAO) agreement to phase out alternate airway descriptions from the National Airspace System, revokes segments that are no

longer needed for flight planning or Air Traffic Control (ATC) to help reduce chart clutter, and realigns other airways to accommodate recent traffic flow changes in South Florida.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8777.

SUPPLEMENTARY INFORMATION:

History

On December 20, 1982 (47 FR 56655), and subsequently corrected on January 10, 1983 (48 FR 1075), the FAA proposed to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: (1) Revoke V-35 west alternate between Biscayne Bay, FL, and the DEEDS intersection; V-267 east alternate between Biscayne Bay, FL, and Palm Beach, FL; V-51 east alternate between Biscayne Bay, FL, and Pahokee, FL; V-157 west alternate between the VEGIE intersection and La Belle, FL; and V-157 east alternate between La Belle, FL, and Lakeland, FL; (2) renumber V-267 east alternate between Palm Beach, FL, and Orlando, FL; V-492 north alternate between La Belle, FL, and Palm Beach, FL; (3) realign V-492 between La Belle, FL, and Palm Beach, FL; V-295 between Orlando, FL, and Cross City, FL; and (4) establish new VOR Airways V-531 from Palm Beach, FL, to Orlando, FL, and V-529 from Biscayne Bay, FL, to La Belle, FL. Alternate airway segments that are no longer needed for flight planning or ATC are being revoked to help reduce chart clutter. Certain segments that are retained have been renumbered in support of the ICAO agreement to phase out alternate descriptions from the National Airspace System. Other airways are realigned or established to accommodate arrival/departure transition areas in South Florida and conform with recent traffic flow changes. Alternate airway segments not addressed will be amended in subsequent dockets. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Of the comments received on the proposal, none were objections. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, and V-492 in Central and South Florida, renumbers certain alternate airway segments in support of an ICAO agreement to phase out alternate airway descriptions from the National Airspace System, and revokes segments that are no longer needed for flight planning or ATC to help reduce chart clutter. Other airways are realigned to accommodate recent traffic flow changes in South Florida.

List of Subjects of 14 CFR Part 71

Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

1. V-3 [Amended]

By deleting the words ", including an E alternate via INT Biscayne Bay 021° and Palm Beach 166° radials".

2. V-35 [Amended]

By deleting the words ", including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials".

3. V-51 [Amended]

By deleting the words ", including an east alternate from Biscayne Bay, Fort Lauderdale, FL, INT Fort Lauderdale 339° and Pahokee 124° radials".

4. V-157 [Amended]

By deleting the words "including a W alternate from INT Miami 222° and Fort Myers, FL, 137° radials to La Belle via INT Fort Myers 137° and La Belle 162° radials" and ", including an E alternate via INT La Belle 004° and Lakeland 132° radials".

5. V-267 [Amended]

By deleting the words ", including an east alternate from Biscayne Bay, INT Biscayne Bay 340° and Palm Beach, FL, 201° radials; Palm Beach; INT Palm Beach 326° and Orlando 162° radials".

6. V-531 [New]

By adding "V-531 From Palm, Beach, FL; INT Palm Beach 326° and Orlando, FL, 162° radials; to Orlando."

7. V-492 [Amended]

By deleting the words "INT La Belle 101° and Palm Beach, FL, 272° radials; Palm Beach, including a north alternate from La Belle to Palm Beach via INT La Belle 043° and Palm Beach 298° radials" and substituting for them the words "Pahokee, FL; Palm Beach, FL".

8. V-295 [Amended]

By deleting the words "INT Orlando 283° and Ocala, FL, 156° radials;"

9. V-529 [New]

By adding "V-529 From Biscayne Bay, FL; INT Biscayne Bay 262° and La Belle, FL, 158° radials; to La Belle."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on February 9, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3953 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 82-ANM-18]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends Jet Route J-143 from Point Reyes, CA, to Eugene, OR, via Roseburg, OR. The extension of J-143 provides an additional route that improves traffic flow into the Seattle, WA, terminal area. Also, this alteration to J-143 reduces the necessity for long radar vectors and aids flight planning.

EFFECTIVE DATE: April 14, 1983.

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

SUPPLEMENTARY INFORMATION:

History

On December 13, 1982 (47 FR 55688), the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend J-143 from Point Reyes, CA, to Eugene, OR. A preferred, parallel route to Jet Route J-1 is required to allow an orderly flow of traffic between Seattle, WA, and points in California, and improve traffic flow in the Seattle terminal area. This action would improve traffic flow, aid flight planning, and decrease controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations extends Jet Route J-143 from Point Reyes, CA, to Eugene, OR, via Roseburg, OR. The extension of J-143 provides an additional route to improve traffic flow into the Seattle, WA, terminal area. Also, this alteration to J-143 reduces the necessity for long radar vectors, and aids flight planning.

List of Subjects in 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

J-143 [Revised]

J-143 From Point Reyes, CA, via Roseburg, OR; Eugene, OR; The Dalles, OR; to Spokane, WA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on February 9, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3954 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 82-AWA-22]

Establishment of Jet Routes and Area High Routes; Establishment of a Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Jet Route/High Level J/HL-562 (formerly J/HL-542 as stated in the Notice of Proposed Rulemaking), from Brandon, MB, Canada, to Dickinson, ND. The Canadian Government has requested this jet route so that an additional point of entry into Canadian airspace would be available to international air carriers proceeding overseas. This action facilitates flight planning and saves fuel by providing a direct route into Canadian airspace.

EFFECTIVE DATE: April 14, 1983.

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

SUPPLEMENTARY INFORMATION:

History

On December 20, 1982 (47 FR 56659), the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Route/High Level J/HL-542 between Brandon, MB, Canada, and Dickinson, ND. However, during the comment period the Canadian Government requested that the Jet Route/High Level number be changed from J/HL-542 to J/HL-562, and the FAA has concurred. The Canadian Government established this route into Canada in order to permit an additional point of entry into Canadian airspace for the international air carriers proceeding overseas, and this action supports that request. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations establishes J/HL-562 from Brandon, MB, Canada, to Dickinson, ND. The Canadian Government has requested this jet route so that an additional point of entry into Canadian airspace is available to international air carriers proceeding overseas.

List of Subjects in 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t. April 14, 1983, as follows:

J-562 [New]

J-562 From Dickinson, ND; to Brandon, MB, Canada. The airspace within Canada is excluded.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on February 10, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-4094 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 254

[Dockets 40366, 38621; ER-1305-A]

Domestic Baggage Liability

AGENCY: Civil Aeronautics Board.

ACTION: Stay of effective date of final rule.

SUMMARY: The CAB is staying the effective date of its domestic baggage liability rule in order to more fully consider issues raised in a petition by certain members of the Air Transport Association to repeal the rule prior to its effective date. Pending completion of this new rulemaking, the currently effective baggage orders (without their tariff-filing requirement) will remain in effect.

DATES:

Adopted: February 8, 1983.

Effective: February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Accordingly, the Civil Aeronautics Board suspends the February 22, 1983, effective date of 14 CFR Part 254, issued as ER-1305, 47 FR 52987, November 24, 1982. Currently effective baggage orders, but without tariff-filing requirements, will remain in effect until further notice.

(Sec. 204, 403, 404, and 411, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-4165 Filed 2-16-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 804, 805, 860, 880, 881, 882, 883, 884 and 886

[Docket No. R-82-1045]

Reexamination of Family Income for the Public Housing and Section 8 Housing Assistance Payments Programs

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; notice of effective date.

SUMMARY: This document announces the effective date for the final rule published in the **Federal Register** on December 2, 1982 (47 FR 54293) which implements two statutory changes requiring reexamination of family income "no less frequently than annually" under HUD's Public Housing and Section 8 Housing Assistance Payments Programs. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before publication of further notice of the effective date in the **Federal Register.** Based on the present Congressional schedule, it is expected that the 30-session-day period will expire during March 1983.

EFFECTIVE DATE: The effective date for the final rule published December 2, 1982 at 47 FR 54293 is April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Edward Whipple, Office of Public Housing, (202) 426-0744; James Tahash, Program Planning Division, Office of Multifamily Management, (202) 755-5654; or Steven Silvert, Office of State Agency and Bond Financed Programs, (202) 755-7177; Department of Housing and Urban Development, Washington, D.C. 20410. These are not toll-free telephone numbers.

Dated: February 10, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-4111 Filed 2-16-83; 8:45 am]

BILLING CODE 4210-27-M

VETERANS ADMINISTRATION

38 CFR Part 19

Appeals Regulations; Rules of Practice

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending the Appeals Regulations of the Board of Veterans Appeals to add a new regulation regarding appellate jurisdiction of determinations of the Department of Medicine and Surgery. The Board of Veterans Appeals Rules of Practice have also been revised in order to clarify existing practices before the Board of Veterans Appeals.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Donsbach (01C), Special (Legal) Assistant to the Chairman, Board of Veterans Appeals, 810 Vermont Avenue N.W., Washington, D.C. 20420 (202-389-2978).

SUPPLEMENTARY INFORMATION: On pages 56093-56104 of the **Federal Register** of August 22, 1980, there was published a notice of proposed rulemaking to amend Part 19.

Interested persons were given 30 days in which to submit comments regarding the proposal. The Veterans Administration received many suggestions. The comments and our action on those comments are listed below. We have first addressed those comments of a general nature which do not relate to a specific rule or appeals regulation. The comments relating to specific rules or regulations follow thereafter.

One organization expressed the opinion that the proposed additional rules have the effect of strengthening the insulation of the Veterans Administration from outside advocacy. In formulating these new rules, as well as revising existing rules, the aim was to clarify as much as possible the existing procedures for appeals. The proposed rules were developed to assist representatives who were not employed by major service organizations and who have not had many years of experience practicing before the Board in presenting their appeals before the Board and also to assist those appellants who specifically did not desire representation. Contrary to the commenter's opinion, these rules will encourage greater participation by all advocates.

A group criticized the rules for being too technical and legalistic and claimed that they created more formal and complex procedures. This was believed to work to the disadvantage of unrepresented appellants. There is little complex legal terminology used in the rules. Confusing terminology was defined and clarified, as suggested by some commenters. Furthermore, Rule 1(c) guarantees that the Rules of Practice will be interpreted in a manner most favorable to the appellant.

One group suggested that a rule be added requiring that claimants be notified that the filing of a notice of disagreement might result in reduced benefits and that the Board of Veterans Appeals does not traditionally reduce benefits. This comment could be viewed as influencing the claimant as to whether to appeal and is not proper subject matter for these rules. This area relates in particular to those subjects normally discussed between claimant and representative.

Comments were received requesting that processing times for preparation of

hearing transcripts and decisions be added to the rules. In an effort to decrease the processing time of an appeal where a hearing has been held, the Board of Veterans Appeals is no longer preparing hearing transcripts unless specifically requested to do so. See Rule 68(a). The average processing time of an appeal from date of certification to the Board of Veterans Appeals to the date of a final appellate decision is currently 220 days. The current processing time is the result of an unprecedented interest in appealing agency of original jurisdiction determinations and staffing limitations at the Board. Therefore, setting a specific processing time, such as 45 days, is unrealistic. The preparation and review of appellate decisions is monitored under strict work measurement standards. Accordingly, appeals are disposed of as quickly as possible.

It was suggested that a comparision of the terms "harmless error," "sufficient cause," and "good cause" be made. See the comments under Rule 91 for a discussion of harmless error and Rule 6 for good cause. The term "sufficient cause," which was used in Rule 75, has been changed to "good cause." Examples of good cause have been included in Rule 6. As is shown by the definitions of "harmless error" and "good cause" in the rules, they have entirely different meanings, are applied in entirely different circumstances, and cannot be compared.

The appeals regulations have been renumbered so they fall in a more logical sequence. Former §§ 19.2, 19.3, 19.4, 19.5 and 19.6 are now designated as §§ 19.5, 19.2, 19.6, 19.4 and 19.3, respectively. However, to make it easier to correlate the comments on the proposed regulations with the regulations as they appeared then, we have used the old numbering sequence in addressing those comments and have made cross-references to the new regulation numbers.

Section 19.1. A comment was received to the effect that the phrase "to apply all the adjudicative criteria" was unclear. This phrase basically means that the Board has the authority to apply all the adjudicative criteria as contained in the regulations of the agency, instructions of the Administrator and precedent opinions of the General Counsel. Since the Board is already bound by these administrative issues, the phrase itself is unnecessary. A new paragraph (b) has been added concerning appeals as to jurisdiction.

Section 19.2. This regulation is now numbered as § 19.5. Comments were received that the role and authority of the Vice Chairman should be clarified, as well as the term "administrative action" in paragraph (b).

Section 19.3. This regulation is now numbered as § 19.2. A request was made that the Board list those particular issues over which it had no jurisdiction. The current list of subject matter is very lengthy and an additional list over which the Board had no appellate jurisdiction would only tend to further confuse the regulation. Furthermore, it could be incorrectly assumed that a particular issue which was not listed as being exempt would be under the Board's jurisdiction. This regulation was also criticized because of a lack of citations and unusual terminology; it has been rephrased to simplify the descriptions.

The issue of reduction or increase in compensation or pension benefits has been deleted from this regulation since it is contemplated that these issues are included in determinations as to service connection and pension. Issues relating to emergency officers' retirement benefits (Section 11, Pub. L. 85–857), adjusted compensation (Section 12(b), Pub. L. 85–857) and unemployment compensation have been deleted since these particular issues are rarely certified to the Board and their inclusion would only unduly lengthen this regulation.

Section 19.4. This regulation has been renumbered as § 19.6. This regulation was misconstrued by one group as creating a presumption against disclosure of information contained in appellate decisions and statements of the case. It was felt that the regulation was in violation of the Privacy Act. This regulation was not intended to create a presumption against disclosure of information. To the contrary, it is the policy of the Board of Veterans Appeals to release a full text of all appellate decisions. There are a few cases dealing with medical matters and confidential records for which it would be ill-advised to release such information directly to the appellant. However, the regulation authorizes disclosure of a full-text decision to the designated representative. The only exception is where a close relationship exists between the appellant and representative, e.g., those situations where the representative for the appellant is either the spouse or a parent. The Privacy Act exempts certain medical information from direct disclosure to a requester and allows a third-party physician to discuss such information with the requester. This regulation is revised in order to clarify the policy of the Board of Veterans Appeals and to add a cross-reference to the agency's regulation concerning access to records under the Privacy Act.

Section 19.5. This regulation is now numbered as § 19.4. A question was raised as to what is meant by "review or determination" in this regulation. The regulation has been revised to make this clearer.

Section 19.6. This regulation has been renumbered as § 19.3. Comments were received suggesting a stylistic revision of this regulation for clarity. That revision has been accomplished. The substance of the regulation has not changed.

Rule 1. The citation of 38 U.S.C. 4002 was questioned; however, this section authorizes a Board member to make a determination on any proceedings instituted before the Board and any motion in connection therewith. It was suggested that any special procedure which is prescribed should be consistent with title 38, United States Code, and these rules. This language has been added.

Rule 2. Objection was taken to the exception for applying the new Rules of Practice on the basis that the standard was too vague. In order to clarify the application of these Rules, January 1, 1980 will be used as the effective date. The January 22, 1964 version of the Rules of Practice, as amended, will apply to all claims filed before January 1, 1980.

Rule 3. It was suggested that private medical evidence and independent medical expert opinions be given more consideration by the Board as they originate from nongovernment medical sources. 38 U.S.C. 4009 specifically categorizes these opinions as advisory. The regulation is merely consistent with that section and points out to the public that the various medical opinions are advisory in nature. The function of the Board as set out in 38 U.S.C. 4004 is to make a decision based on all the evidence of record. It is not contemplated that a private physician should make this decision. Private medical evidence as well as all other evidence of record is considered in the deliberations of the Board.

It was suggested that the agency's manuals, circulars and similar administrative issues not approved by the Administrator be promulgated in accordance with the Administrative Procedure Act and the Freedom of Information Act. The subject matter of the Rules of Practice does not relate to the promulgation of manuals or circulars and administrative issues not approved by the Administrator. Furthermore, the purpose of Rule 3 is to stress the fact

that these particular issues are not binding upon the Board.

Several commenters requested clarification as to what constitutes a General Counsel precedent opinion. General Counsel opinions have generally been understood to apply, at a minimum, to opinions which have been published and are available for wide dissemination. Internal General Counsel guidelines governing opinions ensure that only those which formulate a new policy requiring a change in regulation; interpret a new statute; expand upon, clarify, or depart from a prior decision; have timely significance; or examine such a difficult question as to have precedential value to the office of General Counsel are to be selected for digesting or publication. General Counsel Memorandum No. 02-76-3 (1976). Published opinions should be treated as generally applicable precedents. In reference to a comment, the indexing of General Counsel opinions under the provisions of the Freedom of Information Act is not appropriate subject matter for these rules.

Rule 4. Suggestions which assisted in clarifying this rule were adopted.

Rule 6. Suggestions were received with respect to other examples of good cause. Some of these have been included in the revision of this regulation. It was also felt that the appellant and representative should be separately notified when a motion has been granted to advance a case on the docket. Inasmuch as any case which is advanced on the docket of the Board of Veterans Appeals is expedited, notifying the appellant and representative that the motion has been granted would simply delay processing of the appeal and would only reach the appellant and representative at most a day or two before the actual decision. However, the regulation has been expanded to require that an appellant and representative be notified when a motion to advance a case on the docket has been denied.

Rule 9. It was suggested that Rule 9 be revised to require a psychiatrist be included on a review panel when a case involves mental disability. The Board of Veterans Appeals handles many cases involving medical specialties. It is not always possible to include in a section of the Board a physician who is a specialist in the particular disease which is at issue. However, the Board has access to specialists within the Veterans Administration and in accredited medical schools who can offer expert medical advice.

Rule 11. Suggestions regarding clarification of this rule were made and adopted.

Rule 13. A comment was made that the waiver of the fees for copying evidence of record during a pending appeal should be mandatory rather than discretionary. Neither statute nor agency regulation prohibits the charging of fees. Thus, any waiver of the fee should be subject to the discretion of the official.

It was requested that a rule be incorporated governing the right of an appellant to gain access to the file and to receive notice regarding documents added to the file. It is felt that the Board's rule with respect to copying information and access to the claims folder by appellants and their representatives sufficiently takes care of this. The laws and regulations governing statements of the case and supplemental statements of the case provide for automatic notification to the appellant and representative anytime pertinent evidence is added to the claims folder. The only exception would be when evidence is submitted and added to the claims folder by the appellant and/or representative. The Rules of Practice also contain procedures for notifying the appellant or representative anytime an advisory opinion is obtained and affords the appellant or representative a period of time within which to respond. It was also suggested that Rule 13 be expanded to note the existence of the Board's Index to Appellate Decisions and the collection of the Board's appellate decisions. Rule 100 was added to inform the public of the existence of the BVA Index to Appellate Decisions (BVA Index I-01-1).

Rule 14. Questions were raised with respect to perfecting an appeal. It was requested that the notification of the right to appeal should include information about the next step in the appeal. VA Form 1-4107 is used to notify claimants of the right to appeal and the time limits. This form describes the appellate procedure and the "next step" of filing a notice of disagreement which initiates the appeal. The VA has interpreted appeals notification to include information concerning filing a notice of disagreement. We have added a cross-reference to Rule 17 which sets forth what constitutes an appeal. We have also split Rule 14 into two rules. Former paragraph (a) is still part of Rule 14 while former paragraphs (b) and (c) are now included in Rule 15. Rule 14 has also been amended to show that the agency's notification of appellate rights includes notification of the right to a hearing and to representation.

Rule 15. Comments were received expressing concern over an apparent inconsistency between Rules 14 and 15. In view of the agency's self-imposed notification rule, prior Rule 15 is being deleted to avoid any ambiguity. Rule 15 now discusses notification of the right to appeal contested claims and administrative appeals (formerly Rule 14 (b) and (c)).

Rule 17. It was suggested that Rule 27 be made part of Rule 17 and that there be additional cross-references in this rule as to timeliness and where to file a notice of disagreement. As requested, additional cross-references to Rules 27 and 29 were added.

Rule 19. Stylistic suggestions which clarified this rule were adopted.

Rule 20. One group suggested that the statement of the case should include a specific discussion of all of the issues or contentions raised by the appellant, the relevant operative facts, and the legal, medical or other bases upon which the determination of the Regional Office was made. This is already specified by paragraph (b)(3). Other stylistic suggestions were made and adopted.

Rule 21. Suggestions were received requesting that the provisions of Rule 23 be incorporated into paragraph (b) of this rule. The addition of other material to this rule would make it too lengthy and more difficult to understand; however, a cross-reference has been added. One commenter felt that the veteran should not be presumed to agree with every statement to which a specific objection was not raised. However, 38 U.S.C. 4005(d)(4) states that the appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception was taken. Furthermore, the instructions contained on VA Form 1-9, Appeal to Board of Veterans Appeals, notify the appellant of this presumption.

A comment was received to the effect that Rule 21(b) does not actually specify what information is necessary in a substantive appeal. Rule 21(b) has set out the more important features of a substantive appeal. Due to the numerous types of appeals it is impossible to be more specific.

This rule has been amended to show that the agency's notification of appellate rights includes notification of the right to a hearing and to representation.

Rule 22. Stylistic changes were adopted.

Rule 23. The word "argument" has been substituted for the word "allegation" since the former suggests both contentions and reasoning in support of those contentions. A commenter, with respect to Rule 73, requested that "certification" be

defined. Rule 23 now contains that definition.

Rule 24. It was requested that this regulation provide for a 30-day notice to the appellant that the appeal will be closed. A notice provision is not considered necessary inasmuch as the appellant is notified of the time limits within which to file a substantive appeal at the time a statement of the case is furnished. The appellant is already on notice that failure to file the substantive appeal will result in closing of the case.

Rule 25. A commenter thought there was an implication that the agency of original jurisdiction could withdraw a notice of disagreement. The regulation was revised to avoid this implication.

Rule 26. A comment was received that this regulation is unnecessary. Although the Board of Veterans Appeals does not commonly dismiss an appeal, there are instances of cases being dismissed for failure to state any disagreement in the law or fact as contained in the statement of the case. Another commenter felt that the regulation does not conform to the statute since 38 U.S.C. 4005(d)(5) requires failure to allege a *specific* area of law or fact. To avoid ambiguity, the regulation has been revised to use the statutory language.

It was suggested that the regulation require notification to an appellant of the dismissal action and any further recourse he/she may have after a dismissal action. The policy of the Board of Veterans Appeals is to construe any substantive appeal in a very liberal manner. There are few occasions in which a dismissal action arises and in those situations the appellant receives a dismissal decision signed by the Board members. The only recourse an appellant would have is reconsideration. A cross-reference to the rule on reconsideration has been added.

Rule 27. It was suggested that Rule 27 be part of Rule 17. Rule 17 deals specifically with commencement of the appeal. Rule 27 relates to the details of actually filing a notice of disagreement and is appropriately found in this section of the Rules of Practice. "Decision" was changed to the more accurate field term "determination." Another commenter requested that the designation "agency of original jurisdiction" be included in this rule. Inasmuch as the language "the Veterans Administration office from which the claimant received notice of the determination being appealed" is the definition of "agency of original jurisdiction," the additional designation is unnecessary.

Rule 28. A question was raised as to what particular paragraph of this rule would apply to a comatose claimant. In the situation where a patient remains comatose for a considerable period of time, he/she would be considered incompetent and paragraph (b) would apply. The rule has been revised to point out that a proper power of attorney or declaration of representation could also accompany the notice of disagreement and substantive appeal.

Rule 29. One commenter described a circumstance in which an adverse determination was received by the claimant who then filed a notice of disagreement within 1 year and thereafter arranged for a hearing with a posthearing review. The commenter wanted to know whether the veteran had another 1-year period to file a notice of disagreement. In this situation the notice of disagreement had already been filed within 1 year from the date of the initial determination and the case remained in a pending appellate status throughout the hearing and posthearing review. It is unnecessary to file another notice of disagreement. In other words, hearings on appeals and subsequent reviews by the agency of original jurisdiction would not adversely affect the appellant with respect to the pending appeal. As the result of one suggestion, the phrase "date of mailing" has been defined.

Rule 30. It was suggested that the rule indicate where extension requests and additional evidence are to be filed and who makes the determination. Accordingly, this rule is revised and cross-references are added to show this information. With respect to paragraph (b) several comments were received to the effect that the filing of additional evidence and the resultant review and determination be subject to an additional 1-year period within which to file a notice of disagreement. The purpose of paragraph (b) was to stress that the filing of additional evidence should not be used as a substitute for a notice of disagreement or a substantive appeal. Once a determination has been made in the field it is necessary to file a notice of disagreement within 1 year. Once that notice of disagreement has been filed, the submission of additional evidence will not affect the appellate status of the initial determination. However, if a notice of disagreement or a substantive appeal is not filed, the submission of additional evidence cannot reactivate the appeal. If an appellant wishes to submit additional evidence and needs additional time within which to do this, the proper procedure is to request an extension. The additional evidence, of course, could serve as a basis for a reopened claim and initiate a new 1-year period within which to appeal.

Rule 33. A sentence contained in rules 33 through 35, stating that the Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction, was questioned. The purpose of that statement was to indicate that if a notice of disagreement or substantive appeal is not timely filed or is inadequate only the Board can decide whether it has jurisdiction to review the merits of the case. Since the statement is not necessary for these regulations and may create some confusion it is being deleted here and incorporated into § 19.1(b).

Questions were raised as to the distinctions between Rules 33 and 34 and Rules 35 and 36. Rules 33 and 34 cover those situations where the agency of original jurisdiction questions the timely filing of a notice of disagreement or a substantive appeal or the adequacy of a notice of disagreement. The usual situation contemplated is when there is disagreement among members of the rating board as to this particular question. These questions should be referred to the Board using the administrative appeal procedure. Rules 33 and 34 were amended for clarification. Rules 35 and 36 are applicable when the claimant protests findings of untimely filing or inadequacy made by the agency of original jurisdiction.

Rule 37. A comment was received to the effect that the 30-day period within which to present argument and adequacy questions was not long enough for preparation of response, especially because of any time lost in the mail, weekends and holidays. In view of this comment, the regulation is amended to provide for a period of 60 days.

Rule 38. A comment was received suggesting that a cross-reference to § 19.5 (now § 19.4) be included and that the definition of an administrative appeal be rephrased to show that it is taken by a Veterans Administration official. Accordingly, the rule was amended.

Rule 39. Clarification of the phrase "date of mailing" was requested and adopted to show that it refers to the date of the letter of notification to the claimant. Another commenter requested that the 60-day period within which an adjudication officer must file an administrative appeal be extended to 6 months since sometimes an adjudication officer does not learn of a controversial case until 3 or 4 months after the initial determination. It is felt that a 60-day period is sufficient for an adjudication officer to file an administrative appeal inasmuch as the adjudication officer has

direct contact with rating boards. However, if an adjudication officer learns of a controversial case after the 60-day period he/she can request the Director of the Regional Office to file an administrative appeal within the 6-month period.

Rule 40. It was requested that a copy of the memorandum for file entitled "Administrative Appeal," which sets forth the issues and basis for the appeal, be furnished the claimant and representative. The rule is revised to require the memorandum or a summary thereof be furnished so that the claimant can better determine whether to join in the appeal.

Rule 41. One commenter was concerned that there was no provision ensuring that the claimant did not submit a statement which accidentally triggered a merged administrative appeal. The procedure to prevent accidental merger has been explained and added to this rule.

Rule 42. This rule has been rephrased to clarify that the processing time of an unmerged administrative appeal is not chargeable to the claimant for purposes of perfecting an appeal.

Rule 43. A suggestion that the rule be clarified to indicate that the initial portion of this rule is a definition of what constitutes a contested claim has been adopted.

A comment was received requesting a regulation requiring suspension of all payments pending resolution of a contested claim. It was suggested that no benefits be paid to contesting parties until the end of the 60-day appeal period or until a Board of Veterans Appeals decision, whichever occurs last.

The agency's procedures with respect to suspension of benefits in contested claims is not appropriate subject matter for these rules.

This rule has been amended to show that the agency's notification of appellate rights includes notification of the right to a hearing and to representation.

Rule 45. The rule has been amended to add a definition as to what constitutes "date of mailing."

Rule 51. A comment was received suggesting the use of the term "designation and power of attorney." The rule is changed, using the term "designation by power of attorney."

The citation, 38 U.S.C. 4005(b)(2), was questioned; however, that is the Board's statutory authority for accepting the designation by power of attorney.

Rule 52. A comment was received questioning the term "declaration of representation," suggesting that the term be changed to "power of attorney." However, attorneys practicing before the Veterans Administration are permitted to declare that they are the representative of the appellant without the appellant executing a power of attorney. A power of attorney executed by the appellant is unnecessary.

It was also stated that a signed consent from both the appellant and from the attorney ignores the legal practice of accepting the client's retainer as a power of attorney. Cross-references to 38 CFR 14.629(c) and 14.631(c), the agency's regulations concerning a declaration of representation by an attorney, were included. It is not necessary to have both a consent from the appellant and a signed statement from the attorney. A statement from the attorney indicating that he/she is the representative of the appellant is sufficient for a valid power of attorney. However, this statement alone would limit the attorney's access to only those records and evidence directly relating to the issue on appeal. The combination of both a consent from the appellant and a statement from the attorney affords the attorney full access to all evidence of record pertaining to the appellant in the Veterans Administration. The rule was written in this fashion so that, by following this procedure, the attorney would have full access to all evidence in the agency and be saved unnecessary administrative delay.

It was suggested that the word "attorney" be defined as lawyers or law firms since the rule would cause undue delay and difficulty in the substitution of representatives as a result of staff changes in law school clinics, law firms or other nonrecognized organizations. It was claimed that the rule produces a discriminatory effect by restricting representation by attorneys but not similarly restricting representation by service organizations. Since this matter is more appropriate for inclusion in the regulations concerning recognition of attorneys as representatives and the General Counsel is in the process of revising those regulations to permit attorneys associated with a claimant's attorney to assist in the preparation and representation of a claim or appeal, we have removed paragraph (b) from Rule 52. We have added a sentence, though, stating that a legal intern, law student or paralegal may assist in an appeal if the appellant furnishes written consent. This consent does not, however, have to name a specific individual. A suggestion was made to rephrase the paragraph dealing with revocation of a power of attorney in Rules 52 and 53 so that they conform with the revocation subparagraph in Rule 51. Rules 52 and 53 are so amended.

A suggestion was received requesting that information about attorney's fees and expenses be a part of this rule. That information is already contained in the Notice of Procedural and Appellate Rights, VA Form 1-4107, which is furnished with every notification of an adverse determination. The authority for the Rule, 38 U.S.C. 3404, provides for fee limitations.

Rule 53. It was suggested that the phrase in paragraph (a) reading "The designation should be an individual agent" be changed to read "The designation must be an individual." It was also suggested that the phrase "representation by an agent" in paragraph (c) be changed to read "designation and power of attorney." We changed the language to "power of attorney." "Designation" is not necessary since agents are designated by a power of attorney.

Rule 54. Paragraph (b) has been simplified, as requested.

Rule 55. A comment was received with respect to allowing only one attorney or agent to be recognized at any one time. For the same reasons as set forth in Rule 52, above, the agency is without authority to formulate a regulation to allow for representation by legal aid societies, law school clinics or law firms.

A comment was received that, following the death of a veteran, the survivors should be notified of the claim or appeal. The purpose of the rule is simply to allow an eligible survivor who wishes to continue the veteran's appeal or claim with the Veterans Administration not to have to execute another power of attorney at a time when the loss of the veteran may have produced considerable emotional stress.

Another comment was received suggesting that the reasonable period in paragraph (c) be defined as 1 year. The Board prefers to use the term "reasonable period" since this allows greater flexibility in preserving a particular power of attorney. New paragraph (d) defines "reasonable period."

Rule 56. A group suggested that an attorney need not be present when a paralegal or legal intern appears before the Board of Veterans Appeals. The agency has no authority to recognize as a representative a paralegal or a legal intern in the absence of an attorney since 38 U.S.C. chapter 59 specifically delineates those individuals who may act as a representative of the appellant. A paralegal who wishes to represent an appellant and not be under the supervision of a recognized attorney must satisfy the laws and regulations

with respect to agent status. A comment was received that many veterans go entirely unrepresented. Our records show, however, that over 90 percent of the appellants are represented. With respect to any limitation on the freedom of choosing a representative, the veteran or appellant has the freedom to choose either a representative of a service organization, an attorney or an individual who can qualify as an agent. It is felt that there is no practical restriction upon the choice of the representative an appellant may desire. Some groups requested that the status of legal intern be extended to a paralegal. Because of the confusion with respect to legal interns and paralegals, the rule is revised to permit legal interns, law students, and paralegals to assist in the representation of appellants.

Rule 57. A request was made to add a provision allowing appellants to ask questions of all witnesses present at the hearing. This provision has been added.

Rule 58. A revision to show that not only argument but testimony may be presented at a hearing was requested and adopted.

Rule 59. Common examples of good cause have been added to paragraph (c), as requested.

Rule 60. Comments suggesting that the rule specify that the place of the hearing is at the option of the appellant, the functions of field personnel be clarified, and the applicability of Rules 61 through 67 to paragraph (c) hearings were essentially adopted. However, Rules 61 and 63 were excepted since they can only be applicable to the Board of Veterans Appeals. A cross-reference was added to show the statutory citation for decisions with dissenting opinions. A commenter requested that more travel Boards be held in the field. The frequency of travel Board hearings is limited by the availability of travel funds and personnel. Travel Board planning is not proper regulatory subject matter.

We have clarified Rule 60 to show the exceptions where a hearing panel does not participate in the final decision.

Rule 61. It was asked whether three individuals are needed to conduct a hearing in the field. This particular rule applies only to hearings before Board members of the Board of Veterans Appeals. The rule is rephrased for greater clarity.

A sentence was added concerning the procedure to be followed when a member of the hearing panel cannot participate in the final decision.

Rule 62. A question was raised as to the role of the other section members in procedural questions. The chairman of the panel has always decided questions relating to procedure. However, any nonprocedural motions filed, such as requests for independent medical expert opinions and others relating to the actual merits of the case, would be subject to a decision of all three members. A cross-reference to Rule 57(c) has been added as a result of this suggestion.

Rule 63. It was requested that this rule be amended to state that a representative has a right to a prehearing conference and that it be expanded to include the following as subject matter for the prehearing conference: clarification of evidence to be presented, determinations as to additional evidence and all other matters which would facilitate the conduct of the hearing. While the appellant and representative have a right to a hearing before the Board of Veterans Appeals, there is no right to a prehearing conference. The purpose of the prehearing conference is to facilitate matters prior to the actual hearing. The language of the regulation clearly shows that the purpose of a prehearing conference is basically procedural. A prehearing conference should never be a substitute for a hearing.

Rule 64. A commenter requested examples of good cause. The Board has a liberal policy of allowing the record to remain open after a hearing. The rule itself explains the usual good cause situation, i.e., sufficient time to obtain the desired evidence. The use of the term "good cause" insures continuation of the Board's liberal policy. As requested, a cross-reference to Rule 73 has been added.

Rule 65. It was suggested that the agency provide subpoena power over Veterans Administration personnel upon a reasonable showing of relevance and materiality. It was felt that permitting the Board to exercise subpoena power over agency personnel upon a showing of good cause would prevent abuses in the agency and greatly improve the overall fairness of the proceedings. The Board of Veterans Appeals has no authority to subpoena employees of the Veterans Administration. The Board usually reviews evidence prepared by agency employees. Should there be some question as to the behavior or action of a VA employee, the appellant and/or representative could request that the Board conduct a field or Central Office investigation to review the matter. This is a sufficient remedy if such a situation should arise. The use of the citation, 38 U.S.C. 4002, was questioned. However, this is the Board's basic statutory authority for the appellate hearing program.

Rule 67. A comment was received questioning whether there as a difference between a simultaneously contested claim and a contested claim. There is no difference. 38 U.S.C. 4005A refers to these claims as "simultaneously contested." To avoid any confusion, Rules 43 and 67 are revised accordingly.

Rule 68. A commenter felt that a tape recording of a Board hearing would not be sufficient if the appeal were subject to court review. The Board of Veterans Appeals, as required by this rule, will keep a file of all hearing tapes. In the event there is any court review of the Board proceedings, a transcript will automatically be prepared without a request from the appellant and representative.

Another commenter suggested that the regulation require notice to the appellant and representative prior to the hearing that a copy of the transcript could be obtained without cost. The rule, itself, is considered adequate notice to the public. Clarification was requested as to how an informal hearing prior to filing of the notice of disagreement should be recorded. Any informal hearing held prior to the filing of a notice of disagreement is not a hearing on appeal and is not subject to these rules. M21-1, paragraph 18.18, contains the appropriate hearing guidelines for the Department of Veterans Benefits.

Rule 72. It was suggested that Rules 72 and 30(b) be combined. Although Rule 30(b) deals specifically with the time limits within which to file an appeal, a cross-reference to Rule 30(b) was added.

Rule 73. A question was posed as to the procedure for and significance of "certification." In view of this, Rule 23 has been amended to include a definition of "certification." A commenter stated that the agency of original jurisdiction should notify the appellant that the evidence submitted does not have a direct bearing on the appellate issue. The agency of original jurisdiction normally forwards to the Board any evidence directly relating to the issue. The purpose of the Rule is to prevent an automatic transfer to the Board of evidence unrelated to the appeal. Because the agency of original jurisdiction may develop its own instructions for processing this type of evidence, formal notification rules are unnecessary.

Rule 74. The heading of this regulation was criticized; therefore, it has been changed to read "Consideration of additional evidence received by the Board of Veterans Appeals." Although one suggester recommended that the place for filing additional evidence be

specified, it is difficult to specify the particular place since appellants and representatives may submit additional evidence either in the field or at Central Office. Furthermore, Rules 73 and 74 cover all situations where such evidence may be filed. It was suggested that the Board review uncertified, new issues of law or fact when waiver of Regional Office review is requested. The waiver of a supplemental statement of the case under this regulation is applicable only to those issues which have been properly prepared for submission to the Board of Veterans Appeals. The Board has no jurisdiction to review issues which have not been considered by the agency of original jurisdiction. As a policy matter, the Board assumes jurisdiction only to allow those issues disposed of in an agency of original jurisdiction determination. The status of Board of Veterans Appeals Bulletin 01-7, paragraph 2(b), was questioned. This Bulletin was rescinded in November 1976 and replaced by M1-1, Field Appellate Procedures, paragraph 11.04(a). A supplemental statement of the case need not be prepared if, prior to forwarding the records to the Board, additional evidence is received of which the veteran is aware. Under this circumstance, a letter to the veteran would be sufficient.

Rule 75. As the result of a comment, a cross-reference to Rule 6 has been added.

Rule 76. A commenter requested that the fact that an appellant does not have a vested right to an expert medical opinion be clarified. The rules are very clear that the obtaining of any opinion by the Board of Veterans Appeals is discretionary but at the same time an appellant or representative may file a motion requesting such an opinion. A question was raised as to the appropriateness of the citation, 38 U.S.C. 4004(c), relating to professional opinions. The purpose of the inclusion of this citation was to point out that these opinions are not binding upon the Board of Veterans Appeals and are strictly advisory. However, the cross-reference to Rule 3 is sufficient to show that these opinions are advisory. The citation to 38 U.S.C. 4004(c) is changed to 38 U.S.C. 4009(a).

Rule 77. It was suggested that this rule specify that the appellant know the identity of the independent medical expert, have the opportunity to comment on the expert's findings and be able to submit written questions to the IME to be answered under oath.

The purpose of the independent medical opinion program is to allow a specialist, who is not an employee of the Veterans Administration, to review the medical evidence of record and provide an opinion from an unbiased point of view. The procedures used by the Board of Veterans Appeals in obtaining such an opinion do not provide for advance identification of a particular specialist. The Board does not know the identity of the specialist until the opinion is received from the medical school. After the opinion reaches the Board, a copy is submitted to the appellant and/or representative, thereby automatically disclosing the identity of the expert. Rule 98 covers those situations wherein the identity of the independent medical expert is requested.

The rule does specify that, upon receipt of the opinion, it will be referred to the appellant and representative for comments.

With respect to submitting written questions to the specialist to be answered under oath, it is VA policy not to allow cross-examination. Furthermore, the specialist is not a witness but only provides the Board Members with a reasoned opinion clarifying a controversial or complex medical issue. The appellant in requesting an opinion can always suggest questions to be presented to the expert.

Rule 78. A comment was received requesting a definition of "good cause." The purpose of using the phrase "good cause" was to honor a request for a medical opinion any time a valid reason is shown by the appellant or representative. To clarify the rule, an example of "good cause" is provided.

Rule 79. It was believed that 38 U.S.C. 3301 did not apply to this rule. This section of title 38, United States Code, provides that information from medical records can be referred to an independent medical expert; however, disclosure of this information may not be made to the appellant if such information is injurious to the physical and mental health of the appellant. It should be noted, though, that 38 CFR 1.577(d) allows release of such information to a physician or other professional person selected by the appellant, or the appellant may discuss the matter with a VA physician who can make a decision regarding release of the information to the appellant. It was recommended that a provision be made for the appellant and representative to submit questions through the Board's hearing panel to the independent medical expert. It has been a practice in the past that, when an appellant or representative makes a request for an independent medical opinion, he/she may suggest questions for the specialist. The Board makes these questions a part of the record at the time of referral to the medical institution. Some felt that the 30-day response period was inadequate when representatives are located only in the field. Accordingly, the rule is amended to allow for a 60-day response time.

Rule 81. A commenter noted that the exceptions set forth in 38 U.S.C. 4003(a) are not set forth in paragraph (a) of this rule. The exceptions to finality, i.e., obvious error in the record or additional official information from the service department are covered in Rule 85. A cross-reference has been added. Another comment was received stating that no provision was made for a case in which a decision, made by an expanded panel, is not unanimous and the Chairman agrees with the minority. Voting panels are comprised of three, six or twelve Board members. If the Chairman agrees with the minority he/she may expand the panel to six or a maximum of twelve members. The majority vote would prevail. Cross-references have also been added to Rules 10(d), 60 and 61.

Rule 82. Comments which suggested modification of the text to afford greater clarity were adopted. Another suggestion was made to require a supplemental statement of the case after completing action on a remand curing a procedural defect. Since, for instance, correction of the proper power of attorney or clarification of a request for hearing may require only correspondence from the agency of original jurisdiction, a supplemental statement of the case is not always required.

Rule 83. A comment was received suggesting that a Board member should disqualify himself/herself not only where there are circumstances which might give the impression of bias but also for any other reason. The basis for disqualification in this rule is conflict of interest which is adequately described in paragraph (a). It was requested that the appellant be given the right to challenge or question Board members' qualifications. They are appointed by the Administration with the approval of the President. The appellate decision is not the proper vehicle for challenging a Board member. The purpose of this rule is to avoid conflict of interest. A recommendation was made to require that a psychiatrist be included on the panel in cases involving mental disability. Adoption of this recommendation is not feasible since the Board handles several thousand such appeals every year. See the comment for Rule 9.

Rule 84. A comment was adopted which suggested that the phrases

"administrative action" in § 19.2(b) (now § 19.5(b)) and "administrative allowance" in Rule 84 be reconciled. The action is designated an "administrative allowance" since this is in common usage among representatives and Board members. Another commenter suggested that the rule allow an appellant and/or representative to request an administrative allowance. This action can only be invoked by the Board itself when no error is found following a request for reconsideration or a review of a final determination by an agency of original jurisdiction. A question was raised as to whether a specific number of members is required in order to recommend an administrative allowance. A specific number is not required. This is a discretionary action by the Chairman or Vice Chairman on recommendations submitted to them by Board members.

Rule 85. One suggester believed that reconsideration should be accorded when evidence such as new scientific or medical evidence is discovered. While such evidence would provide a new factual basis for reopening the claim, it would not prove error in the prior decision and entitle the appellant to receive retroactive benefits. The Board of Veterans Appeals decision would remain valid based on then-known scientific or medical knowledge. It was also requested that this rule be clarified to indicate that the agency of original jurisdiction need not furnish a statement of the case on the issue of obvious error of fact or law. Reconsideration reviews can be conducted only by the Board of Veterans Appeals. The agency of original jurisdiction has no authority to do so. Comments were received and adopted specifying that: (1) Reconsideration be accorded for corrected official service department records or upon the discovery of new and material evidence from the service department; (2) reconsideration may be requested at any time; and (3) reconsideration may also be requested by the appellant.

Rule 86. There appeared to be some confusion in the comments as to the exact processing of a reconsideration request. This rule is revised to emphasize the two-stage process: (1) Motion disposition and (2) actual review of the merits by the Board members.

Rule 87. This rule has been rephrased to specify how additional evidence would be treated on reconsideration.

Rule 88. This rule has been clarified, as suggested.

Rule 89. A comment was received suggesting that this rule be titled "Time limit for filing of a request." It was also requested that cross-references to Rules 29, 39 and 45 be added. However, those rules do not relate to reconsideration. The use of a heading entitled "Time limits" is not appropriate for reconsideration since there is no specific time limit. Another commenter pointed out that the filing of a brief for reconsideration is unrelated to a hearing request. This language has been inserted in Rule 86 which covers application for reconsideration. Rule 89 has been retitled "Hearings on reconsideration."

Rule 90. A comment suggesting that "assign a panel" be substituted for "create a panel" was adopted. For uniformity with Rule 86, "request" is deleted and "motion" substituted. Another comment was received suggesting that the appellant/representative be notified when a motion for reconsideration is granted or denied. Rule 86 was revised to clarify the processing of requests for reconsideration. See the comments under that rule.

Rule 91. It was suggested that the term "harmless error" be defined and compared with the terms "sufficient cause" and "good cause." This rule adequately defines the concept of harmless error. For further clarification, examples are typographical errors, misspellings, and other minor errors which do not affect the substance of the Board's decision and its disposition. The Board has a policy of issuing corrected pages when harmless error is found. See the general comments preceding this rule-by-rule analysis for a discussion of the comparison with the other terms.

Rule 94. A comment was received requesting that the rule be amended to show that a claim *will be* reopened if new and material evidence is submitted. This rule requires a determination to be made when new evidence is submitted If the evidence is found to be new and material, the claim is considered reopened.

Rule 95. It was suggested that the rule be clarified to show the Board may or may not complete its action. By using "may," it is already implied that completion of the appeal is at the Board's discretion. Cross-references to Rules 55 and 96 were requested and added.

One commenter asked that the rule require notification to the survivors of a pending appeal. The Board usually notifies immediate relatives that they may wish to file claims for accrued benefits. However, failure to notify survivors that they may file such claims would not affect the disposition of the pending appeal and is not deemed appropriate for incorporation in these rules.

Rule 96. It was requested that language referring to Rule 95 be incorporated in this Rule. This Rule applies to any prior decisions during the veteran's lifetime and not just to those pending at the time of the veteran's death.

Rule 97. Several commenters suggested that BVA decisions be considered as precedent. 38 U.S.C. 4004(c) enumerates three categories of pronouncements which are binding on the Board. Prior Board decisions are not included. In the absence of a specific declaration by Congress that it intends the Board to rely on its own decisions, it would be inappropriate for us to adopt a rule to that effect. We have revised the rule to stress the need for consistency. Prior decisions are given considerable weight in a case when the factual backgrounds reasonably relate to the current question at issue. It was also suggested that § 19.1 or 19.103 indicate that Board decisions are not precedent. A cross-reference has been added to Rule 3 (§ 19.103).

Rule 98. A stylistic change was suggested and adopted.

Rule 99. It was suggested that this proposed Rule be deleted entirely. The comment was made that any request to amend an appellate decision could be interpreted as an attack on the functions of the Board of Veterans Appeals. It was also suggested that the Board would be seeking to insulate its decisions from correction under the Privacy Act.

Nothing in the proposed rule should be read as changing or modifying the amendment provisions of the Privacy Act. Indeed, at the outset Rule 99 specifies that a request to amend a Board decision under the Privacy Act may be entertained. It should be emphasized that a request for correction of erroneous factual information in a BVA decision will be considered in association with all relevant evidence. The language of the rule is intended to show that a final adjudicatory decision of the Board is not properly the subject of a Privacy Act amendment request. In essence, the provisions for amendment of records under the Privacy Act are not intended to permit a collateral attack upon a Board decision. (OMB Privacy Act Implementation Guidelines and Responsibilities, 40 FR 28958 (1975).) Where there are matters in dispute that involved the adjudicatory functions of the Board, the challenge should be made using the procedures established under Rules 85 through 90. In this respect, it is pointed out that amendment of a record under the Privacy Act could also be the subject of an argument for reconsideration.

We believe that the objections received indicate that the proposed rule, as written, may be confusing. Hence editorial changes have been made for the purpose of clarification.

Rule 100. Pursuant to a comment with respect to Rule 13, this rule was added to inform the public of the existence of the BVA Index to Appellate Decisions (BVA Index I-01-1).

The Administrator hereby certifies that these final rules and regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these final rules and regulations therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the rules and regulations will regulate only individual Veterans Administration benefit recipients. They will have no significant direct impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The agency has also determined that these rules and regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation.

There is no Catalog of Federal Domestic Assistance number involved.

The information collection requirements contained in these regulations (§§ 19.121, 19.123, 19.146 and 19.151) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. No. 96-511) and have been assigned OMB control numbers 2900-0085 (see §§ 19.121, 19.123, 19.146) and 2900-0321 (§ 19.151).

The proposed rules and regulations, as amended, are hereby adopted and are set forth below.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: February 4, 1983.

By direction of the Administrator.

Everett Alverez, Jr.,

Deputy Administrator.

Title 38, CFR, Part 19 is revised to read as follows:

PART 19—BOARD OF VETERANS APPEALS

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19.2 Subject matter of appeals.
19.3 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.
19.4 Restriction as to change in payments pending determination of administrative appeals.
19.5 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.
19.6 Disclosure of information.

Subpart B—Appeals—Rules of Practice

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Notification of Appellate Rights

19.114 Rule 14; Notification of right to appeal.
19.115 Rule 15; Notification of right to appeal in administrative appeals and contested claims.
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19.117 Rule 17; What constitutes an appeal.
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19.119 Rule 19; Action by agency of original jurisdiction on notice of disagreement.
19.120 Rule 20; Statement of the case.
19.121 Rule 21; Furnishing the statement of the case and instructions for filing a substantive appeal.
19.122 Rule 22; Supplemental statement of the case.
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19.125 Rule 25; Withdrawal.
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19.127 Rule 27; Place of filing notice of disagreement and substantive appeal.
19.128 Rule 28; Who can file an appeal.
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19.133 Rule 33; Timely filing of appeal questioned within the agency of original jurisdiction.
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19.135 Rule 35; Untimely filing of appeal protested by claimant.
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19.137 Rule 37; Adequacy of the substantive appeal.
19.138 Rule 38; Administrative appeal.
19.139 Rule 39; Officials authorized and time limits for filing administrative appeals.
19.140 Rule 40; Notification to claimant.
19.141 Rule 41; Merger of administrative appeal and claimant's appeal.
19.142 Rule 42; Effect of decision on administrative or merged appeal.

Contested Claims

19.143 Rule 43; Notification of right to appeal in simultaneously contested claims.
19.144 Rule 44; Who can file an appeal in contested claims.
19.145 Rule 45; Time limits for filing in contested claims.
19.146 Rule 46; Notice to contesting parties on receipt of notice of disagreement.
19.147 Rule 47; Notice of substance of appeal to other contesting parties.
19.148 Rule 48; Extension of time for filing in contested claims.
19.149 Rule 49; Notices to last addresses or record in contested claims.

Representation

19.150 Rule 50; Right to representation.
19.151 Rule 51; Recognized organizations.
19.152 Rule 52; Attorneys.
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19.170 Rule 70; Official transcript.
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19.172 Rule 72; Submission of additional evidence.
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Sec.
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19.185 Rule 85; When reconsideration is accorded.
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19.191 Rule 91; Harmless error.
19.192 Rule 92; Finality of determinations of the agency of original jurisdiction where appeal is not perfected.
19.193 Rule 93; Finality of determinations of the agency of original jurisdiction affirmed on appeal.
19.194 Rule 94; New claim after appellate decision.
19.195 Rule 95; Death of appellant during pendency of appeal.
19.196 Rule 96; Claim for death benefits by survivor—prior unfavorable decision.
19.197 Rule 97; Nonprecedential nature of board decisions.

Privacy Act

19.198 Rule 98; Privacy Act request—appeal pending.
19.199 Rule 99; Amendment of appellate decision.
19.200 Rule 100; Index to appellate decisions.

Subpart A—Appeals—General

§ 19.1 Appellate jurisdiction.

(a) *General.* All questions on claims involving benefits under the laws administered by the Veterans Administration are subject to review on appeal to the Administrator of Veterans Affairs, decisions in such cases to be made by the Board of Veterans Appeals. In its decisions, the Board is bound by the regulations of the Veterans Administration, instructions of the Administrator and precedent opinions of the General Counsel. The Board may exercise the same authority as the department having original jurisdictional responsibility. (38 U.S.C. 4004)

(b) *Appeals as to jurisdiction.* All claimants have the right to appeal a determination made by the agency of original jurisdiction that the Board does not have jurisdictional authority to review a particular issue. This includes questions relating to the timely filing and adequacy of the notice of disagreement and the substantive appeal. Only the Board of Veterans Appeals will make final decisions with respect to its jurisdiction. (38 U.S.C. 4004)

§ 19.2 Subject matter of appeals.

The Board's appellate jurisdiction extends to all questions on claims involving benefits under the laws administered by the Veterans Administration. (38 U.S.C. 4004(a)) More common examples of the issues over which the Board has jurisdiction are as follows:

Entitlement to and benefits resulting from service-connected disability or death. (38 U.S.C. ch. 11)

Dependency and indemnity compensation for service-connected death including benefits in certain cases of inservice or service-connected deaths (38 U.S.C. 412) and certification and entitlement to death gratuity. (38 U.S.C. 423)

Entitlement to nonservice-connected disability pension, service pension and death pension. (38 U.S.C. ch. 15)

Training and rehabilitation for veterans with service-connected disabilities. (38 U.S.C. ch. 31)

Post-Vietnam Era Veterans' Educational Assistance. (38 U.S.C. ch. 32)

Veterans' Educational Assistance. (38 U.S.C. ch. 34)

Survivors' and Dependents' Educational Assistance. (38 U.S.C. ch. 35)

Matters arising under National Service Life Insurance and U.S. Government Life Insurance. (38 U.S.C. ch. 19)

Payment or reimbursement for unauthorized medical expenses. (38 U.S.C. 628)

Burial benefits. (38 U.S.C. ch. 23)

Benefits for persons disabled by medical treatment or vocational rehabilitation. (38 U.S.C. 351)

Basic eligibility for home, condominium and mobile home loans as well as waiver of payment of loan guaranty indebtedness. (38 U.S.C. ch. 37 and 3102)

Waiver or recovery of overpayments. (38 U.S.C. 3102)

Forfeiture of rights, claims or benefits for fraud, treason, or subversive activities. (38 U.S.C. 3502–3505)

Character of discharge. (38 U.S.C. 3103)

Determinations as to duty status. (38 U.S.C. 101(21)–(24))

Determinations as to marital status. (38 U.S.C. 101(3), 103)

Determination of dependency status as parent or child. (38 U.S.C. 101(4), (5))

Validity of claims and effective dates of benefits. (38 U.S.C. ch. 51)

Apportionment of benefits. (38 U.S.C. 3107)

Payment of benefits while a veteran is hospitalized and questions regarding an estate of an incompetent institutionalized veteran. (38 U.S.C. 3203)

§ 19.3 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.

(a) The Board's appellate jurisdiction extends to questions of eligibility for hospitalization, outpatient treatment, and nursing home and domiciliary care, for devices such as prostheses, canes, wheelchairs, back braces, orthopedic shoes, and similar appliances, for automobile and automobile adaptive equipment assistance, and for other benefits administered by the Department of Medicine and Surgery.

(b) Medical determinations, such as determinations of the need for and appropriateness of specific types of medical care and treatment for an individual, are not adjudicative matters and are beyond the Board's jurisdiction. Typical examples of these issues are whether a particular drug should be prescribed, whether a specific type of physiotherapy should be ordered, and similar judgmental treatment decisions with which an attending physician may be faced. (38 U.S.C. 4004(a))

§ 19.4 Restriction as to change in payments pending determination of administrative appeals.

If an administrative appeal is taken from a review or determination by the agency of original jurisdiction pursuant to Rules 38 through 42 (§§ 19.138–19.142), that review or determination cannot effect any change in payments until after a decision is made by the Board of Veterans Appeals. (38 U.S.C. 4006)

§ 19.5 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.

The Chairman and/or Vice Chairman have authority delegated by the Administrator to:

(a) Approve the assumption of appellate jurisdiction of an adjudicative determination which has not become final in order to grant a favorable benefit.

(b) Approve an administrative allowance on an adjudicative determination which has become final by appellate decision or failure to timely appeal.

(c) Order Central Office investigations of matters before the Board. (38 U.S.C. 210(b), 212(a))

§ 19.6 Disclosure of information.

It is the policy of the Board of Veterans Appeals for the full text of appellate decisions and statements of the case to be disclosed to appellants. In those situations where disclosing certain information directly to the appellant would not be in conformance with 38 U.S.C. 3301, that information will be

removed from the decision or statement of the case and the remaining text will be furnished the appellant. A full-text appellate decision or statement of the case, however, will be disclosed to the designated representative unless the relationship between the appellant and representative is such (for example, a parent or spouse) that disclosure to the representative would be as harmful as if made to the appellant. (38 U.S.C. 4005(d)(2))

Cross-Reference: Access to records. See § 1.577(d).

Subpart B—Appeals—Rules of Practice

General

§ 19.101 Rule 1; Authority, scope of rules, and construction.

(a) *Authority.* Pursuant to the authority vested in the Administrator of Veterans Affairs (38 U.S.C. 210(c)(1)) there are hereby issued revised Rules of Practice which govern proceedings in appeals to the Board of Veterans Appeals.

(b) *Scope.* These rules govern the practices and procedures for processing appeals for the Board of Veterans Appeals. Where in any instance there is no applicable rule or procedure, the presiding Board member before whom the matter is pending may prescribe a procedure which is consistent with the provisions of title 38, United States Code, and these rules. (38 U.S.C. 4002)

(c) *Construction.* In accordance with the agency's policy of providing assistance to the appellant, these rules shall be construed to secure a just and speedy decision in every appeal. (38 U.S.C. 210)

Cross-References: Reasonable doubt. See § 3.102. Due process—procedural and appellate rights with regard to disability and death benefits and related relief. See § 3.103.

§ 19.102 Rule 2; Effective date.

These rules are effective as of January 1, 1980. They govern all proceedings in cases filed on or after January 1, 1980.

§ 19.103 Rule 3; Governing criteria.

(a) *General.* In the consideration of appeals, the Board shall be bound by the laws and regulations of the Veterans Administration, decisions and instructions of the Administrator of Veterans Affairs, and precedent opinions of the General Counsel. (38 U.S.C. 4004(c))

(b) *Manuals, circulars and opinions.* In its appellate decisions, the Board is not bound by agency manuals, circulars and similar administrative issues not approved by the Administrator. Opinions of the Chief Medical Director, Armed Forces Institute of Pathology, and independent medical experts obtained pursuant to Rules 76 and 77 (§§ 19.176 and 19.177) are only advisory in nature. (38 U.S.C. 4004(c), 4009)

Cross-Reference: Nonprecedential nature of Board decisions. See Rule 97, § 19.197.

§ 19.104 Rule 4; Finality of decisions.

(a) A decision of the Board of Veterans Appeals is final (38 U.S.C. 211(a), 4004(a)), with the exception of a claim involving an insurance contract. (38 U.S.C. 784)

(b) Reconsideration by the Board may be accorded under Rules 85 through 90 (§§ 19.185 through 19.190). (38 U.S.C. 4003)

Docketing

§ 19.105 Rule 5; Docketing of appeals.

(a) *In order received.* Applications for review on appeal shall be docketed in the order in which they are received. (38 U.S.C. 4007)

(b) *Remanded cases.* Cases returned to the Board following action pursuant to a remand shall assume their original places on the docket. (38 U.C.S. 4007)

§ 19.106 Rule 6; Advance on the docket.

(a) A case may be advanced on the docket for good cause. Examples of good cause may be terminal illness, advanced age, extreme financial hardship, etc. A motion for this purpose must be filed with the Chairman, Board of Veterans Appeals, and specify the urgent nature of the cause. Interpretation of law of general application affecting other claims may afford a basis for advancing a case on the docket. (38 U.S.C. 4007)

(b) If a motion to advance a case on the docket is not granted, the appellant and representative will be immediately notified. If the motion to advance a case on the docket is granted it will be noted in the decision when rendered. (38 U.S.C. 4007)

Cross-Reference: Order of consideration. See Rule 75, § 19.175.

The Board

§ 19.107 Rule 7; Name and business hours.

(a) *Name.* The name of the Board is the Board of Veterans Appeals.

(b) *Business hours.* The Board shall be open during business hours on all days except Saturday, Sunday and legal holidays. Business hours are from 8:00 a.m. to 4:30 p.m.

(c) *Mailing address.* Mail to the Board should be addressed to: Chairman (01), Board of Veterans Appeals, 810 Vermont Avenue, NW., Washington, D.C. 20420. (38 U.S.C. 4001(a))

Cross-Reference: Legal holidays. See Rule 32, § 19.132.

§ 19.108 Rule 8; Establishment of the Board.

The Board of Veterans Appeals is established by authority of and functions pursuant to 38 U.S.C. chapter 71.

§ 19.109 Rule 9; Composition of the Board.

The Board shall consist of a Chairman, Vice Chairman, Members, and necessary professional, administrative, clerical and stenographic personnel. (38 U.S.C. 4001(a))

§ 19.110 Rule 10; Appointment, assignment, and rotation of members.

(a) *Appointment.* Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President of the United States. (38 U.S.C. 4001(b))

(b) *Assignment.* The Chairman may divide the Board into sections of three members and assign the members of the Board thereto. (38 U.S.C. 4002)

(c) *Rotation.* The Chairman may from time to time rotate the members of the sections. (38 U.S.C. 4002)

(d) *Vacancy or absence.* If, as a result of a vacancy, absence, or inability of an assigned member to serve, a section of the Board does not have a full complement of members, the Chairman may assign other members or direct the Section to proceed without any additional assignment of members. (38 U.S.C. 4002)

§ 19.111 Rule 11; Function of the Board.

The principal functions of the Board are to make determinations of appellate jurisdiction, consider all applications on appeal properly before it, conduct hearings on appeal, evaluate the evidence of record and enter decisions in writing on the questions presented on appeal. (38 U.S.C. 4002, 4004)

§ 19.112 Rule 12; Jurisdiction.

(a) *Statutory.* The Board's jurisdiction extends to all questions on claims involving benefits under the laws administered by the Veterans Administration. (38 U.S.C. 4004(a))

(b) *Delegated authority.* The Board may assume jurisdiction of an unappealed issue on its own motion in a case properly before it, as provided in § 19.5. (38 U.S.C. 212(a))

§ 19.113 Rule 13; Board records.

(a) *Removal of records.* No original record, paper, document or exhibit certified to the Board shall be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or to

transmit copies for other official purposes. (38 U.S.C. 3301)

(b) *Release of information.* Information requested from records, including copies of such records in the custody of the Board of Veterans Appeals, will be furnished to the extent permitted by law and Veterans Administration regulations. (5 U.S.C. 552, 552a; 38 U.S.C. 3301)

(c) *Fees.* The fees to be charged and collected for the release of information and for any copies will be in accordance with §§ 1.526, 1.555, and 1.577 of this title.

(d) *Waiver of fees.* When information is requested from records certified to and in the custody of the Board, the required fee may be waived if such information is requested in connection with a pending appeal.

(e) *Review of records.* Information in the records may be reviewed by agency employees on a "need to know" basis. (5 U.S.C. 552a(b)(1))

Cross-References: Release of information from Veterans Administration claimant records. See §§ 1.500–1.527. Release of information from Veterans Administration records other than claimant records. See §§ 1.550–1.559. Safeguarding personal information in Veterans Administration records. See §§ 1.575–1.584.

Notification of Appellate Rights

§ 19.114 Rule 14; Notification of right to appeal.

The claimant and the representative, if any, will be informed of the right to initiate an appeal and the time within which to do so, the right to a personal hearing and the right to representation. This information will be included in each notification of a determination of entitlement or nonentitlement to Veterans Administration benefits by the agency of original jurisdiction. (38 U.S.C. 4005(a))

Cross-Reference: What constitutes an appeal. See Rule 17, § 19.117.

§ 19.115 Notification of right to appeal in administrative appeals and contested claims.

(a) *Administrative appeals.* Claimants will be notified of administrative appeals pursuant to Rule 40 (§ 19.140). (38 U.S.C. 4006)

(b) *Contested claims.* Contesting claimants will be notified of appellate rights pursuant to Rule 43 (§ 19.143). (38 U.S.C. 4005A(a))

§ 19.116 Rule 16; Decision notification.

After a decision has been rendered by the Board, all parties to the appeal and the representatives, if any, will be notified of the results. (38 U.S.C. 4004(a), (d))

Commencement of Appeal

§ 19.117 Rule 17; What constitutes an appeal.

An appeal consists of a timely filed notice of disagreement in writing and, after a statement of the case has been furnished, a timely filed substantive appeal. (38 U.S.C. 4005)

Cross-References: Notice of disagreement. See Rule 18, § 19.118. Substantive appeal. See Rule 23, § 19.123. Place of filing, notice of disagreement and substantive appeal. See Rule 27, § 19.127. Time limit for filing. See Rule 29, § 19.129.

§ 19.118 Rule 18; Notice of disagreement.

A written communication from a claimant or the representative expressing dissatisfaction or disagreement with an adjudicative determination of an agency of original jurisdiction (the Veterans Administration regional office, medical center or clinic which notified the claimant of the action taken) will constitute a notice of disagreement. The notice of disagreement should be in terms which can be reasonably construed as a desire for review of that determination. It need not be expressed in any special wording. (38 U.S.C. 4005)

§ 19.119 Rule 19; Action by agency of original jurisdiction on notice of disagreement.

(a) *Preliminary action.* When a notice of disagreement is timely filed, the agency of original jurisdiction may develop and review the claim again. (38 U.S.C. 4005(d)(1))

(b) *Statement of the case.* If no preliminary action is required or when it is completed, the agency of original jurisdiction will prepare a statement of the case pursuant to Rule 20 (§ 19.120), unless the issue or issues are resolved by granting the benefits sought in the appeal or the notice of disagreement is withdrawn by the appellant or the representative. (38 U.S.C. 4005(d)(1))

Cross-References: Place of filing, notice of disagreement and substantive appeal. See Rule 27, § 19.127. Time limit for filing. See Rule 29, § 19.129.

§ 19.120 Rule 20; Statement of the case.

(a) *Purpose.* The statement of the case should provide the appellant notice of those facts and applicable laws and regulations upon which the agency of original jurisdiction based its determination of the issue or issues. It should be complete enough to allow the appellant to present written and/or oral arguments before the Board of Veterans Appeals. (38 U.S.C. 4005(d)(1))

(b) *Contents.* A statement of the case shall contain:

(1) A summary of the evidence in the case relating to the issue or issues with which the appellant or representative has expressed disagreement.

(2) A summary of the applicable law and regulations, with appropriate citations.

(3) The determination of the agency of original jurisdiction on each issue and the reasons for each such determination with respect to which disagreement has been expressed. (38 U.S.C. 4005(d)(1))

§ 19.121 Rule 21; Furnishing the statement of the case and instructions for filing a substantive appeal.

(a) *Copies of statement of the case.* The statement of the case will be forwarded to the appellant at the latest address of record and a separate copy provided to the representative (if any). (38 U.S.C. 4005(d)(3))

(b) *Information on filing substantive appeal.* With the statement of the case, the appellant and the representative will be furnished information on the right and time limit to file a substantive appeal, as well as hearing and representation rights, and VA Form 1–9, Appeal to Board of Veterans Appeals. Instructions to the appellant state that:

(1) The benefits sought must be clearly identified.

(2) The substantive appeal should set out specific arguments as to error of fact or law, related to the issues.

(3) The appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.

(4) The agency of original jurisdiction may close the appeal for failure to respond to the statement of the case.

(5) The Board of Veterans Appeals will base its decision on the evidence and argument of record, and will not be limited to that cited in the statement of the case. (Approved by the Office of Management and Budget under OMB control number 2900–0085) (38 U.S.C. 4005(d))

Cross-Reference: Substantive appeal. See Rule 23, § 19.123.

§ 19.122 Rule 22; Supplemental statement of the case.

A supplemental statement of the case, so identified, will be furnished to the appellant and representative, if any, when additional pertinent evidence is received, when a material defect is discovered, or when, for any other reasons, the original statement is inadequate under the requirements of Rule 20 (§ 19.120). A supplemental statement of the case will also be issued following development pursuant to a remand of the Board. A supplemental

statement of the case is not required following a hearing on appeal before field personnel when no additional pertinent evidence is received, when a material defect is not discovered, or when the original statement is adequate under the requirements of Rule 20 (§ 19.120). (38 U.S.C. 4005(d))

Cross-References: Consideration of additional evidence received by the Board of Veterans Appeals. See Rule 74, § 19.174. Remand for further development. See Rule 82, § 19.182.

§ 19.123 Rule 23; Substantive appeal.

(a) *Substantive appeal.* A substantive appeal shall consist of a properly completed VA Form 1-9, Appeal to Board of Veterans Appeals, or correspondence containing the necessary information. The appeal should set out specific arguments relating to errors of fact or law. To the extent feasible the argument should be related to specific items in the statement of the case. This is the last action the appellant needs to take to perfect the appeal. The Board will construe such arguments in a liberal manner for purposes of determining whether they raise issues on appeal. (Approved by the Office of Management and Budget under OMB control number 2900-0085) (38 U.S.C. 4005(d)(4)-(5))

(b) *Certification.* Following receipt of the substantive appeal, the agency of original jurisdiction will certify the case to the Board of Veterans Appeals. Certification is accomplished by the execution of VA Form 1-8, Certification of Appeal. Its purpose is to identify the issues for appellate consideration and to serve as a check list for the originating agency to ensure that the appeals development procedures have been adequate, particularly as they affect the appellant's due process rights. (38 U.S.C. 4005)

Cross-Reference: Furnishing the statement of the case and instructions for filing a substantive appeal. See Rule 21(b), § 19.121(b).

§ 19.124 Rule 24; Closing—failure to respond to statement of the case.

The agency of original jurisdiction may close the appeal without notice to an appellant for failure to respond to a statement of the case within the period allowed. However, if a response is subsequently received within the 1-year appeal period (except for contested claims), the appeal will be considered to be reactivated. (38 U.S.C. 4005(d)(3))

Cross-Reference: Time limit for filing. See Rule 29(b), § 19.129(b).

§ 19.125 Rule 25; Withdrawal.

(a) *Notice of disagreement.* A notice of disagreement may be withdrawn in writing before a timely substantive appeal is filed. (38 U.S.C. 4005(d)(1))

(b) *Substantive appeal.* A substantive appeal may be withdrawn in writing at any time before the Board enters a decision except where withdrawal would be detrimental to the appellant. (38 U.S.C. 4005(d)(3))

(c) *Who may withdraw.* Withdrawal may be by the appellant or the authorized representative (person or organization) except that a representative may not withdraw either a notice of disagreement or substantive appeal filed by the appellant personally. The agency of original jurisdiction may not withdraw a notice of disagreement or a substantive appeal after filing of either or both. (38 U.S.C. 4005(b)(2))

Cross-References: Substantive appeal. See Rule 23, § 19.123. Timely filing of appeal questioned within the agency of original jurisdiction. See Rule 33, § 19.133. Untimely filing of appeal protested by claimant. See Rule 35, § 19.135. Adequacy of the substantive appeal. See Rule 37, § 19.137.

§ 19.126 Rule 26; Dismissal.

Appeals which fail to allege specific error of fact or law in the determination being appealed may be dismissed. The appellant and/or representative will be notified of the dismissal action. (38 U.S.C. 4005(d)(5), 4008)

Cross-Reference: Reconsideration. See Rules 85-90, §§ 19.185-19.190.

Filing

§ 19.127 Rule 27; Place of filing notice of disagreement and substantive appeal.

The notice of disagreement and substantive appeal shall be filed with the Veterans Administration office from which the claimant received notice of the determination being appealed. (38 U.S.C. 4005(b)(1), (d)(3))

§ 19.128 Rule 28; Who can file an appeal.

(a) *Persons authorized.* A notice of disagreement and a substantive appeal may be filed by a claimant personally or by an accredited representative of a recognized organization, by an attorney or by an agent, if a proper power of attorney or declaration of representation, as applicable, is on record or accompanies such notice of disagreement or appeal. (38 U.S.C. 4005(b)(2))

(b) *Claimant rated incompetent by Veterans Administration or under disability and unable to file.* If an appeal is not filed by a person listed in paragraph (a) of this section, and the claimant is rated incompetent by the Veterans Administration or has a physical, mental or legal disability which prevents the filing of an appeal on his or her own behalf, a notice of disagreement and a substantive appeal may be filed by a fiduciary appointed to manage the claimant's affairs by the Veterans Administration or a court, or by a person acting as next friend if the appointed fiduciary fails to take needed action or no fiduciary has been appointed. (38 U.S.C. 4005(b)(2))

(c) *Claimant under disability and able to file.* Notwithstanding the fact that a fiduciary may have been appointed for a claimant, an appeal filed by a claimant will be accepted. (38 U.S.C. 4005(b)(2))

Cross-References: Who can file an appeal in contested claims. See Rule 44, § 19.144. Recognized organizations. See Rule 51, § 19.151. Attorneys. See Rule 52, § 19.152. Agents. See Rule 53, § 19.153. Other persons as representative. See Rule 54, § 19.154.

§ 19.129 Rule 29; Time limit for filing.

(a) *Notice of disagreement.* A notice of disagreement shall be filed within 1 year from the date of mailing of notification of the initial review and determination; otherwise, that determination will become final. The date of the letter of notification will be considered the date of mailing for purposes of determining whether a timely appeal has been filed. (38 U.S.C. 4005(b)(1))

(b) *Substantive appeal.* A substantive appeal shall be filed within 60 days from the date of mailing of the statement of the case, or within the remainder of the 1-year period from the date of mailing of the notification of the initial review and determination being appealed, whichever period ends later. The date of the statement of the case itself will be considered the date of mailing for purposes of determining whether a timely appeal has been filed. Where a supplemental statement of the case is furnished, a period of 30 days will be allowed for response. (38 U.S.C. 4005(b)(1), (d)(3))

Cross-Reference: Time limits for filing in contested claims. See rule 45, § 19.145.

§ 19.130 Rule 30; Extension of time for filing.

(a) *General.* An extension of the 60-day period for filing a substantive appeal or the 30-day period for responding to a supplemental statement of the case may be granted for good cause shown. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. The request for extension should be filed with the Veterans Administration office from which the claimant received

notice of the determination being appealed. That same office will make a determination as to extension. A denial of a request for extension may be appealed to the Board. (38 U.S.C. 4005(d)(3))

(b) *Additional evidence filed.* The filing of additional evidence after receipt of notice of an adverse determination shall not extend the time limit for initiating or completing an appeal from that determination. (38 U.S.C. 4005(d)(3))

Cross-References: Extension of time for filing in contested claims. See Rule 48, § 19.148. Evidence. See Rules 72–74, §§ 19.172–19.174. New claim after appellate decision. See Rule 94, § 19.194.

§ 19.131 Rule 31: Computation of time limit.

(a) *Acceptance of postmark date.* A notice of disagreement or a substantive appeal postmarked prior to expiration of the applicable time limit will be accepted as having been timely filed. (38 U.S.C. 4005(b)(1))

(b) *Computation of time limit.* In computing the time limit for filing a notice of disagreement or a substantive appeal, the first day of the specified period will be excluded and the last day included. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation. (38 U.S.C. 4005(b)(1))

§ 19.132 Rule 32; Legal holidays.

For the purpose of Rule 31 (§ 19.131), the legal holidays, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows: New Year's Day—January 1; Inauguration Day—January 20 of every fourth year or, if the 20th falls on a Sunday, the next succeeding day selected for public observance of the inauguration; Washington's Birthday—third Monday in February; Memorial Day—last Monday in May; Independence Day—July 4; Labor Day—first Monday in September; Columbus Day—second Monday in October; Veteran's Day—November 11; Thanksgiving Day—fourth Thursday in November; and Christmas Day—December 25. (5 U.S.C. 6103)

§ 19.133 Rule 33; Timely filing of appeal questioned within the agency of original jurisdiction.

If, within the agency of original jurisdiction, there is a question as to the timely filing of a notice of disagreement or substantive appeal, the procedures for an administrative appeal must be followed. (38 U.S.C. 4005(d)(3), 4006)

Cross-References: Administrative appeal. See Rule 38, § 19.138. Officials authorized and time limits for filing administrative appeals. See Rule 39, § 19.139. Notification to claimant. See Rule 40, § 19.140. Merge of administrative appeal and claimant's appeal. See Rule 41, § 19.141. Effect of decision on administrative or merged appeal. See Rule 42, § 19.142.

§ 19.134 Rule 34; Adequacy of notice of disagreement questioned within the agency of original jurisdiction.

If, within the agency of original jurisdiction, there is a question as to the adequacy of a notice of disagreement, the procedures for an administrative appeal must be followed. (38 U.S.C. 4005(d)(3), 4006)

Cross-References: Administrative appeal. See Rule 38, § 19.138. Officials authorized and time limits for filing administrative appeals. See Rule 39, § 19.139. Notification to claimant. See Rule 40, § 19.140. Merge of administrative appeal and claimant's appeal. See Rule 41, § 19.141. Effect of decision on administrative or merged appeal. See Rule 42, § 19.142.

§ 19.135 Rule 35; Untimely filing of appeal protested by claimant.

If the claimant or his/her representative protests an adverse determination made by the agency of original jurisdiction with respect to timely filing of the notice of disagreement or substantive appeal, the claimant will be furnished a statement of the case. (38 U.S.C. 4005(d))

§ 19.136 Rule 36; Inadequacy of the notice of disagreement.

If the claimant or his/her representative protests an adverse determination made by the agency of original jurisdiction with respect to adequacy of the notice of disagreement, the claimant will be furnished a statement of the case. (38 U.S.C. 4005(d))

§ 19.137 Rule 37; Adequacy of the substantive appeal.

A decision as to the adequacy of allegations of error of fact or law in a substantive appeal will be made by the Board of Veterans Appeals. When the Board raises the issue of adequacy of the substantive appeal, the appellant and representative, if any, will be given notice of the issue and a period of 60 days following the date on which such notice is mailed to present written argument or to request a hearing to present oral argument on this question. The date of the letter of notification will be considered the date of mailing the notice. (38 U.S.C. 4005(d)(3), 4008)

§ 19.138 Rule 38; Administrative appeal.

(a) *General.* An administrative appeal from an agency of original jurisdiction determination is an appeal taken by an official of the Veterans Administration authorized to do so to resolve a conflict of opinion or a question of a claim involving benefits under laws administered by the Veterans Administration. Such appeals may be taken not only from determinations involving dissenting opinions but also from unanimous determinations denying or allowing the benefit claimed, in whole or in part. (38 U.S.C. 4006)

(b) *Form of appeal.* An administrative appeal is entered by a memorandum entitled "Administrative Appeal" in which the issues and the basis for the appeal are set forth. (38 U.S.C. 4006)

Cross-Reference: Restriction as to change in payments pending determination of administrative appeals. See § 19.4.

§ 19.139 Rule 39; Officials authorized and time limits for filing administrative appeals.

The Administrator of Veterans Affairs authorizes certain officials of the Veterans Administration to file administrative appeals within specified time limits.

(a) *Central office.*—(1) *Officials.* The Chief Benefits Director or a service director of the Department of Veterans Benefits, the Chief Medical Director or a service director of the Department of Medicine and Surgery, and the General Counsel are so authorized.

(2) *Time limit.* Such officials must file an administrative appeal within 1 year from the date of the determination, or within 1 year from the date of mailing notice of such determination, whichever is later. (38 U.S.C. 4006)

(b) *Agencies of original jurisdiction.*—(1) *Officials.* Directors, adjudication officers, and officials at comparable levels in field offices deciding any claims for benefits, from any determination originating within their established jurisdiction, are also authorized.

(2) *Time limit.* The director or comparable official must file an administrative appeal within 6 months from the date of the determination or within 6 months from the date of mailing notice of the determination, whichever is the later date. Officials below the level of director must do so within 60 days from such date. (38 U.S.C. 4006)

(c) *The date of mailing.* With respect to paragraphs (a) and (b) of this section, the term "date of mailing" is defined as the date of the letter of notification to the claimant. (38 U.S.C. 4005)

§ 19.140 Rule 40; Notification to claimant.

When an administrative appeal is entered, the claimant and the representative, if any, will be promptly furnished a copy of the memorandum entitled "Administrative Appeal," or an

adequate summary thereof, outlining the question at issue and will be allowed a period of 60 days to join in the appeal if he/she so desires. The claimant will also be advised of the effect of such action and preservation of normal appeal rights if he/she does not elect to join. (38 U.S.C. 4006)

§ 19.141 Rule 41; Merger of administrative appeal and claimant's appeal.

If the claimant or the representative elects to join in the administrative appeal, it becomes a merged appeal and the rules governing an appeal initiated by a claimant are for application. The presentation of evidence or argument in response to notification of the right to join in the administrative appeal will be construed as merging the appeal. If the claimant or representative does not authorized the merger, he/she should hold such evidence or argument in abeyance until resolution of the administrative appeal. (38 U.S.C. 4006)

§ 19.142 Rule 42; Effect of decision on administrative or merged appeal.

(a) *Appeal merged.* If the administrative appeal is merged, the appellate decision on the merged appeal will constitute final disposition of the claimant's appellate rights.

(b) *Appeal not merged.* If the claimant does not authorize merger, normal appellate rights on the same issue are preserved, and a decision in a separate appeal perfected by the claimant will be entered by another section of the Board. The period of time, from the date of notification to the claimant of the administrative appeal to the date of the Board's decision on the administrative appeal, is not chargeable to the claimant for purposes of perfecting the appeal. (38 U.S.C. 4006)

Cross-References: Notification of appellate rights. See Rules 14–16, §§ 19.114–19.116. Commencement of appeal. See Rules 17–26, §§ 19.117–19.126. Disqualification of members. See Rule 83, § 19.183.

Contested Claims

§ 19.143 Rule 43; Notification of right to appeal in simultaneously contested claims.

A simultaneously contested claim exists where one claim is allowed and another claim involving the same benefit is disallowed or the allowance of one claim would result in the payment of a lesser benefit to another claimant. All interested parties will be specifically notified of the action taken and of the right and time limit for initiation of an appeal, as well as hearing and representation rights. (38 U.S.C. 4005A(a))

Cross-Reference: Hearings in simultaneously contested claims. See Rule 67, § 19.167.

§ 19.144 Rule 44; Who can file an appeal in contested claims.

In a contested claim, any claimant or representative of a claimant may file a notice of disagreement or substantive appeal within the time limits set out in Rule 45 (§ 19.145). (38 U.S.C. 4005(b)(2), 4005A)

Cross-Reference: Who can file an appeal. See Rule 28, § 19.128.

§ 19.145 Rule 45; Time limits for filing in contested claims.

(a) *Notice of disagreement.* Where one claim is allowed and one denied, or the allowance of one claim would result in payment of a lesser amount to another claimant, the notice of disagreement from the person adversely affected must be filed within 60 days from the date of mailing the notification of the review or determination; otherwise, that determination will become final. The date of the letter of notification will be considered the date of mailing for purposes of determining whether a timely notice of disagreement has been filed. (38 U.S.C. 4005A(a))

(b) *Substantive appeal.* A substantive appeal must be filed within 30 days from the date of mailing of the statement of the case. The date on the statement of the case will be considered the date of mailing for purposes of determining whether a timely appeal has been filed. (38 U.S.C. 4005A(b))

Cross-References: Computation of time limit. See Rule 31, § 19.131. Legal holidays. See Rule 32, § 19.132. Timely filing of appeal questioned within the agency of original jurisdiction. See Rule 33, § 19.133.

§ 19.146 Rule 46; Notice to contesting parties on receipt of notice of disagreement.

Upon the filing of a notice of disagreement in a contested claim, all parties in interest and their representatives will be furnished a copy of the statement of the case. The parties in interest who filed notices of disagreement will be duly notified of the right and time limit to file a substantive appeal and furnished with VA Form 1–9, Appeal to Board of Veterans Appeals. (Approved by the Office of Management and Budget under OMB control number 2900–0085) (38 U.S.C. 4005A(b))

Cross-Reference: Furnishing the statement of the case and instructions for filing a substantive appeal. See Rule 21, § 19.121.

§ 19.147 Rule 47; Notice of substance of appeal to other contesting parties.

When a substantive appeal is filed, the substance of the appeal will be communicated to the other interested parties, and a period of 30 days will be allowed for filing a brief or argument in answer. (38 U.S.C. 4005A(b))

§ 19.148 Rule 48; Extension of time for filing in contested claims.

An extension of the 30-day period to file a substantive appeal may be granted for good cause shown. In granting an extension in contested claims, consideration will be given to the interests of the other parties involved. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. (38 U.S.C. 4005A(b))

§ 19.149 Rule 49; Notices to last addresses of record in contested claims.

Notices in contested claims will be forwarded to the last address of record of the parties concerned and such action will constitute sufficient evidence of notice. (38 U.S.C. 4005A(b))

Representation

§ 19.150 Rule 50; Right to representation.

An appellant will be accorded full right to representation in all stages of an appeal by a recognized organization, attorney or agent, or other person authorized to represent claimants before the agency of original jurisdiction. (38 U.S.C. 3401–3405, 4005(a))

§ 19.151 Rule 51; Recognized organizations.

(a) *Designation by power of attorney.* The designation by power of attorney to a recognized organization will be by duly executed VA Form 23–22, Appointment of Veterans Service Organization as Claimant's Representative. (38 U.S.C. 4005(b)(2))

(b) *Revocation or change of power of attorney.* An appellant may revoke a power of attorney to a recognized organization at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (Approved by the Office of Management and Budget under OMB control number 2900–0321) (38 U.S.C. 4005(b)(2))

Cross-Reference: Powers of attorney. See § 14.631

§ 19.152 Rule 52; Attorneys.

(a) *Designation.* A signed consent by the appellant or appellant's guardian permitting access to all information in the individual's records and a signed statement by the attorney that he/she is authorized to represent the appellant prepared on the attorney's letterhead

will be accepted as an executed power of attorney. If it is contemplated that a legal intern, law student, or paralegal will assist in the appeal, written consent must be obtained from the appellant. (38 U.S.C. 3401, 3404)

(b) *Revocation or change of representation by an attorney.* An appellant may revoke a declaration of representation by an attorney at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 3404)

Cross-References: requirements for recognition of representatives, agents, and attorneys. See § 14.629(c). Powers of attorney. See § 14.631. Legal interns, law students and paralegals. See Rule 56, § 19.156.

§ 19.153 Rule 53; Agents.

(a) *Designation.* The designation of an agent will be by a duly executed power of attorney (VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent). The designation must be to an individual, rather than a firm or partnership. (38 U.S.C. 3404)

(b) *Admission to practice.* The provisions of 38 U.S.C. 3404 and 38 CFR 14.629(b) are applicable to admission of agents to practice before the Veterans Administration. Authority for making determinations concerning admission to practice rests with the General Counsel of the Veterans Administration, and any questions concerning admissions should be addressed to that office, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

(c) *Revocation or change of power of attorney.* An appellant may revoke a power of attorney to an agent at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 3403, 3404)

Cross-Reference: Powers of attorney. See § 14.631.

§ 19.154 Rule 54; Other persons as representative.

(a) *General.* Any competent person may be recognized as a representative for a particular claim, unless that person has been barred from practice before the Veterans Administration. The designation must be by VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent, which stipulates that no fee or compensation of any nature will be charged or paid for the services. (38 U.S.C. 3403)

(b) *More than one appellant.* If an individual has been recognized as a representative for one appellant and has not appealed such limitation to the Office of the General Counsel as provided in § 14.630 of this title, he/she must obtain permission from the Chairman of the Board of Veterans Appeals to represent any other appellant before the Board. (38 U.S.C. 3403)

(c) *Revocation or change of power of attorney.* An appellant may revoke a power of attorney to such an individual at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 3403, 3404)

§ 19.155 Rule 55; General.

(a) *One representative.* A specific claim may be prosecuted at any one time by only one recognized organization, attorney, agent or other person properly designated to represent the appellant. (38 U.S.C. 4005(b)(2))

(b) *Change of status from spouse to surviving spouse.* A power of attorney or designation of representation submitted by the spouse of a veteran may continue in effect after the veteran's death. (38 U.S.C. 3402–3404)

(c) *Recognition of representation after the death of the veteran.* A recognized organization, attorney, agent or person properly designated to represent a veteran may, in the event of the death of the veteran, be recognized as the representative of the survivors for a reasonable period thereafter, but not as representative of a survivor who has appointed another representative. (38 U.S.C. 3403–3404)

(d) *Reasonable period.* For purposes of paragraph (c) of this section, a reasonable period may be considered as that which would enable a potential appellant to recover sufficiently from the emotional stress and strain caused by the veteran's death so as to enable him/her to exercise his/her right to representation. (38 U.S.C. 3402–3404)

Cross-References: Inspection of records by or disclosure of information to recognized representatives of organizations and recognized attorneys. See § 1.525(d). Powers of attorney. See § 14.631(e).

§ 19.156 Rule 56; Legal interns, law students and paralegals.

Legal interns, law students and paralegals must be under the direct supervision of a recognized attorney (Rule 52, § 19.152) in order to prepare cases before the Board of Veterans Appeals. These individuals may present oral arguments at hearings only if the recognized attorney is present. Otherwise, such individuals must qualify as agents or representatives under Rule 53 or 54 (§ 19.153 or 19.154). Legal interns, law students and paralegals who desire to participate at a hearing before the Board must make advance arrangements with the Chief of the Hearing Section and submit written authorization from the attorney naming the individual who will be participating in the hearing. (38 U.S.C. 3404, 4005(b)(2))

Hearings

§ 19.157 Rule 57; General.

(a) *Right to a hearing.* A hearing on appeal shall be granted if an appellant or a representative expresses a desire to appear in person. (38 U.S.C. 4002)

(b) *Purpose of hearing.* The purpose of a hearing is to receive argument and testimony relevant and material to the appellate issue. (38 U.S.C. 4002)

(c) *Nonadversary proceedings.* Hearings conducted by and for the Board are ex parte in nature and nonadversary. Parties to the hearing will be permitted to ask questions, including follow-up questions, of all witnesses but cross-examination will not be permitted. Proceedings will not be limited by legal rules of evidence, but reasonable bounds of relevancy and materiality will be maintained. (38 U.S.C. 4002)

§ 19.158 Rule 58; Who may appear.

The appellant, the authorized representative, and members of Congress and their staffs may appear and present argument and testimony in support of an appeal. At the request of an appellant, a Veterans Benefits Counselor of the Veterans Administration may present the appeal at a hearing before the Board of Veterans Appeals or before Veterans Administration field personnel acting for the Board. (38 U.S.C. 4002, 4005(b)(2))

Cross-Reference: Witnesses. See Rule 65, § 19.165.

§ 19.159 Rule 59; Scheduling and notice of hearing.

(a) *General.* To the extent that facilities permit, hearings will be scheduled at the convenience of appellants and their representatives, with consideration of the travel distance involved. While a statement of the case should be prepared prior to the hearing it is not a prerequisite for entitlement to a hearing, and an appellant may request that the hearing be scheduled prior to issuance of the statement of the case. (38 U.S.C. 4002)

(b) *Notification of hearing.* When a hearing is scheduled, the person

requesting it will be notified of its time and place, and of the fact that the government may not assume any expense incurred by the appellant, the representative or witnesses attending the hearing. (38 U.S.C. 4002)

(c) *Extension of time.* An extension of time for appearance at a hearing may be granted for good cause shown, with due consideration of the interests of other parties if a contested claim is involved. Ordinarily, hearings will not be postponed more than 30 days. Examples of good cause include the following: illness of the appellant and/or representative, difficulty in obtaining records, and unavailability of a witness. (38 U.S.C. 4002, 4005A)

§ 19.160 Rule 60; Place of hearing.

A hearing may be held in one of the following places at the option of the appellant:

(a) Before a section of the Board of Veterans Appeals in Washington, D.C.

(b) To the extent scheduling permits, before a traveling section of the Board of Veterans Appeals during regularly scheduled visits to Veterans Administration facilities.

(c) Before appropriate personnel in the Veterans Administration regional or other office nearest the appellant's residence, acting as a hearing agency for the Board of Veterans Appeals. Such personnel will allow the appellant and/or representative to present any argument and testimony as well as any witnesses before the panel. Rule 62 (§ 19.162) and Rules 64–67 (§§ 19.164–19.167) are applicable to this paragraph.

Hearings under paragraph (a) of this section are held before members who will make the final decision on the appeal. Hearings under paragraph (b) of this section are normally held before members who will make the final decision on appeal unless the issue on appeal involves radiation exposure, agent orange exposure or asbestosis. In these instances the decision will be signed by Board members specializing in those issues. If a travel Board panel is comprised of less than three Board members, the Chairman will assign additional member(s) in Washington, D.C., to constitute a three-member panel. (38 U.S.C. 4002)

Cross-References: Determinations by the Board. See 38 U.S.C. 4003. Voting by Board members. See Rule 81, § 19.181.

§ 19.161 Rule 61; Composition of the hearing panel.

The Board of Veterans Appeals hearing panel shall consist of a presiding Member acting as the chairman, and usually two other Board members, all of whom will participate in the final decision. When, after a hearing, a Board member assigned to a panel is unable to participate in the final decision, the Chairman may assign a substitute pursuant to Rule 10 (§ 19.110). (38 U.S.C. 4002)

Cross-Reference: Appointment, assignment, and rotation of members. See Rule 10(d), § 19.110(d).

§ 19.162 Rule 62; Functions of the presiding member.

The presiding member is responsible for the conduct of the hearing, administration of the oath or affirmation, and for ruling on questions of procedure. The presiding member will assure that the course of the hearing remains relevant to the issue on appeal and that there is no cross-examination of the parties or witnesses. (38 U.S.C. 4002)

Cross-References: Authority, scope of rules, and construction. See Rule 1(b), § 19.101(b). General (Hearings). See Rule 57(c), § 19.157(c).

§ 19.163 Rule 63; Prehearing conference.

Any representative desiring a prehearing conference with the presiding member must make advance arrangements through the Chief of the Hearing Section. Such conference should be limited to issue identification, stipulations of fact and procedural matters. (38 U.S.C. 4002)

§ 19.164 Rule 64; Procurement of additional evidence following a hearing.

If it appears during the course of a hearing that additional evidence would assist in the review of the questions at issue, the president member may direct that the record be left open so that the appellant and any representative may obtain the desired evidence. The presiding member will determine the period of time during which the record will stay open, considering the amount of time estimated by the appellant or representative as needed to obtain the evidence and other factors adduced during the hearing; the period will not customarily exceed 60 days, and will be as short as possible in order that appellate consideration of the case not be unnecessarily delayed. (38 U.S.C. 4002, 4004)

Cross-References: Consideration of additional evidence received by the agency of original jurisdiction. See rule 73, § 19.173. Consideration of additional evidence received by the Board of Veterans Appeals. See Rule 74, § 19.174.

§ 19.165 Rule 65; Witnesses.

(a) *General.* The testimony of witnesses will be heard. An appellant or a representative may arrange for the voluntary appearance of any witnesses he/she desires, but the Board will not require the appearance of any Veterans Administration official or other person. (38 U.S.C. 4002)

(b) *Testimony under oath.* All testimony must be given under oath unless excused because of religious principles or other good cause. If the witness declines to take an oath, he/she should be informed that the testimony will be permitted on affirmation. The witness should then be requested to make a solemn declaration as to the truth of the testimony about to be given. The witness may use such words as he/she considers binding on his/her conscience. Administration of the oath for the sole purpose of presenting contentions and argument is not required. (38 U.S.C. 4002)

§ 19.166 Rule 66; Expenses.

No expenses incurred by an appellant, counsel, or witnesses incident to attendance at a hearing may be paid by the government. (38 U.S.C. 111)

§ 19.167 Rule 67; Hearings in simultaneously contested claims.

If a hearing is scheduled for either party to a simultaneously contested claim, the Board will either accord the other contesting claimant or his/her representative the opportunity to be present but not participate, or will advise the other contesting claimant or his/her representative in writing of the substance of the arguments or contentions advanced. In either event, a reasonable time will be allowed for argument or testimony in refutation, and a separate hearing for the other contesting claimant will be scheduled for that purpose, if requested. (38 U.S.C. 4005A)

§ 19.168 Rule 68; Recorded hearing.

(a) *Board of Veterans Appeals.* The hearing proceedings before a Section of the Board shall be recorded and a tape of these proceedings shall be on file at the Board of Veterans Appeals. A written transcript or a copy of the tape may be furnished without cost to the appellant or representative if so requested at the time of or prior to the hearing; otherwise a charge may be made in accordance with § 1.577 of this title.

(b) *Field offices.* The hearing proceedings before field office personnel after the filing of a notice of disagreement shall be recorded and a copy of the complete transcript incorporated as a permanent part of the claims folder. A copy may be furnished without cost to the appellant or

representative if so requested at the time of or prior to the hearing; otherwise a charge may be made in accordance with § 1.577 of this title. (38 U.S.C. 4002)

§ 19.169 Rule 69; Recording of hearings.

An appellant or representative may record the hearing with his/her own equipment. Filming, videotaping or televising the hearing may be authorized provided a consent is obtained from the appellant and made a matter of record. In all such situations advance arrangements must be made with the Chief of the Hearing Section. In no event will such additional equipment be used if it interferes with the conduct of the hearing or the official recording apparatus. (38 U.S.C. 4002)

Cross-Reference: Functions of the presiding member. See Rule 62, § 19.162.

§ 19.170 Rule 70; Official transcript.

The Board of Veterans Appeals transcript is the only official transcript. (38 U.S.C. 4002)

§ 19.171 Rule 71; Alternate transcript versions.

Alternate transcript versions prepared by the appellant and representative may be considered as a supplemental argument and filed in the appellant's record. (38 U.S.C. 4002, 4005)

Evidence

§ 19.172 Rule 72; Submission of additional evidence.

An appellant may submit additional evidence or information as to the availability of additional evidence after initiating an appeal. (38 U.S.C. 4005(d)(1))

Cross-Reference: Extension of time for filing. See Rule 30(b), § 19.130(b).

§ 19.173 Rule 73; Consideration of additional evidence received by the agency of original jurisdiction.

(a) *Evidence received prior to transfer of records to Board of Veterans Appeals.* Evidence received in the agency of original jurisdiction after an appeal has been initiated but prior to transfer of the records to the Board of Veterans Appeals, including evidence received after certification has been completed, will be referred to the rating or authorization activity for review and disposition. A supplemental statement of the case will be furnished the appellant and his/her representative as provided in Rule 22 (§ 19.122). (38 U.S.C. 4005(d)(1))

(b) *Evidence received after transfer of records to the Board of Veterans Appeals.* Additional evidence received in an agency of original jurisdiction after the records have been transferred to the Board of Veterans Appeals for appellate consideration will be forwarded to the Board if it has a direct bearing on the appellate issue or issues. The Board will then determine what procedural steps are required with respect to the additional evidence. (38 U.S.C. 4004(b), 4005(d)(1))

Cross-References: Substantive appeal. See Rule 23(b), § 19.123(b). Consideration of additional evidence received by the Board of Veterans Appeals. See Rule 74, § 19.174.

§ 19.174 Rule 74; Consideration of additional evidence received by the Board of Veterans Appeals.

The appellant and/or representative may submit additional pertinent evidence following certification and transfer of the appeal to the Board. This evidence, as well as any referred by the originating agency under Rule 73(b) (§ 19.173(b)), must be referred to the agency of original jurisdiction for review and preparation of a supplemental statement of the case unless this procedural right is waived by the appellant. Such waiver must be in writing or formally entered as part of the hearing transcript. (38 U.S.C. 4005)

Action by the Board

§ 19.175 Rule 75; Order of consideration.

Applications for review on appeal shall be considered in the order in which they are entered on the docket, except that a case may be advanced on the docket for earlier consideration for good cause shown. (38 U.S.C. 4007)

Cross-Reference: Advance on the docket. See Rule 6, § 19.106.

§ 19.176 Rule 76; Medical opinions.

(a) *Opinion of the Chief Medical Director.* The Board may obtain an expert medical opinion from the Chief Medical Director of the Veterans Administration on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of the appeal. (38 U.S.C. 4009(a))

(b) *Armed Forces Institute of Pathology Opinions.* The Board may refer pathologic material to the Armed Forces Institute of Pathology for review and expression of opinion. (38 U.S.C. 4009(a))

Cross-Reference: Governing criteria. See Rule 3, § 19.103.

§ 19.177 Rule 77; Independent medical expert opinions.

When, in the judgment of the Board, additional medical opinion is warranted by the medical complexity or controversy involved in an appeal, the Board may obtain an advisory medical opinion from one or more medical experts who are not employees of the Veterans Administration. Opinions will be secured, as requested by the Chairman of the Board, from recognized medical schools, universities, clinics or medical institutions with which arrangements for such opinions have been made by the Administrator of Veterans Affairs. An appropriate offical of the institution will select the individual expert(s) to give an opinion. (38 U.S.C. 4009)

§ 19.178 Rule 78; Filing of requests for the procurement of medical opinions.

The appellant or representative may request that the Board obtain a medical opinion under Rule 76 or 77 (§ 19.176 or 19.177). Such request must be in writing and will be granted upon a showing of good cause, such as where complex or controversial medical issues are involved in the appeal. (38 U.S.C. 4002, 4004(c), 4009)

§ 19.179 Rule 79; Notification of medical opinions secured by the Board.

When an opinion under Rule 76 or 77 (§ 19.176 or 19.177) has been obtained by the Board, a copy of such opinion will be furnished to the appellant's representative or, subject to the limitations provided in 38 U.S.C. 3301, to the appellant if there is no representative. A period of 60 days will be allowed for response. (38 U.S.C. 4005, 4009)

§ 19.180 Rule 80; The decision.

(a) *Decisions based on entire record.* The appellant is presumed to be in agreement with any statement of fact contained in a statement of the case to which no exception is taken. Decisions of the Board, however, shall be based on a review of the entire record. (38 U.S.C. 4005(d)(4)–(5))

(b) *Disposition of issues.* The decision of the Board will dispose of each issue on appeal by allowance, denial, remand or dismissal, in whole or in part. (38 U.S.C. 4004(a))

(c) *Format.* The decision of the Board shall be in writing and shall set forth specifically the issue or issues, separately stated findings of fact and conclusions of law, and the reasons for the Board's decision. (38 U.S.C. 4004(d))

§ 19.181 Rule 81; Voting by Board members.

(a) *Unanimous decisions.* A decision unanimously concurred in by the Members of the Section and duly promulgated shall be final. (38 U.S.C. 4003(a))

(b) *Dissent.* Where the members do not agree, the Chairman of the Board

may either concur with the majority, in which event this will constitute a final decision of the Board, or may direct further consideration by two or more sections, not to exceed 12 members, including the section to which the case was originally assigned. Any decision by an expanded panel which is not unanimous will require approval of the Chairman of the Board; if the members are equally divided, the Chairman will participate in the decision by casting the deciding vote. (38 U.S.C. 4003(b))

Cross-References: Appointment, assignment, and rotation of members. See Rule 10(d), § 19.110(d). Place of hearings. See Rule 60, § 19.160. Composition of the hearing panel. See Rule 61, § 19.161. When reconsideration is accorded. See Rule 85, § 19.185.

§ 19.182 Rule 82; Remand for further development.

(a) *General.* When, during the course of review, it is determined that further evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, the section of the Board shall remand the case to the agency of original jurisdiction, specifying the further development to be undertaken. (38 U.S.C. 4002, 4004(a))

(b) *Review by agency of original jurisdiction.* Where the development results in additional evidence, a supplemental statement of the case will be furnished the appellant and any representative, and the records will again be reviewed by the agency of original jurisdiction. A supplemental statement of the case will not be required where the only purpose of the remand is to assemble records previously considered by the agency of original jurisdiction. If the case is remanded to cure a procedural defect, the Board may also require issuance of a supplemental statement of the case to assure full notification to the appellant of the status of the case. (38 U.S.C. 4005(d)(1)

(c) *Resubmission to Board of Veterans Appeals.* Unless the benefits at issue on appeal are awarded upon review by the agency of original jurisdiction, the records will be returned to the Board of Veterans Appeals for completion of appellate review. Remanded cases will not be closed for failure to respond to the supplemental statement of the case. (38 U.S.C. 4005(d))

§ 19.183 Rule 83; Disqualification of members.

(a) *General.* A member of the Board shall disqualify himself/herself in a hearing or decision on an appeal from a determination in which he/she participated or had supervisory responsibility in the agency of original jurisdiction prior to his/her appointment as a member of the Board, or where there are other circumstances which might give the impression of bias either for or against the appellant. (38 U.S.C. 4002)

(b) *Appeal on same issue subsequent to decision on administrative appeal.* Members of the Board signatory to the decision on an administrative appeal will disqualify themselves from acting on a subsequent appeal by the claimant on the same issue. (38 U.S.C. 4002)

Cross-Reference: Effect of decision on administrative or merged appeal. See Rule 42, § 19.142.

§ 19.184 Rule 84; Administrative allowance.

The Chairman or Vice Chairman, under authority delegated in 38 CFR 19.5(b), may authorize an administrative allowance, following review and recommendation by members of the Board, in adjudicative actions which are otherwise final. (38 U.S.C. 210(b), 212(a))

Reconsideration

§ 19.185 Rule 85; When reconsideration is accorded.

Reconsideration of an appellate decision may be accorded at any time by the Board of Veterans Appeals on request by the appellant or his/her representative or on the Board's own motion:

(a) Upon allegation of obvious error of fact or law; or

(b) Upon discovery of new and material evidence in the form of records or reports of the military, naval or air service department concerned or officially corrected service department record. (38 U.S.C. 4003, 4004(b))

§ 19.186 Rule 86; Filing and disposition of a motion for reconsideration.

(a) *Application requirements.* A motion for reconsideration shall set forth clearly and specifically the alleged obvious error(s) of fact or law in the decision of the Board or other appropriate basis for requesting reconsideration. This motion may be filed at any time. (38 U.S.C. 4003, 4008)

(b) *Disposition.* The Chairman or his/her designee will review the sufficiency of the allegations set forth in the motion.

(1) *Motion denied.* The appellant and representative will be notified if the motion is denied. The notification will be signed by the Chairman and will include reasons why the allegations are found insufficient. This constitutes final disposition of the motion.

(2) *Motion allowed.* If the motion is allowed, the Chairman or his/her designee will assign a reconsideration panel according to Rule 90 (§ 19.190). The appellant and representative will be so notified. At the time of notification the appellant and the representative will be given a period of 60 days to present additional arguments. (38 U.S.C. 4003, 4008)

§ 19.187 Rule 87; Evidence considered.

Reconsideration of an appellate decision for error shall be limited to review of the evidence of record at the time the decision was entered, but the Board may secure additional medical or legal opinion. Additional evidence, apart from service department records, submitted following the decision being reconsidered is subject to the provisions of Rule 94 (§ 19.194) concerning new and material evidence. (38 U.S.C. 4003, 4009)

Cross-Reference: When reconsideration is accorded. See Rule 85, § 19.185.

§ 19.188 Rule 88; Remand pursuant to reconsideration.

In connection with a reconsideration, the Board may remand for the purpose of obtaining or developing additional evidence. Such evidence may provide the basis for a reopened claim under the provisions of Rule 94 (§ 19.194). (38 U.S.C. 4004(b))

§ 19.189 Rule 89; Hearings on reconsideration.

(a) *Right to a hearing.* After a motion for reconsideration has been allowed, a hearing shall be granted if an appellant or representative desires to appear in person. (38 U.S.C. 4002, 4003)

(b) *Composition of the hearing panel.* The hearing panel will include those members who participated in the original decision, if available, and any additional members assigned by the Chairman or his/her designee. (38 U.S.C. 4002, 4003)

§ 19.190 Rule 90; Number of members on reconsideration panel.

(a) *Board member(s) signatory to decision available.* When a motion for reconsideration is allowed, the Chairman or his/her designee will assign a panel to review the merits of the reconsideration. The number of Board members assigned to the reviewing panel shall be determined by doubling the number of members who participated in the original decision (to a maximum number of 12 members). All members who participated in the decision being reconsidered and are still available will be assigned to the panel. (38 U.S.C. 4002)

(b) *Board member(s) signatory to decision unavailable.* When a motion for reconsideration is allowed and the

Board Members who participated in the decision being reconsidered are no longer available, the Chairman or his/her designee may assign a panel consisting of three Board members to review the merits of the reconsideration. (38 U.S.C. 4002)

Finality

§ 19.191 Rule 91; Harmless error.

An error or defect in any decision by the Board of Veterans Appeals which does not affect the merits of the issue or substantive rights of the appellant will be considered harmless and not a basis for vacating, reversing, or modifying such decision. (38 U.S.C. 4003)

§ 19.192 Rule 92; Finality of determinations of the agency of original jurisdiction where appeal is not perfected.

A determination on a claim by the agency of original jurisdiction of which the claimant is properly notified shall become final if an appeal is not perfected as prescribed in Rule 29 (§ 19.129). (38 U.S.C. 4005(c))

§ 19.193 Rule 93; Finality of determinations of the agency of original jurisdiction affirmed on appeal.

When the determination of the agency of original jurisdiction is affirmed by the Board of Veterans Appeals, such determination becomes a part of the appellate decision. (38 U.S.C. 4004(a))

§ 19.194 Rule 94; New claim after appellate decision.

When a claimant requests that a claim be reopened after an appellate decision and submits evidence in support thereof, a determination as to whether such evidence is new and material must be made and, if it is, whether it provides a new factual basis for allowing the claim. An adverse determination as to either question is appealable. (38 U.S.C. 4004(b))

§ 19.195 Rule 95; Death of appellant during pendency of appeal.

When an appeal is pending before the Board of Veterans Appeals at the time of the appellant's death, the Board may complete its action on the issues properly before it without application from the survivors. (38 U.S.C. 4008)

Cross-References: General (Representation). See Rule 55(c), § 19.155(c). Claim for death benefits by survivor—prior unfavorable decision. See Rule 96, § 19.196.

§ 19.196 Rule 96; Claim for death benefits by survivor—prior unfavorable decision.

Issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime. (38 U.S.C. 4004(b))

§ 19.197 Rule 97; Nonprecedential nature of Board decisions.

The Board will strive for consistency in issuing its decisions. Previously issued Board decisions will be considered binding only with regard to the specific case decided; prior decisions in other appeals may be considered in a case to the extent that they reasonably relate to the case. Each case presented to the Board will be decided on the basis of the individual facts of the case in light of applicable law and procedure. (38 U.S.C. 4004(a))

Privacy Act

§ 19.198 Rule 98; Privacy Act request—appeal pending.

When a Privacy Act request is filed by an individual seeking records pertaining to him or her (under § 1.577 of this title) and the relevant records are in the custody of the Board, such request will be reviewed and processed prior to appellate action on that individual's appeal. (5 U.S.C. 552a; 38 U.S.C. 4002, 4007)

§ 19.199 Rule 99; Amendment of appellate decisions.

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 85 through 90 (§§ 19.185 through 19.190). The Board will review a request for correction of factual information set forth in a decision. Where the request to amend under the Privacy Act is an attempt to alter a judgment made by the Board and thereby replace the adjudicatory authority and functions of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack upon that which has already been the subject of a decision of the Board. The denial will satisfy the procedural requirements of § 1.579 of this title. If otherwise appropriate, the request will be considered one for Reconsideration under Rules 85 through 90 (§§ 19.185 through 19.190). (5 U.S.C. 552a(d); 38 U.S.C. 4003, 4008)

§ 19.200 Rule 100; Index to appellate decisions.

(a) *Index.* The appellate decisions of the Board of Veterans Appeals have been indexed to facilitate access to the contents of the decisions (BVA Index I-01-1). The index is published quarterly in microfiche form with an annual cummulation. It is organized to provide citations to Board of Veterans Appeals decisions under subject terms chosen to describe the issues adjudicated in the appeals. Cases which pertain to the same issues are grouped together in the index under alphabetically arranged subject terms. The index is available at Veterans Administration regional offices and at the Board of Veterans Appeals in Washington, D.C. Microfiche copies can be obtained by writing to the Appellate Index and Retrieval Staff (01C1), Board of Veterans Appeals, Washington, D.C. 20420.

(b) *Copies of decisions.* The index can be used to locate citations to decisions with issues similar to those of concern to an appellant. Each indexed decision has a locator number assigned to it, e.g., 82-07-0001. This number should be used when requesting a paper copy of that decision. These request should be directed to the Appellate Index and Retrieval Staff (01C1), Board of Veterans Appeals, Washington, D.C. 20420. (5 U.S.C. 552a(2))

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2267-2; EPA Docket No. AW036PA]

Commonwealth of Pennsylvania; Approval of a Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Pennsylvania has requested a revision to its State Implementation Plan (SIP) to incorporate an alternative emission reduction plan or "bubble." Pennsylvania has requested that the plan be approved by EPA for the Homestead and Edgar Thomson plants of the United States Steel Corporation (USSC) in Allegheny County, Pennsylvania. This plan consists of bubble regulations which apply to sulfur dioxide emissions from ten categories of miscellaneous Homestead sources, the Homestead Open Hearth Furnaces, the Carrie Furnaces boilers (Homestead), and the Edgar Thomson soaking pits and boilers. The plan allows USSC to increase on a temporary basis sulfur dioxide emissions from Carrie boilers Nos. 3 and 4 when the increases are offset by sulfur dioxide reductions at the remaining listed sources due to shutdown or use of natural gas. In support of this bubble, an air quality analysis was conducted. EPA has

reviewed this analysis and has concluded that no significant air quality impact will occur if this bubble is implemented. This bubble plan was proposed in the **Federal Register** on August 26, 1982 (47 FR 37590).

EFFECTIVE DATE: February 17, 1983.

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

U.S. Environmental Protection Agency, Air Programs & Energy Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, Pennsylvania 19106, ATTN: David L. Arnold

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Mr. Gary L. Triplett

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, Pennsylvania 15201, ATTN: Mr. Roger C. Westman

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

FOR FURTHER INFORMATION CONTACT: Mr. David Arnold at: Pennsylvania Section (3AW11), Air & Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, (215) 597-8173.

SUPPLEMENTARY INFORMATION: The changes to the Pennsylvania State Implementation Plan (SIP) were submitted by the Allegheny County Health Department (ACHD) and the Pennsylvania Department of Environmental Resources (PA DER) on September 16, 1982, and were proposed in the **Federal Register** on August 26, 1982 (47 FR 37590). The changes allow the implementation of an alternative emission reduction plan (bubble) in accordance with EPA's Bubble Policy of December 11, 1979 (44 FR 71780). EPA, PA DER, and the ACHD processed this proposal concurrently. No comments were received by EPA during the 30-day comment period following EPA's August 26, 1982 proposed approval.

The bubble being approved involves sulfur dioxide (SO_2) emission sources at the Homestead and Edgar Thomson plants of the United States Steel Corporation (USSC). The primary purpose of this plan is to provide some cost savings during the current economic slowdown. The plan allows emissions from two Carrie boilers to increase when the increase is offset by a reduction in emissions from the use of natural gas and reduced operations. This alternative emission reduction plan is temporary and will apply only during the periods of time for which USSC requests and receives approval from the Director of the Allegheny County Health Department. The bubble plan would allow emissions of 2.5 pounds of SO_2 per million Btu of heat input, with a maximum allowable rate of 735 pounds per hour, from Carrie boilers Nos. 3 and 4 at the Homestead plant. This increase would be offset by SO_2 reductions from ten categories of miscellaneous Homestead sources, the Homestead Open Hearth Furnaces, and the soaking pits and boilers at the Edgar Thomson plant. The current Pennsylvania SIP (Article XX, Section 403, of the ACHD Rules and Regulations) limits boilers to between 0.6 to 1.0 lbs. SO_2 per million Btu, and the remaining process sources in the bubble to a level of 500 ppm (vol) of SO_2. The plan would require the Carrie boilers to meet an emission limit of 2.5 pounds per million Btu and 735 pounds per hour; the Open Hearth Furnaces to meet an emission limit of 120 pounds per hour but never to exceed 720 pounds in any 24 hour period; the remaining sources to meet an emission limit of 0 pounds per hour. Table 1 below lists the sources involved in the plan and summarizes the annual SO_2 emission for each under the bubble plan and the average actual emissions for 1979 and 1980 calendar years.

TABLE 1.—SULFUR DIOXIDE EMISSIONS FROM USSC FACILITIES

[In tons per year]

	1979-80 average actual	Bubble plan
Homestead:		
Open Hearth	2,078	132
Soaking Pits	634	0
36-inch Mill	63	0
Blacksmith	18	0
100-inch Reheat	425	0
Preheat Hoods	135	0
160-inch Mill	201	0
No. 2 Forge	262	0
Harvey Forge	98	0
48-inch Mill	18	0
Package Boilers	319	0
Boilers No. 3 and 4	2,826	3,210
Total	7,077	3,342
Edgar Thomson:		
Soaking Pits	9	0
Boilers	528	0
Grand total	7,614	3,342

As illustrated by Table 1, the bubble plan will result in an overall net decrease in SO_2 emissions of 4272 tons per year. In addition, the company estimates its savings in operating costs to be approximately $10,000 per day.

With the bubble plan, ACHD submitted an air quality modeling analysis conducted by USSC. In the subsequent review, EPA found that the modeling analysis was inadequate. Therefore, in accordance with EPA's modeling guidelines, EPA conducted a Level II air quality analysis to support the plan. A Level II analysis is required when the emissions trade will result in no net increase in baseline emissions and the relevant sources are *not* in the same immediate vicinity. Air dispersion modeling analyses were conducted using the bubble emission rates and the base case emission rates. Results of the modeling predictions indicate that no significant increase in air quality impact will occur at the receptor of maximum predicted impact. (See 47 FR 15082; which pertains to ambient equivalence demonstrations for emissions trades.)

The regulation to implement and enforce this plan is in Section 903 of Article XX of the Allegheny County Health Department Rules and Regulations. Subsection (A) of the Section identifies the sources affected by this plan. Subsection (B) relieves USSC from compliance with Section 403 when in compliance with this Section. Subsection (C) prohibits sulfur dioxide emissions from each identified source in excess of specified emission rates. Subsection (D), (E) and (F) establishes periods of applicability, procedures for record keeping, and reporting requirements. Subsection (G) terminates the use of this plan by USSC at any time after December 31, 1985. Subsection (H) and (I) provide for enforcement remedies for failure to comply with this and any other Section of Article XX.

EPA has reviewed the information submitted by the State, and is approving this bubble as a SIP revision since it has met the requirements of the April 7, 1982 Emissions Trading Policy (47 FR 15076). In addition, no comments were received during the comment period.

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

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 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.

(42 U.S.C. 7401-7642)

Dated: February 7, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

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

Subpart NN—Pennsylvania

1. In § 52.2020(c)(50) is added as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(50) Regulations and supporting documents implementing an SO_2 bubble plan for the U.S. Steel Homestead and Edgar Thomson Works in Allegheny County, PA. submitted by DER Secretary Peter S. Duncan on September 16, 1982.

[FR Doc. 83-4128 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 162

[OPP 30055B; PH-FRL 2308-1]

Effective Date for Designation of Certain Antimicrobial Pesticide Ingredients as Inert Rather Than Active; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice; correction.

SUMMARY: This document corrects a typographical error in the rule related notice that established the effective date for the final regulation regarding the classification of certain ingredients used in antimicrobial pesticides as inert rather than as active ingredients. The rule related notice was published in the **Federal Register** of November 24, 1982. The effective date for the rule is December 1, 1982.

FOR FURTHER INFORMATION CONTACT: Reto Engler, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM#2, 1922 Jefferson Davis Highway, Arlington, VA 22202 (703-557-3661).

SUPPLEMENTARY INFORMATION: In FR Doc. 82-32390, published in the **Federal Register** of November 24, 1982, appearing at page 53003, the section number in the next to the last paragraph of the first column on page 53004 is corrected to read 40 CFR 162.60.

Dated: February 7, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-4106 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6489]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street SW., Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is not available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64.

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota: Rice	Unincorporated areas	260646B	May 30, 1974, emergency; Feb. 4, 1981, regular; Feb. 4, 1981, suspended; Jan. 1, 1983, reinstated.	Oct. 21, 1977.
Illinois: Franklin	Zeigler, city of	170240A	Jan. 6, 1983, emergency	Feb. 25, 1977.
North Dakota:				
Richland	Belford, township of	380662—New	do	
Pembina	Joliette, township of	380281A	do	Dec. 8, 1981.
North Carolina: Carteret	Indian Beach, town of	370433	Jan. 13, 1983, emergency	
North Dakota: Richland	Antelope, township of	380663—New	do	
North Carolina: Wilson	Unincorporated areas	370370B	Jan. 12, 1983, emergency; Jan. 12, 1983, regular.	Mar. 10, 1978.
Arkansas:				
Conway	do	050426A	Jan. 7, 1983, emergency	Jan. 10, 1977.
Ouachita	Louann, town of	050262	do	Nov. 5, 1976.
Iowa: Monona	Whiting, city of	190684A	Jan. 13, 1983, emergency	July 2, 1976 and Sept. 5, 1978.
Michigan: Genesee	Richfield, township of	260402	do	NSFHA.
Missouri: Wayne	Williamsville, city of	290452A	Jan. 10, 1983, emergency	Oct. 18, 1974 and Mar. 5, 1976.
Arkansas:				
Logan	Caulksville, city of	050397	Jan. 13, 1983, emergency	June 27, 1975.
Lee	Unincorporated areas	050444A	do	Nov. 1, 1977.
California: Placer	do	060239B	Jan. 7, 1983, emergency	July 12, 1977 and Apr. 3, 1979.
Georgia:				
Lee	Smithville, city of	130349	Jan. 18, 1983, emergency	May 27, 1977.
DeKalb	Stone Mountain, city of	130260	do	May 12, 1974.
Pennsylvania: York	Dillsburg, borough of	420919B	Sept. 16, 1975, emergency; Sept 28, 1979, regular; Sept. 30, 1982, suspended; Jan. 17, 1983, reinstated.	Mar. 19, 1976 and Sept. 28, 1979.
Michigan: Genesee	Richfield, township of	260402	Jan. 13, 1983, emergency; Jan. 13, 1983, regular.	NSFHA's.
Virginia: Prince Edward	Unincorporated areas	510239A	Apr. 11, 1974, emergency; Sept. 1, 1978, regular; Sept. 1, 1978, suspended; Jan. 21, 1983, reinstated.	Jan. 10, 1975.
Arkansas:				
White	Bradford, city of	050131	Jan. 14, 1983, emergency	Feb. 21, 1975.
Baxter	Unincorporated areas	050010A	Jan. 18, 1983, emergency	May 17, 1977.
Sharp	Williford, town of	050575—New	do	Do.
Washington	Greenland, city of	050217A	Jan. 26, 1983, emergency	June 28, 1974, Oct. 24, 1975, and Aug. 2. 1978.
Grant	Prattsville, city of	050279	do	Apr. 25, 1975.
Oklahoma: Mayes	Salina, town of	400118	do	July 2, 1975.
Arkansas: Sebastian	Unincorporated areas	050462A	Jan. 27, 1983, emergency	May 31, 1977.
Kentucky: Clinton	do	210327A	do	July 15, 1977.
Arkansas: Stone	do	050465	Jan. 28, 1983, emergency	Do.
Colorado: Mesa	Grand Junction, city of	080117D	Jan. 6, 1983, suspension withdrawn	Feb. 1, 1974, June 28, 1974, Oct. 10, 1975, and Dec. 12, 1978.
Illinois: Sangamon	Unincorporated areas	170912C	do	May 5, 1978, and June 15, 1979.
Indiana:				
Nobel	Kendallville, city of	180185C	do	June 14, 1974, Dec. 26, 1975, and Sept. 10, 1976.
Do	Ligonier, city of	180186A	do	July 16, 1976.
Porter	Valparaiso, city of	180204C	do	Jan. 9, 1974, and Apr. 9, 1976.
Michigan: Oakland	Bloomfield, township of	260169B	do	May 17, 1974, and June 18, 1976.
Minnesota:				
Hennepin	Independence, city of	270167B	do	June 28, 1974, and July 30, 1976.
Pine	Sandstone, city of	270351B	do	May 10, 1974, and June 4, 1976.
Missouri: Ray	Hardin, city of	290307B	do	June 7, 1974, and Nov. 28, 1975.
New Jersey:				
Cape May	Cape May City, city of	345288A	do	Aug. 7, 1970, and Feb. 13, 1976.
Do	Cape May Point, borough of	345289B	do	July 1, 1970, and Feb. 13, 1976.
Monmouth	Howell, township of	340301B	do	Mar. 22, 1974, and Aug. 27, 1976.
Warren	Knowlton, township of	340488B	do	Aug. 16, 1974, and July 9, 1978.
Gloucester	Logan, township of	340206C	do	Sept. 13, 1974, Nov. 28, 1975, and Dec. 30, 1977.
Somerset	Somerville, borough of	340444C	do	July 26, 1974, Oct. 24, 1975, and Mar. 31, 1981.
Ocean	South Toms River, borough of	340392B	do	July 26, 1974, and July 23, 1976.
Cape May	Wildwood, city of	345329A	do	June 5, 1970, and Dec. 19, 1975.
Do	North Wildwood, city of	345308B	do	Mar. 6, 1971, and Dec. 19, 1975.
New York:				
Montgomery	Canajoharie, town of	360442B	do	May 3, 1974, and April 23, 1976.
Albany	Guilderland, town of	360010A	do	Jan. 17, 1975.
North Caroline: Lenoir	Unincorporated areas	370144B	do	Dec. 27, 1974, and July 21, 1978.
Ohio: Jefferson	Mingo Junction, city of	390300B	do	Mar. 1, 1974, and June 11, 1976.
Oklahoma: Jefferson	Waurika, city of	400076B	do	June 28, 1974, and July 19, 1977.
New Mexico:				
Sandoval	Bernalillo, town of	350056B	do	June 4, 1974, and May 21, 1976.
Do	Corrales, village of	350094B	do	Dec. 20, 1974, and May 15, 1979.
Pennsylvania: Delaware	Ridley, township of	420429B	do	April 27, 1973, and Aug. 6, 1976.
Tennessee: Wilson	Lebanon, city of	470208B	do	Apr. 12, 1974.
Texas:				
Jefferson	Bevil Oaks, town of	480878B	do	May 13, 1977.
Orange	Uincorporated areas	480510B	do	Mar. 11, 1977.
Do	Orange, city of	480512B	do	June 14, 1974, and May 24, 1977.
Do	Pinehurst, city of	480513B	do	Jan. 6, 1983.
Do	West Orange, city of	480515A	do	Mar. 31, 1974.
Wisconsin:				
Oconto	Unincorporated areas	550294A	do	Jan. 6, 1983.
La Crosse	La Crosse, city of	555562A	do	May 14, 1976.
Minnesota:				
Hennepin	Brooklyn Park, city of	270152B	do	Apr. 12, 1974, and May 17, 1982.
Marshall	Stephen, city of	270273A	do	May 17, 1974.
New Jersey: Cape	Sea Isle, city, city of	345318B	do	Dec. 31, 1970, and Dec. 26, 1975.
Montana: Missoula	Missoula, city of	300049B	do	Mar. 8, 1974, and Aug. 15, 1975.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Wisconsin: Washington	West Bend, city of	550475B	do	Dec. 28, 1973, and Apr. 30, 1976.
California: Nevada	Unincorporated areas	060210B	Jan. 19, 1983, suspension withdrawn	Sept. 6, 1977.
Florida:				
Marion	Unincorporated areas	120160B	do	Dec. 27, 1974, and July 22, 1977.
Pinellas	Belleair, town of	125088B	do	May 14, 1971, July 1, 1974, and Aug. 13, 1976.
Do	Belleair Bluffs, city of	120239	do	June 28, 1974, and June 11, 1976.
Alachua	Gainesville, city of	125107B	do	Oct. 13, 1971, July 1, 1974, and Mar. 19, 1976.
Georgia: Newton	Porterdale, city of	130145B	do	Feb. 6, 1976, and Apr. 12, 1974.
Illinois: McHenry	Lakemoor, village of	170915A	do	Dec. 10, 1976.
Kentucky: Rowan	Unincorporated areas	210203B	do	July 29, 1977, and June 10, 1977.
Maine: York	Kennebunk, town of	230151B	do	June 28, 1974, and Oct. 10, 1975.
Massachusetts: Essex	Saugus, town of	250104B	do	Sept. 13, 1974, and Dec. 10, 1976.
Michigan	Thomas, township of	260603A	do	Oct. 13, 1975.
Minnesota:				
Polk	Beltrami, city of	270362C	do	Aug. 23, 1974.
Winona	Winona, city of	275250B	do	Apr. 20, 1972, July 1, 1974, and Dec. 13, 1976.
Missouri: Howard	New Franklin, town of	290500A	do	Nov. 22, 1974.
New York:				
Schoharie	Cobleskill, town of	361573B	do	Dec. 5, 1975, and Dec. 20, 1974.
Montgomery	Fort Johnson, village of	360447B	do	Mar. 15, 1974, and July 30, 1976.
Oswego	Hastings, town of	360653C	do	Nov. 1, 1974, May 21, 1976, and July 1, 1977.
Nassau	Kensington, village of	360472B	do	June 14, 1974, and May 14, 1976.
Madison	Madison, town of	361292B	do	Dec. 20, 1974, and June 4, 1976.
Montgomery	Minden, town of	360451B	do	July 9, 1976, and Nov. 1, 1974.
Oneida	Oriskany Falls, village of	361354B	do	June 18, 1976, and Nov. 22, 1974.
Columbia	Stockport, town of	361322B	do	Oct. 18, 1974, and June 4, 1976.
North Carolina: Union	Monroe, city of	370236B	do	Sept. 20, 1974, and Sept. 17, 1976.
Ohio: Miami	Unincorporated areas	390398B	do	Jan. 10, 1975, and Dec. 2, 1977.
Pennsylvania: York	Franklin, township of	422220D	do	Nov. 8, 1974, May 14, 1976, Dec. 10, 1976, and Sept. 19, 1980.
Utah:				
Weber	Oden, city of	490189B	do	Aug. 16, 1977, and June 21, 1974.
Do	North Ogden, city of	490214B	do	May 6, 1977.
Washington: Yakima	Naches, town of	530223B	do	Jan. 23, 1974, and Apr. 23, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E. O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 27, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4042 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA-6493]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Food Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Soutwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Arkansas, Grant County	Sheridan, City of	050367	760413, Emergency, 830118, Regular	750425
Arizona, Coconino County	Flagstaff, City of	040020	750115, Emergency, 830119, Regular	740628
California, Nevada County	Nevada County [1]	060210	781016, Emergency, 830119, Regular.	770906
Florida, Marion County	Marion County [1]	120160	740625, Emergency, 830119, Regular.	741227
Florida, Polk County	Polk County [1]	120261	770901, Emergency, 830119, Regular.	770513
Georgia, Newton County	Porterdale, Town of	130145	750731, Emergency, 830119, Regular.	740412
Illinois, Fulton County	Cuba, City of	170243	750529, Emergency, 830119, Regular.	750131
Illinois, McHenry County	Lakemoor, Village of	170915	760305, Emergency, 830119, Regular.	761210
Kentucky, Greenup County	Greenup County [1]	210284	770216, Emergency, 830119, Regular.	770729
Kentucky, Rowan County	Rowan County [1]	210203	750519, Emergency, 830119, Regular.	741018
Kentucky, Greenup County	Russell, City of	210090	750715, Emergency, 830119, Regular.	740208
Massachusetts, Essex County	Saugus, Town of	250104	750825, Emergency, 830119, Regular.	740913
Maine, York County	Kennebunk, Town of	230151	730209, Emergency, 830119, Regular.	740628
Michigan, Saginaw County	Kochville, Township of	260501	771026, Emergency, 830119, Regular.	750725
Michigan, Saginaw County	Thomas, Township of	260603	740213, Emergency, 830119, Regular.	751031
Minnesota, Polk County	Beltrami, City of	270362	750624, Emergency, 830119, Regular.	740823
Missouri, Howard County	Fayette, City of	290163	750519, Emergency, 830119, Regular	731228
Missouri, Howard County	New Franklin, Town of	290500	751216, Emergency, 830119, Regular	741122
Missouri, Ray County	Ray County [1]	290778	750326, Emergency, 830119, Regular	790501
Mississippi, Humphreys County	Belzoni, City of	280080	730502, Emergency, 830119, Regular	740201
North Carolina, Union County	Monroe, City of	370236	750421, Emergency, 830119, Regular	740920
New Jersey, Atlantic County	Linwood, City of	340011	740327, Emergency, 830119, Regular	740329
New Jersey, Atlantic County	Pleasantville, City of	340015	740121, Emergency, 830119, Regular	740531
New York, Schoharie County	Cobleskill, Town of	361573	760217, Emergency 830119, Regular	741220
New York, Montgomery County	Fort Johnson, Village of	360447	750722, Emergency, 830119, Regular	740315
New York, Oswego County	Hastings, Town of	360653	750310, Emergency, 830119, Regular	741101
New York, Nassau County	Hewlett Bay Park, Village of	360468	741125, Emergency, 830119, Regular	740628
New York, Nassau County	Hewlett Neck, Village of	360470	741210 Emergency, 830119, Regular	740628
New York, Nassau County	Kensington, Village of	360472	750715 Emergency, 830119, Regular	740614
New York, Madison County	Madison, Town of	361292	761026, Emergency, 830119, Regular	741220
New York, Nassau County	Massapequa Park, Village of	360480	750606, Emergency, 830119, Regular	740621
New York, Montgomery County	Minden, Town of	360451	751110, Emergency, 830119, Regular	741101
New York, Oneida County	Oriskany Falls, Village of	361354	771006, Emergency, 830119, Regular	741122
New York, Columbia County	Stockport, Town of	361322	751010, Emergency, 830119, Regular	741018
New York, Onondaga County	Tully, Village of	361552	750627, Emergency, 830119, Regular	741018
Ohio, Miami County	Miami County [1]	390398	760401, Emergency, 830119, Regular	750110
Pennsylvania, York County	Franklin, Township of	422220	750731, Emergency, 830119, Regular	741108
Texas, Chambers County	Beach City, City of	480121	790808, Emergency, 830119, Regular	770520
Texas, Bell County	Temple, City of	480094	740517, Emergency, 830119, Regular	771108
Utah, Weber County	North Ogden, City of	490214	751002, Emergency, 830119, Regular	770506
Utah, Weber County	Ogden, City of	490189	741227, Emergency, 830119, Regular	740621
Washington, Yakima County	Naches, Town of	530223	750429, Emergency, 830119, Regular	740123
Indiana, Gibson County	Princeton, City of	180073	750319, Emergency, 830121, Regular	740531
Michigan, Alpena County	Alpena, Township of	260011	751002, Emergency, 830121, Regular	750131
Michigan, Monroe County	IDA, Township of	260147	750820, Emergency, 830121, Regular	740621
New Jersey, Burlington County	Chesterfield, Township of	340091	750613, Emergency, 830121, Regular	740628
New Jersey, Warren County	Hardwick, Township of	340528	760407, Emergency, 830121, Regular	750228
New Jersey, Salem County	Upper Pittsgrove, Township of	340425	750319, Emergency, 830119, Regular	740719
New York, Dutchess County	Stanford, Town of	361145	760319, Emergency, 830121, Regular	741018
Pennsylvania, Mercer County	West Salem, Township of	422490	760318, Emergency, 830121, Regular	750124
California, Del Norte County	Del Norte County [1]	065025	700904, Emergency, 830124, Regular	741227
Illinois, Bureau County	Manlius, Village of	170013	751001, Emergency, 830128, Regular	740308
Minnesota, Chisago County	Center City, City of	270685	750905, Emergency, 830128, Regular	0
New Jersey, Burlington County	Springfield, Township of	340116	760816, Emergency, 830128, Regular	740726
Pennsylvania, Crawford County	Sparta, Township of	422398	750910, Emergency, 830128, Regular	750117
Total is: 55.				

[1] Key for reading 4th column (effective date): First two digits designate the year, middle two digits designate the month, last two digits designate the year.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4043 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6494]

Communities With No Special Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consulation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as Zone C. In a Zone C, insurance coverage is available on a voluntary basis at low acturial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating, the rate of a one-story 1-4 family dwelling is $.40 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.10 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium is $.15 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agency or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program would not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provision of U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazard areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains

PART 65—[AMENDED]

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard areas.

State and county	Community	Date of conversion to regular program
Illinois:		
Vermillion	Village of Allerton	January 31, 1983.
Cook	Village of Bedford Park.	Do.
St. Clair	Village of Millstadt	Do.
Michigan:		
Oakland	City of Ferndale	Do.
New York:		
Hamilton	Town of Benson	Do.
Tompkins	Village of Cayuga Heights.	Do.
Orleans	Town of Clarendon	Do.
Schoharie	Town of Conesville	Do.
Franklin	Town of Fort Covington.	Do.
Nassau	Village of North Hills	Do.
Schoharie	Village of Sharon Springs.	Do.
Onondaga	Village of Solvay	Do.
Madison	Village of Wampsville	Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 24, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4073 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6490]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 65—[AMENDED]

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community	Date of conversion to regular program
New Jersey:		
Sussex	Borough of Andover	March 4, 1983.
Atlantic	Borough of Buena	Do.
Warren	Township of Hope	Do.
Sussex	Township of Montague.	Do.
Michigan: Calhoun.	Township of Sheridan	March 11, 1983.
New Jersey:		
Sussex	Borough of Branchville.	Do.
Gloucester	Borough of Clayton	Do.
Sussex	Township of Frankford.	Do.
Sussex	Township of Fredon	Do.
Cumberland	Township of Greenwich.	Do.
Warren	Township of Oxford	Do.
New York: Chautauqua.	Town of Poland	Do.
Pennsylvania:		
Schuylkill	Township of Schuylkill	Do.
Chester	Township of Wallace	Do.
Arkansas:		
Perry	Town of Casa	March 15, 1983.
Pope	City of Dover	Do.
Faulkner	City of Mayflower	Do.
New Jersey:		
Sussex	Township of Lafayette	March 18, 1983.
Warren	Township of Liberty	Do.
Burlington	Township of Mansfield.	Do.
Bergen	Borough of Moonachie.	Do.
Sussex	Township of Walpack	Do.
New York:		
Cattaraugus	Town of Carrolltown	Do.
Chautauqua	Village of Forestville	Do.
Broome	Town of Maine	Do.
Pennsylvania:		
Carbon	Township of Lausanne.	Do.
Berks	Township of North Heideberg.	Do.
New Jersey:		
Hudson	Town of Secaucus	March 25, 1983.
Cumberland	Township of Upper Deerfield.	Do.
California: San Mateo.	City of Brisbane	March 29, 1983.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 27, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4074 Filed 2–16–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA 6333]

National Flood Insurance Program; Final Flood Elevation Determination

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of final rule for the City of Port Arthur, Jefferson County, Texas.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final base flood elevation (BFE) determination for the City of Port Arthur, Jefferson County, Texas. This notice will serve to delete that publication. A new notice of final flood elevation determination will be published in the near future.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: As a result of the appeal submitted by the community, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the City of Port Arthur, Jefferson County, Texas, published at 47 FR 55240, on December 18, 1982, should be deleted. After a technical evaluation of the appeal data and resolution, a new notice of final flood elevations will be issued.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4072 Filed 2–16–83; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 82–185; FCC 83–25]

Uniform System of Accounts for Class A and Class B Telephone Companies; Requirement for Filing Journal Entries Recording the Acquisition of Plant

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: The Commission has adopted a Report and Order amending § 31.2–21(e) of Part 31 of its Rules and Regulations raising the dollar criterion for filing journal entries recording the acquisition of telephone plant for Commission approval to $1,000,000, and also amending § 31.100:4(c)(3) of Part 31 by raising the dollar criterion for filing journal entries disposing of telephone plant acquisition adjustments to $100,000 or more. This action is necessary in order to recognize the effects of inflation since the dollar limits were last adjusted in 1960 and to reduce the burden on the carriers and the Commission staff while still retaining oversight of significant transactions. This action will eliminate approximately 80%–90% of the routine filings made each year.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Chief, Accounting and Audits Division, Common Carrier Bureau, 634–1861.

SUPPLEMENTARY INFORMATION:

List of Subjects in Part 47 CFR Part 31

Communications common carriers, Telephone, Uniform system of accounts.

In the Matter of Amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) of the Commission's Rules and Regulations to revise the requirement for filing journal entries recording the acquisition of plant; CC Docket No. 82–185.

Report and Order

Adopted: January 20, 1983.

Released Febuary 8, 1983.

1. On April 1, 1982, the Commission adopted a Notice of Proposed Rulemaking (NPRM) which proposed to amend Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies (Part 31), of the Commission's Rules and Regulations (Rules) to raise the dollar criteria that require the Commission's approval of journal entries in two instances. First,

we proposed to raise the dollar criterion in § 31.2-21(e) of Part 31 which requires telephone companies having annual operating revenues exceeding $1,000,000 to obtain our approval of journal entries recording the acquisition of telephone plant when the consideration paid is $100,000 or more. We propose to raise the dollar limit for consideration paid to $1,000,000 or more. Second, we proposed to raise the dollar criterion contained in § 31.100:4(c)(3) of Part 31 which requires companies to obtain the Commission's approval before writing-off the total amount of telephone plant acquisition adjustment by a lump sum charge or credit when the amount exceeds $10,000. We proposed to raise that dollar limit to $100,000.

2. Interested parties were invited to file comments on or before May 19, 1982, and reply comments on or before June 3, 1982. Comments were received from the American Telephone and Telegraph Company, for itself, and on behalf of the associated Bell System Operating Companies (AT&T); GTE Service Corporation, for itself, and on behalf of its affiliated domestic telephone compaines (GTE); the United States Independent Telephone Association (USITA); and the Colorado Public Utilities Commission (Colorado). No reply comments were received.

3. AT&T, GTE, and USITA support the Commission's proposed amendments. They consider them to be reflective of today's economic realities and consistent with the Commission's policy of eliminating unnecessary and burdensome regulation. AT&T estimates that, if the $1,000,000 limit had been in effect during the past several years, 80%-90% of the administrative work associated with the routine submission of journal entries for plant acquisitions would have been saved.

4. Colorado understands the need for the first proposed change as it would apply to large telephone companies, but believes additional clarification is needed with respect to small Class C telephone companies.[1] Colorado expresses concern that any telephone company which settles revenue sharing with a Bell Operating Company on an individual cost basis instead of an average settlement basis must follow Class A accounting regardless of the size of annual operating revenues. It suggests that if these companies are included in the proposed change, then the proposed change should not be made. It states, however, that it would have no objection to this change if the operating revenue requirement was also raised to $50,000,000 thereby insuring that the small and medium sized telephone companies would still be required to file journal entries.

5. Colorado also objects to the second proposed change. It claims that any write-off or amortization of an acquisition adjustment should be subject to prior Commission approval. It fears that this proposal would allow up to $100,000 of goodwill to be written off above the line for ratemaking. It states that any acquisition of telephone plant for a cost above the book value of that plant must be justified and that allowing the write-off without Commission approval would preclude the ratepayer from the opportunity of challenging the acquisition costs. It also believes that this would allow smaller telephone companies to reprice plant and charge this repricing to the customer.

Discussion

6. After careful consideration of the comments received, we have decided to raise the two dollar criteria for approval of journal entries as proposed. As previously noted, the proposals were favored by all respondents except Colorado. We believe that Colorado's objections were based, at least in part, on a misunderstanding of the proposal and its impact on small telephone companies. Our views concerning each proposal are discussed more fully below.

Reporting Requirement to Submit Journal Entries to Record Acquisition of Telephone Plant, Section 31.2-21(e)

7. Paragraph (e) of § 31.2-21 requires companies having annual operating revenues exceeding $1,000,000 to submit to this Commission for consideration and approval copies of journal entries recording the acquisition of telephone plant where the consideration paid is $100,000 or more. The only proposed change to the existing wording would substitute $1,000,000 for $100,000 as the criterion for consideration paid.

8. As previously noted, Colorado objects to this proposal because small telephone companies are required to follow the accounting prescribed in Part 31 if they settle revenue sharing with a Bell Operating Company on an individual cost basis. Therefore, because many small companies follow Part 31 accounting, Colorado opposes raising the dollar criterion for consideration paid unless we also raise the revenue criterion for companies affected by this provision from $1,000,000 to $50,000,000. By raising the revenue criterion Colorado believes that small telephone companies following Part 31 accounting would continue to obtain Commission approval of their entries.

9. We have decided not to adopt Colorado's suggestions. A small Class C telephone company is not required to follow Part 31 accounting under this Commission's rules regardless of its method of settling revenues. Thus, any requirement that such companies follow Part 31 is established pursuant to intercompany agreements or state regulation. Small companies following Part 31 pursuant to such agreements have not obtained this Commission's approval of their accounting entries in the past. Therefore, these small companies would not be affected by this amendment. Moreover, if Colorado desires to review and approve plant acquisitions for small interstate carriers at a lower level than $1,000,000, it can require such filings at the state level. As we indicated in the NPRM, we proposed the limit of $1,000,000 to recognize the effects of inflation since the previous revision in 1960, and to lighten the administrative burden on the respondents and the Commission's staff. We pointed out that the Producer Price Index for Finished Goods had risen from 93.5 in May 1960 to 271.3 in July 1981. We also stated that a study of filings for 1979, 1980, and 1981 showed that about 90% of the filings would have been eliminated if the $1,000,000 limit had been established during that period. Finally, we indicated the $1,000,000 limit would maintain the Commission's oversight for the 10% of the journal entries which are of significance from a regulatory standpoint. Nothing in Colorado's comments has persuaded us to alter our tentative position stated in the NPRM. Based on the foregoing, we have decided to raise the consideration paid criterion in § 31.2-21(e) from $100,000 to $1,000,000 as proposed.

Reporting Requirement to Submit Journal Entries to Dispose of Plant Acquisition Adjustments, Section 31.100:4(c)(3)

10. Section 31.100:4(c)(3) provides that a company may dispose of the total amount arising from an acquisition of telephone plant by a lump sum charge or credit to account 614, "Amortization of telephone plant acquisition adjustment," provided that such amount does not exceed $10,000. The only proposed change to the existing wording would increase the dollar limit from $10,000 to $100,000.

11. As previously noted, Colorado's objection to the proposed increase in the

[1] Section 31.01-1 of Part 31 of our Rules classifies telephone companies based on annual operating revenues. Class C Companies have annual operating revenues exceeding $50,000 but not more than $100,000.

dollar limit was based on its concern that the amendment would allow small companies to write-off excessive amounts of plant acquisition adjustment without this Commission's approval. However, for the reasons discussed in paragraph 9 above, these small Class C companies have not been subject to this provision of Part 31 in the past, and, therefore, they would not be affected by this amendment. If Colorado desires to review and approve plant acquisition adjustments by small intrastate carriers at a lower level for its own ratemaking purposes, it can require such review and approval at the state level. Our action is not in any way to be construed as altering any requirements or arrangements between the carriers and the state commissions. As we indicated in the NPRM, we proposed to increase the dollar limit to $100,000 to recognize the effects of inflation and to focus our resources where they can most likely accomplish Commission objectives. We indicated that information supplied under the proposed limit would be useful and that increasing the dollar limit to $100,000 would reduce the reporting requirement to a minimum. Finally, establishing this criterion at $100,000 maintains the ten to one ratio which has historically existed between the criteria prescribed in §§ 31.2–2(e) and 31.100:4(c)(3). We are not persuaded by Colorado's objections to alter our proposal. Accordingly, based on the foregoing, we have decided to raise the dollar limit for write-off of plant acquisition adjustments from $10,000 to $100,000 as proposed.

Ordering Clauses

12. Accordingly, it is ordered, that under the authority contained in Section 4(i), 4(j), and 220 of the Communications Act of 1934, as amended, Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies of the Commission's Rules is amended as set forth in the attached Appendix to be effective six months after publication in the **Federal Register**, provided however, that any carrier may, at its option, adopt these changes effective no earlier than January 1, 1983.

13. It is further ordered, That the Secretary shall cause to be served on each state commission having jurisdiction over intrastate communications service, a copy of this *Report and Order*.

14. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended as follows:

PART 31—[AMENDED]

1. Section 31.2–21 is amended by revising paragraph (e) to read as follows:

§ 31.2–21 Telephone plant acquired.

* * * * *

(e) Companies having annual operating revenues exceeding $1,000,000 shall submit to this Commission for consideration and approval copies of journal entries recording acquisitions of telephone plant covered by this instruction where the consideration paid is $1,000,000 or more. The text of such entries shall give a complete description of the property acquired and the basis upon which the amounts of the entries have been determined.

2. Section 31.100:4 is amended by revising paragraph (c)(3) to read as follows:

§ 31.100:4 Telephone plant acquisition adjustment.

* * * * *

(c) * * *

(3) Within 1 year from the date of inclusion in this account of a debit or credit amount with respect to a current acquisition, the company may dispose of the total amount (other than that portion relating to land) arising from an acquisition of telephone plant by a lump-sum charge or credit, as appropriate, to account 614, "Amortization of telephone plant acquisition adjustment," without further approval of the Commission, provided that such amount does not exceed $100,000 and that the plant was not acquired from an affiliated company.

* * * * *

[FR Doc. 83–4134 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Thirteenth Rev. S.O. No 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirteenth Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., February 14, 1983, and continuing in effect until 11:59 p.m., March 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: February 10, 1983.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

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

Appendix A of Twelfth Revised Service Order No. 1474 is revised by

deleting at Item 3., the authority for the Burlington Northern Railroad Company to operate between Council Bluffs, Iowa, and Bayard, Iowa. Finance Docket No. 30051 permits Burlington Northern permanently to assume this operation.

Appendix A is further revised by adding at Item 3. of this order, the authority for the Central Wisconsin Railroad Company to operate between Janesville and Madison, Wisconsin, and between Elkhorn and Bardwell, Wisconsin, which lines the State of Wisconsin intends to purchase from MILW.

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

It is ordered,

§ 1033.1474 Service Order No. 1474.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

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

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

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees.* In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 14, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

(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.

Agatha L. Mergenovich,

Secretary.

Appendix A—MILW Lines Authorized To Be Operated by Interim Operators

1. *Seattle and North Coast Railroad Company (SNC):*

A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington.

2. *Des Moines Union Railway Company (DMU):*

A. Between Des Moines (milepost 0) and Clive, (milepost 8.5) Iowa; and between Clive (milepost 0) and Grimes, Iowa (milepost 7), a total distance of 15.5 miles.

+3. *Central Wisconsin Railroad Company (CWRC):*

A. Between Elkhorn, Wisconsin (milepost 38.5) and Bardwell, Wisconsin (milepost 53.0), a distance of 14.5 miles.

B. Between Janesville (Station Anderson), Wisconsin (milepost 102.0) and Madison (Station Minona), Wisconsin (milepost 138.4), a distance of 36.4 miles.

+Added.

[FR Doc. 83-4141 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 83-ASO-3]

Proposed Amendment to Restricted Area R-3004, Fort Gordon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Restricted Area R-3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville ARTCC to Atlanta ARTCC, and to include in the record the addition of air to surface inert and practice ordnance delivery activities to the current use of the area for artillery firing. No increased area size or time of use is proposed. This notice also informs interested persons of nonrulemaking proposal 83-ASO-4NR to establish the Bulldog Military Operations Area (MOA).

DATES: Comments must be received on or before March 31, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83-ASO-3, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

Send comments on environmental aspects to: Environmental Planning Division, Headquarters TAC/DEEV, Langley AFB, VA 23665. Attn: Lt. Daryl Lawver, Telephone: (804) 764-4430.

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 information docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8777.

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 particulary 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 83-ASO-3." 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 identfiy the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to amend Restricted Area R-3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville ARTCC to Atlanta ARTCC, and to enter in the record the addition of air to surface inert and practice ordnance delivery to the current use of the area for artillery firing. The controlling agency change would reflect a relocation of the Jacksonville and Atlanta ARTCC boundaries. The need for the addition of aircraft activities within the restricted area is a result of significant increases in the using agency's operational readiness training requirements that cannot be accommodated in existing areas wherein aircraft activity is authorized or without the establishment of an additional restricted area.

Additionally, this notice informs interested persons of nonrulemaking proposal 83-ASO-4NR, to establish the Bulldog MOA, an area adjacent to R-3004, which is designed to accommodate aircraft access and maneuvers in conjunction with R-3004 activities. The MOA would be described as follows:

Bulldog MOA

Boundaries. Beginning at lat. 33°14'00"N., long. 82°30'00"W.; to lat. 33°21'15"N., long. 82°18'47"W.; to lat. 33°17'29"N., long. 82°23'00"W.; to lat. 33°16'20"N., long. 82°18'00"W.; to lat. 33°19'43"N., long. 82°d12'15"W.; to lat. 33°22'3"N., long. 82°12'15"W.; to lat. 33°13'00"N., long. 82°09'00"W.; to lat. 33°12'00"N., long. 82°23'00"W.; to point of beginning.

Altitudes. 100 feet AGL to 17,000 feet MSL.

Times of use. Intermittent, 0800 to 1800 local time.

Using agency. 363 TFW Shaw AFB, SC.

Controlling agency. FAA, Jacksonville ARTCC.

Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

R-3004 Fort Gordon, GA [Amended]

By deleting the words "Controlling agency. FAA, Jacksonville ARTCC." and substituting for them the words "Controlling agency. FAA, Atlanta ARTCC."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 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 7, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3700 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-179 (New Mexico-19)]

High-Cost Gas Produced From Tight Formations; New Mexico

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may received an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Mesaverde Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

I. Background

On January 20, 1983, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mesaverde Formation located in San Juan County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Mesaverde Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Mesaverde Formation is located in north central San Juan County, New Mexico, in portions of Township 32 North, Range 8 West, NMPM, in the Blanco Mesaverde Gas Pool, on the southwestern flank of the San Juan Basin. The Mesaverde Formation is composed of three separate members: the Cliffhouse member which averages 50 feet in thickness, the Menefee member with a thickness range of 230 to 290 feet, and the Point Lookout member which averages 150 to 200 feet in thickness. The vertical limits of the Mesaverde Formation are from the Huerfanito Bentonite in the Lewis Shale above to a point 500 feet below the top of the Point Lookout member. The average depth to the top of the Mesaverde Formation is approximately 5,650 feet.

The recommended area is subject to New Mexico Order No. R-1670-T, issued November 14, 1974, which authorizes infill drilling in the Blanco Mesaverde Gas Pool in San Juan and Arriba Counties, New Mexico. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7697 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Mesaverde Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, D.C. 20426, on or before March 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-179 (New Mexico-19), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d) (162) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(162) *Mesaverde Formation in New Mexico.* RM79-76-179 (New Mexico-19).

(i) *Delineation of formation.* The Mesaverde Formation is located in San Juan County, New Mexico, Township 32 North, Range 8 West, NMPM, Sections 7, 8, and 17 through 20.

(ii) *Depth.* The Mesaverde Formation is in the Blanco Mesaverde Gas Pool in the southwestern flank of the San Juan Basin and consists of three members: the Cliffhouse member which averages 50 feet in thickness, the Menefee member with a thickness range of 230 to 290 feet, and the Point Lookout member which ranges from 150 to 200 feet in thickness. The vertical limits of the Mesaverde Formation are from the Huerfanito Bentonite in the Lewis Shale above to a point 500 feet below the top of the Point Lookout member. The average depth to the top of the Mesaverde Formation is 5,650 feet.

[FR Doc. 83-4140 Filed 2-16-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM 79-76-166 (Texas—3 Addition V)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or cost. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, Texas, be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on March 31, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: February 14, 1983.

I. Background

On December 16, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, in west Texas, be designated as tight formations. The Commission previously adopted a recommendation that the Cisco-Canyon Formations encountered in a specified portion of Glasscock County be designated as tight formations (Order No. 242, issued July 15, 1982, in Docket No. RM79-76 (Texas—3 Addition III)) and currently has under consideration a recommendation that an additional area of the Cisco-Canyon Formations in Glasscock, Reagan and Sterling Counties be designated as tight formations (Docket No. RM79-76-149 (Texas—3 Addition IV), Notice of Proposed Rulemaking issued December 16, 1982). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Cisco-Canyon Formations in Glasscock, Reagan, and Sterling Counties be designated tight formations should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Cisco-Canyon Formations encountered in southeast Glasscock County, southwest Sterling County and northwest Reagan County, in west Texas, Railroad Commission Districts 7C and 8, be designated as tight formations. The designated area is an expansion of the Cisco-Canyon Formations in the area of the Conger, S.W. (Penn) Field and the Conger (Penn) Field which are pending or have previously been approved. The recommended area includes Sections 15, 16, 17, 20, 21, 22, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 44, 45, 47, and 48, Block 32, T-5-S, T&P RR Survey, Glasscock and Sterling Counties; Sections 1 and 2 of EL & RR RR Survey, Sterling County; north half of Section 2, Harry Tweedle Survey, Sterling County; Section 1, GC & SF RY Survey, Sterling County; Section 4, W. C. Elam Survey, Glasscock County; Sections 9, 10, 11, 12, 13, 14, 21, 22, 23, 24, 25, 26, 33, 34, 35, 36, 41, 43, 49, 51, 52, 61, 69, 71, 89, 91, and 92, Block 2, T&P RR Survey, Glasscock, Reagan, and Sterling Counties.

For the total area of the Cisco-Canyon Formations which have either been approved or are currently under consideration by the Commission, including the additional area recommended herein, the depth to the top of the Cisco Formation varies from approximately 8,670 feet on the southwest part of the area to 7,680 feet on the northeast. The depth to the top of the Canyon Formation (the base of the Cisco Formation) varies from approximately 8,810 feet on the southwest to 7,900 feet on the northeast. Total thickness of the two sandstone formations varies from approximately 200 feet on the southwest to 520 feet on the northeast.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Cisco-Canyon Formations, as described and delineated in Texas' recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-166 (Texas—3 Addition V), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(12)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(12) *Cisco Sandstone Formation in Texas.* RM79-76 (Texas—3).

* * * * *

(iii) *The Cisco-Canyon Formations.*

(A) *Delineation of formation.* The Cisco-Canyon Formations are found in the area of the Conger (Penn) Field and the Conger, S.W. (Penn) Field in Glasscock, Reagan and Sterling Counties, Texas, Railroad Commission Districts 7C and 8. The area includes the following surveys: T&P RR Block 33, T-5-S, Sections 34, 36, and W 1/2 of 38; T&P RR, Block 32, T-5-S, Sections 15, 16, 17, 20, 21, 22, 25 through 29, 32 through 42 and 44 through 48; EL & RR RR Sections 1, 2, 3 and 4; D. L. Carver Section 4; H. T. Tweedle Section 2; T&P RR, Block 2, Sections 9 through 14, 21 through 26, 33 through 36, 41, 43, 44, 49 through 52, 61, 62, 69, 70, 71, 89 through 92, 100, 118, 128, 146, 155 and 156; GC & SF RR Sections 1 and 3; GC & SF RY Section 1; W. C. Elam Section 4; CT & MC RR Section 2; W. R. Barton Section 4; S. H. Birdwell Section 17; Brooks & Burleson Sections 1 and 2; and T. B. Wilson Section 2.

(B) *Depth.* The depth to the top of the Cisco Formation varies from approximately 8,670 feet on the southwest part of the area to 7,680 feet on the northeast. The depth to the top of the Canyon Formation varies from approximately 8,810 feet on the southwest to 7,900 feet on the northeast. Total thickness of the two formation varies from approximately 200 feet on the southwest to 520 feet on the northeast.

[FR Doc. 83-4138 Filed 2-16-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-161 (Texas—7 Addition III)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additonal area of the Lower Wilcox Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 31, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written

requests for a public hearing are due on March 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Walter W. Lawson (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: February 14, 1983.

I. Background

On November 22, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Lower Wilcox Formation, located in Dewitt County in the southeastern part of the state of Texas, be designated as a tight formation. The Commission issued Order Nos. 133 and 210 on February 19, 1981 and February 5, 1982, respectively, in Docket No. RM79-76 (Texas—7 and 7 Addition I) in which the Commission designated the Lower Wilcox Formation in portions of Wharton, Austin, and Colorado Counties, Texas, as tight formations under § 271.703. There is currently under consideration a recommendation to designate the Lower Wilcox (Midcox) Formation in Colorado County as a tight formation in Docket No. RM79-76-156 (Texas—7 Addition II), Notice of Proposed Rulemaking issued December 30, 1982. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Lower Wilcox Formation in the Friar Ranch, South Field in Dewitt County, Texas, be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Lower Wilcox Formation encountered in the Friar Ranch, South Field located in the southeastern portion of Dewitt County, Texas, Railroad Commission District 2, be designated as a tight formation. The recommended area is located in the heart of the faulted Wilcox trend and consists of the following surveys; Sidney V. Bibber A-78 and John Troy A-466, plus portions of Bartolo A-2, E. Caruthers A-130, S. Van Bibber A-76, Sidney V. Bibber A-77, Harrison A-239, S.A. & M.G. RR A-445, T & N.O. RR A-571, Mrs. M. E. Blair A-573, W. J. Parker A-672, and T. Wilson A-483. The only Lower Wilcox completion in the designated area is Forest Oil Corporation Friar Thomas No. 1 well and the top of the designated interval in this well is at approximately 10,805 feet, and extends to 14,392 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Lower Wilcox Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-161 (Texas—7 Addition III), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(18)(iv) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(18) *Lower Wilcox Formation in Texas.* RM 79-76 (Texas—7).

* * * * *

(iv) *Friar Ranch, South Field.*

(A) *Delineation of formation.* The Lower Wilcox Formation is found in the Friar Ranch, South Field, Dewitt County, Texas, Railroad Commission District 2. The field is located in the heart of the faulted Wilcox trend of south Texas and consists of all or part of the following surveys: Sidney V. Bibber A-78, John Troy A-466, Bartolo A-2, E. Caruthers A-130, S. Van Bibber A-76, Sidney V. Bibber A-77, Harrison A-239, S.A. & M.G. RR A-445, T & N.O. RR A-571, Mrs. M. E. Blair A-573, W. J. Parker A-672, and T. Wilson A-483.

(B) *Depth.* The top of the Lower Wilcox Formation is at an approximate depth of 10,805 feet and extends to 14,392 feet.

[FR Doc. 83-4139 Filed 2-16-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 11, and 54

[EE-99-78]

Minimum Funding Requirements and Minimum Funding Excise Taxes; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing relating to the minimum funding requirements for employee pension benefit plans and to excise taxes for failure to meet the minimum funding standards.

DATES: The public hearing will be held on April 26, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 12, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue. Attn: CC:LR:T (EE-99-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 412 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, December 1, 1982 (47 FR 54093).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the proposed regulations and also desire to present oral comments at the hearing on the proposed regulations, should submit an outlne of the oral comments to be presented at the hearing and the time they wish to devote to each subject by April 12, 1983. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Jonathan P. Marget,

Acting Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 83-4166 Filed 2-16-83; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6356]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Shreveport, Caddo Parish, Louisiana.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 30505 on June 14, 1982 and in the *Shreveport Times* on July 8 and July 15, 1982, and hence superseded those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at the City Engineer's Office, City Hall Annex, 1237 Murphy Avenue, Shreveport, Louisiana 71130.

Send comments to: Mayor William T. Hanna, or E. J. French, City Engineer, City Hall, P.O. Box 31109, Shreveport, Louisiana 71130.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Shreveport in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, imposed no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	City of Shreveport, Caddo Parish	Red River	Just downstream of 70th Street	*162
			Just upstream of the Long Allen Bridge	*166
		Cross Bayou	Approximately 1,400 feet downstream of Hearne Avenue (LA Highway 3094).	*168
			Just upstream of the Texas and Pacific Railroad	*167
		Twelve Mile Bayou	Approximately 4,800 feet upstream of State Highway 3094.	*169
			Just upstream of U.S. Highway 71	*170
		Cross Bayou Lateral	Just downstream of Holzman Street	*171
			Just upstream of Abbie Street	*175
		McCain Creek (backwater effects from Twelve Mile Bayou).	Just upstream of Interstate Highway 220	*169
			Just upstream of Cooper Road	*170
		Country Club Lateral	Just downstream of Lake Shore Drive	*176
			Just upstream of Hassett Avenue extended	*187
		Galaxy Lateral	Just upstream of Jefferson Paige Road	*196
		Bickham Bayou	Just upstream of South Lakeshore Drive	*176
			Approximately 300 feet upstream of Yontan Road	*205
		Boggy Bayou	At the confluence with Gilmer Bayou	*170
		Gilmer Bayou	Just downstream of Colquitt Road	*171
			Just upstream of Flournoy-Lucas Road	*182
			Just upstream of Buncombe Road	*218
		Southwood High Lateral (backwater effects from Gilmer Bayou).	At the confluence with Gilmer Bayou	*182
		Industrial Park Lateral	Just upstream of Texas Pacific Railroad (abandoned)	*177
			Just upstream of Buncombe Road	*206
			Just downstream of Industrial Loop Expressway	*208
		Francis Shirley Lateral	At the confluence with Industrial Park Lateral	*207
		Lincoln Memorial Park Lateral	Just downstream of Buncombe Road	*206
		Brush Bayou	Just upstream of U.S. Highway 171	*186
			Just upstream of West 70th Street	*192
			At Meadow Avenue	*198
		Brookwood Lateral	Just downstream of Kingston Road	*170
			Just upstream of Acacia Lane	*176
		75th Street Drainage Ditch	Just upstream of Wyngate Circle	*184
			Just upstream of Wallace Avenue	*190
		Airport Ditch	Just downstream of Southern Pacific Railroad	*186
			At Jewella Road	*194
			Just upstream of Texas and Pacific Railroad	*204
			Just upstream of Meriwether Road	*230
		Hollywood Lateral	Just upstream of West 70th Street	*200
			Just upstream of Powell-Broadway Street	*209
			Just downstream of Kennedy Street	*213
		Werner Park Lateral	Just upstream of Waggoner Street	*201
			Just downstream of Bibb Street	*211
		Southern Hills Lateral	Just upstream of Darlington Court extended	*172
			Just downstream of Southern Pacific Railroad	*184
		Bayou Pierre	Just upstream of Flournoy-Lucas Road	*160
			Just downstream of Ockley Drive	*164
			Just upstream of Ockley Drive	*166
			Just upstream of King's Highway	*169
		Bayou Pierre Lateral (Gilbert Ditch)	Approximately 100 feet upstream of Radcliff Street	*168
			Approximately 80 feet upstream of Wilder Street	*173
		Ockley Ditch	Just upstream of Line Avenue	*172
			Just upstream of Kansas City Southern Railroad	*190
		Sand Beach Bayou	Just downstream of Industrial Loop Expressway	*160
		South Broadmoor Lateral	Just upstream of Village Green Drive extended	*160
			Just upstream of State Highway 1	*160
		Old River	Just upstream of State Highway 1	*160
			Just downstream of East 70th Street	*167
		Cross Lake	The entire shoreline	*176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40014128); E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 28, 1983.

Lee Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4000 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Ch. 1

Transport of Radioactive Materials; Request for Public Comment on Proposed Changes to International Regulations

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Request for public comment.

SUMMARY: The International Atomic Energy Agency (IAEA) has published for comment a proposed revision of its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6". This notice invites public comment on the desirability of the proposed changes as they will affect international transportation and will be considered for inclusion in the U.S. domestic regulations.

DATE: Comments should be received by April 1, 1983.

ADDRESS: Send comments and requests for documents to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should be identified as pertaining to the "Third Draft Revision of the IAEA Regulations" and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: R. R. Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, telephone (202) 426-2311.

SUPPLEMENTARY INFORMATION: In 1959, at the request of the Economic and Social Council of the United Nations, the IAEA undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the IAEA in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964 and further effort in 1966, a version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6" was published in 1967. The IAEA regulations have since been adopted generally by most of the nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Nuclear Regulatory Commission (USNRC) (formerly the Atomic Energy Commission (AEC)) has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. On October 4, 1968, the Hazardous Materials Regulations Board of the DOT published amendments which were also in substantial conformance with the 1967 IAEA standards (Docket HM-2, 33 FR 14918). In February 1969, recognizing the international standards should be revised from time-to-time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited all of its member states to submit comments and suggested changes to the regulations. Another aim was to remove any ambiguities and to simplify the presentation of the text of the regulations.

Comments and suggested revisions to the IAEA regulations were then collected by DOT from the AEC, the American National Standards Institute (ANSI), the Atomic Industrial Forum, and others. As a result of that effort, a compilation of some 40 comments was then forwarded by DOT to the IAEA in July 1969. Some of these suggested changes were intended to make possible a more positive alignment of the U.S. regulations with the IAEA regulations.

A final Review Panel of experts was convened by the IAEA in October 1971, to finalize the revisions. As a result of that Panel, the IAEA subsequently issued its "Safety Series No. 6, Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition," in late 1973. Since that time most major countries and international transport organizations, i.e., International Maritime Organization (IMO), International Civil Aviation Organization (ICAO), International Air Transport Association (IATA), European Agreement for the Carriage of Dangerous Goods by Rail (RID), and European Agreement Concerning International Carriage of Dangerous Goods by Road (ADR), have completed revising their own regulations to achieve conformity with the 1973 IAEA Standards.

Since it is recognized that the international standards need to be updated periodically (as was accomplished by the 1973 revision), the IAEA has undertaken a review and revision of the regulations slated for completion in 1984. A request for public input (44 FR 20532) was issued by MTB so that U.S. input to this revision would be as complete as possible. All comments received were compiled and forwarded to the IAEA and were considered at the Advisory Group for the Comprehensive Review an Revision of the Agency's Transport Safety Regulations which met in September, 1980. Careful consideration of these and all other comments submitted by other countries led to the development of a number of changes even in light of a very strong emphasis on revisions only where clearly justified.

A subsequent Technical Committee met in March 1981 to consider the comments which had been submitted and were related to the criticality safety aspects of the IAEA regulations. This Technical Committee recommended an extensive simplification of the criticality safety regulations, primarily by eliminating the three fissile classes.

As a result of the September 1980 and March 1981 meetings a "Second Draft Revision" of the "1983 Revised Edition" of the IAEA regulations was published by the IAEA for comment by Member States. The MTB requested (46 FR 25491 and 46 FR 40540) public comment on the draft for use in formulating the U.S. comments to the IAEA. Taking these comments into account, the MTB, in conjunction with the Nuclear Regulatory Commission established positions which were both acceptable to the regulatory agencies and as responsive as possible to the comments received. These positions were forwarded to the IAEA as official U.S. comments on the "Second Draft Revision" of the IAEA regulations.

In March 1982, the IAEA convened an Advisory Group to consider the comments which had been received from Member States and international organizations concerning the second draft revision. Also considered by this Advisory Group were the recommendations made by the IAEA convened Technical Committee on Transport Package Test Standards which had met in September 1981. The March 1982 Advisory Group recommended some significant modifications to the second draft, notably:

(1) The addition of a "crush" test to certain lightweight, low density Type B packages containing significant quantities of normal form material;

(2) Adoption of a "grandfather clause" to ease the transition to the new regulations;

(3) A reduction in the number of packaging levels specified for Low Specific Activity materials; and

(4) Adoption of a new system for establishing the Type A package contents limits (A_1/A_2 values).

The results of the Advisory Group's decisions have been incorporated by the IAEA into a "Third Draft Revision" of the transport regulations and has been circulated to Member States for comment. The MTB is now requesting public comment on the "Third Draft Revision" which is currently scheduled for final publication in 1984. MTB is making available to the public copies of the "Third Draft Revision" including an Annex which provides additional background information and an attachment which explains the revised system for establishing the limits for Type A package contents.

These documents are available free of charge from the Dockets Branch at the address given above.

In providing comments on the draft it would be most helpful to MTB if commenters would provide specific information on their position concerning the requirements they wish to address.

Some of the impacts that would be helpful to have information on include:

(1) Radiological impacts such as expected radiation dose increase or decrease which will result from the proposed change;

(2) Economic impacts resulting from necessary modifications to shipping methods if the change is adopted;

(3) Ease or difficulty of understanding and applying the proposed change; and

(4) Suitability of the proposed change for application to domestic shipments.

It should be noted that comments on the fundamentals of the regulations and suggestions for significant *new* changes to the regulations should have been submitted in response to the earlier drafts and will not now be considered. Commenters should concentrate on changes which have been introduced since the second draft and on the completeness and adequacy of the third draft. It is anticipated that this will be the final round of comments and consequently no new substantive changes may be introduced.

All comments received will be considered and included, as far as practical, in the U.S. Comments to the IAEA on the proposal.

Issued in Washington, D.C. on February 10, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-4114 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1051, 1320, 1321, 1322, 1323, and 1324

[Ex Parte No. MC-1; No. 73; [1] No. 73 (Sub.-1); No. 143; No. 170]

Rates and Charges; Extension of Comment Deadline

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment deadline to revised notice of proposed rulemaking.

SUMMARY: In a revised notice of proposed rulemaking served January 17, 1983, and published at 48 FR 2151 (January 18, 1983), the Commission proposed various changes in its credit regulations. In that notice, the Commission proposed to modify present credit time limits, make them applicable unless carriers elect to publish separate provisions in tariffs and authorize such separate provisions within prescribed boundaries. Comments were due by February 17, 1983. The American Trucking Associations, Inc. (ATA); the Rubber Manufacturers Association (RMA); the Association of American Railroads (AAR); and the American Paper Institute, Inc. (API) have petitioned the Commission to extend this deadline. The present comment due date is too soon for ATA and RMA because of meeting schedules. AAR and API seek a 60-day extension because of the importance and complexity of the issues. Such an extension of the comment deadline is warranted.

DATE: Comments are due on or before April 18, 1983.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5344, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7425

or

Mont Burrup, (202) 275-6447.

Decided: February 9, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4142 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

[1] Embraces Docket No. 37152.

Notices

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

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 COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP); Correction to Quarterly Report

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of correction to NVLAP quarterly report.

In the notice in the **Federal Register** on January 21, 1983 (48 FR 2813–14) presenting the NVLAP quarterly report for the period October 1–December 31, 1982, there was inadvertently omitted the name of a laboratory whose accreditation under the Carpet LAP had been renewed during the fourth quarter of 1982. The laboratory is Underwriters Laboratories, Inc., Northbrook, Illinois.

Dated: February 10, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-4109 Filed 2-16-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Salmon and Steelhead Advisory Commission; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: Postponement of a meeting of the Salmon and Steelhead Advisory Commission from February 17, 1983 until March 8, 1983.

DATE: The meeting of the Salmon and Steelhead Advisory Commission originally scheduled for February 17, 1983 at the Hyatt Hotel, Seattle, Washington, has been postponed until March 8, 1983 at the same location and time. The meeting will commence at 10:00 a.m. and is scheduled to continue no later than 3:00 p.m. The meeting will be open to interested members of the public; a public comment period will be held at 11:30 a.m.

ADDRESS: Hyatt Hotel, 17001 Pacific Highway South, Seattle, Washington 98118, (206) 244-6000.

MEETING AGENDA: The Commission will meet to consider possible solutions to issues, problems, and concerns regarding the salmon and steelhead resource and which need to be resolved in order to provide coordinated management, research, enforcement, and enhancement. The Commission will also consider current budgetary issues and the possible hiring of consultants for special tasks.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115, Telephone: (206) 527-6150.

Dated: February 14, 1983.

William H. Stevenson,

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

[FR Doc. 83-4161 Filed 2-16-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Prepare an Environmental Assessment on Implementing the Northwest Power Planning Council's Water Budget

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice to perpare an Environmental Assessment analyzing the systemwide power impacts and the related environmental consequences associated with implementation of the Water Budget concept.

SUMMARY: On November 15, 1982, the Northwest Power Planning Council (Council) adopted its Fish and Wildlife Program (Program). Part of the Program directs Federal hydroelectric system operating agencies to make available certain volumes of water (Water Budget) at given points on the Columbia and Snake Rivers between April 15 and June 15 of each year. Providing these flows will result in modification to the operation of the Federal Columbia River Power System (FCRPS). The U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation will operate FCRPS hydroelectric projects to provide flows as identified in the annual coordinated operations planning process. BPA proposes to participate in implementation of the Water Budget by taking certain power marketing actions that result from Federal implementation of the Water Budget concept. The power marketing actions BPA proposes to take include selling increased amounts of nonfirm energy when Water Budget water is released, and either selling reduced amounts of firm energy or providing additional firm resources during those parts of each year when Water Budget water is being retained.

The Environmental Assessment will be used to determine if a draft environmental impact statement will be prepared or if a finding of no significant impact is appropriate for BPA actions regarding modifications to FCRPS operations.

SUPPLEMENTARY INFORMATION: Enactment of the Pacific Northwest Electric Power Planning and Conservation Act directs the Council to develop a Fish and Wildlife Program as part of their Regional Conservation and Electric Power Plan. One required element of the Program is a measure which will provide flows of sufficient quality and quantity between hydroelectric facilities to improve production, migration, and survival of anadromous fish. For this purpose, the Council has included a "Water Budget" concept designed to improve flows during the critical periods of juvenile salmon downstream migration.

The Water Budget is expected to result in an annual loss of 550 average megawatts of firm energy load carrying capability. The actual amount of loss is dependent on actions taken by power managers to accommodate the Water Budget. The Council's Program also directs that the Water Budget should not conflict with other firm operating constraints such as flood control and irrigation. In addition to analyzing the impacts of alternative flow levels, this Environmental Assessment will evaluate various scenarios for implementing the proposed action. These implementation scenarios are based on the availability of water.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Environmental Manager, Bonneville Power

Administration, P.O. Box 3621-SJ, Portland, Oregon 97208; phone 503-230-5136.

Issued in Portland, Oregon, February 8, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 83-4099 Filed 2-16-83; 8:45 am]

BILLING CODE 6450-01-M

Intent To Revise Hanford Extension Energy Rate To Become Effective November 1, 1983, Request for Recommendations and Suggestions

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of Intent.

SUMMARY: BPA file No. HR-83.

Bonneville Power Administration (BPA) requests that all comments and documents which become part of the Official Record compiled in the process of adjusting the firm energy and transmission rates for Hanford extension energy contain the file number designation HR-83.

BPA is in the initial stages of developing energy marketing and transmission rates for use in new marketing and transmission agreements which specify the terms under which five Pacific Northwest investor-owned utilities purchase firm energy related to the Hanford Generating Project. These agreements are scheduled for implementation in November 1983. At this time, BPA is announcing its intent to revise the rates currently applied to Hanford extension energy and is seeking from interested persons suggestions, advice, and recommendations which can be used in the development of the Hanford extension energy rate proposals.

BPA expects to have its initial proposed Hanford rates formulated in late February 1983. BPA will then publish a notice announcing their availability. That notice will also include a schedule for formal hearings as specified in Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). These hearings will give interested persons an opportunity to present both oral and written comments on the proposal.

Suggestions and recommendations concering the development of proposed Hanford extension energy rates will be accepted through February 22, 1983, by the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212; 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: BPA, an agency of the U.S. Department of Energy, is the Federal electric power marketing agency in the Pacific Northwest. BPA markets hydroelectric power from 30 U.S. Army Corps of Engineers and U.S. Bureau of Reclamation projects on the Columbia River and its tributaries, as well as thermal power it acquires from non-Federal interests in the region and firm energy produced by the Hanford Generating Project. In addition, BPA owns, operates, and maintains the nation's largest high-voltage transmission system grid.

The Hanford Generating Project (HGP) was constructed by the Washington Public Power Supply System (Supply System) and began producing electric energy on a commercial basis in 1966. The HGP makes use of steam which is a by-product of the plutonium production process performed at the N-Reactor located at Hanford, Washington. The N-Reactor is federally owned and operated.

Operation of the HGP was temporarily suspended in January 1971 when the Atomic Energy Commission expressed its intent to exercisxe its option to discontinue dual purpose operation of the N-Reactor. In June of the same year, however, a new contract, referred to as the Restart Agreement, was executed extending dual purpose operation of the N-Reactor. The term of the Restart Agreement has been extended by amendatory agreement through June 30, 1983.

The Supply System's HGP turbine genertor is capable of producing 860 megawatts. Because the Supply System cannot actually dictate when the N-Reactor is to operate and because the dual purpose operation of the N-Reactor requires frequent refueling outages, the HGP resource is not considered to be a firm capacity resource. However, utilities do rely on the HGP energy on a planning basis since load factoring is available from existing regional hydro resources. Therefore, the HGP output is treated as firm energy.

Fifty percent of the HGP energy is made available to 71 public agency participants which chose to purchase such energy. These agencies make monthly payments to the Supply System. These payments are sufficient to cover the public agency half of the cost of operating the HGP and related expenses. In return, each public agency receives an amount of power equal to the amount of power which could have been purchased from BPA with such funds. The remaining costs are recovered from five Pacific Northwest investor owned utilities (IOU's) which receive energy pursuant to their contracts. The rates which BPA is currently in the process of developing will be used to recover these costs from the IOU's as well as costs associated with the transmission of HGP energy from the HGP to points of interconnection with the IOU systems.

The agreement under which IOU's purchase HGP energy specifies that they are required to pay an amount equal to their share of the Supply System's HGP costs and related expenses. However, the amount of energy to be delivered will vary with the actual operation of the project. Section 4 of the Hanford 1983-1993 Continued Operation Agreement (Contract No. 90984) specifies that the IOU's shall pay a monthly charge equal to the budgeted amount, adjusted retroactively for actual costs.

In addition to a firm energy rate, a rate is needed for transmission of HGP energy to the IOU participants. It is important that any new rate be consistent with BPA's new transmission policy which is currently being developed.

As required by the National Environmental Policy Act, BPA is currently initiating efforts to identify and evaluate any potentially significant environmental effects associated with implementing changes in the rates for sale and transmission of HGP energy.

BPA is seeking public involvement in developing its Hanford rate proposals. Interested persons are invited to submit suggestions, advice, and recommendations regarding BPA's intent to revise these rates through February 22, 1983. Following publication of the initial rate proposal in the **Federal Register**, both public and formal hearings will be conducted by BPA on the proposals. Written comments also will be accepted. Following the hearings BPA will announce its final proposed Hanford power marketing and transmission rates. The Administrator shall submit the final proposed rates to the Federal Energy Regulatory Commission for confirmation and approval.

Issued in Portland, Oregon, February 8, 1983.

George A. Tupper,

Acting Administrator.

[FR Doc. 83-4168 Filed 2-16-83; 11:19 am]

BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrrangement; Governments of Sweden and 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 Agreements for Cooperation Between the Government of the United States of America and the Governments of Sweden and Switzerland 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/SD (SW)-2, from Sween to Switzerland, 11 irradiated fuel rods, containing 3.552 kilograms of uranium, enriched to 1.80% in U-235, and 34 grams of plutonium, for post-irradiation examination at the Federal Institute for Reactor Research.

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: February 10, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-4102 Filed 2-16-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Extension and Modification of NSR/PSD Permit to Petro-Lewis Corporation

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Extension and Modification of Prevention of Significant Air Quality Deterioration permit to Petro-Lewis Corporation in Poso Creek Field, Kern County, California, EPA project number SJ 77-50.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Roccena Lawatch (M-5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 9, 1982 the Environmental Protection Agency extended and modified the PSD permit (which was originally issued on February 1, 1978) to the applicant named above for approval to construct three (3) 50 MM BTU/hr steam generators.

This project has been reviewed by EPA, Region 9 to ensure compliance with control technology reflective of current requirements for Best Available Control Technology and lowest achievable emission rate and is subject to certain conditions including allowable emission of 0.20 lb/MMBTU of NO_x.

Best Available Control Technology (BACT) requirements for NO_x include the use of low NO_x burners and excess O_2 control. Continuous monitoring is not required; the source is not subject to New Source Performance Standards.

Dated: February 2, 1983.

David P. Howekamp,

Director, Air Management Division.

[FR Doc. 83-4107 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL 2266-5]

Issuance of PSD Permit to Kernridge Oil Company

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Kernridge Oil Company for a project located in Kern County, California, EPA project number SJ 82-01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on November 20, 1981 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct four oil fired steam generators in Kern County, California.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including allowable NO_x emissions of 0.20lbs/10 ^{6}BTU.

Best Available Control Technology (BACT) requirements for NO_x include excess oxygen control equipment and low NO_x burners.

Air Quality Impact Modeling was required for NO_x.

Continuous monitoring is not required and the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. a petition for review must be filed by April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Grants & Permits Administration, Kathryn Strickland (M-5); U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Dated: November 18, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 83-4104 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240025 PH-FRL 2308-3]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA) from 47 states. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: Sandra Engish, Registration Division, (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1122, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in July 1982. Two were received earlier, but notice of their receipt was not previously published. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in four of the registrations listed below, there is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 82 0028. Helena Chemical Co. Registration is for Helena Liquid DSMA, to be used on cotton to control emerged weeds. July 14, 1982.

EPA SLN No. AL 82 0029. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on soybeans to control larvae of lesser cornstalk borers. July 14, 1982.

EPA SLN No. AL 82 0030. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on grain sorghum to control lesser cornstalk borers. July 16, 1982.

EPA SLN No. AL 82 0031. Mobay Chemcial Corp. Registration is for Oftanol 5% GR, to be used on turfgrasses to control mole crickets. July 22, 1982.

EPA SLN No. AL 82 0032. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitroamine Herbicide, to be used on soybeans to control small cockleburs and morning glories. July 23, 1982.

Arizona

EPA SLN No. AZ 82 0014. Mobay Chemical Corp. Registration is for Monitor 4, to be used on Bermuda grass (seed crop) to control fulgorids and Banks grass mites. July 13, 1982.

EPA SLN No. AZ 82 0015. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on pecans to control aphids. July 20, 1982.

Arkansas

EPA SLN No. AR 82 0028. BASF Wyandotte Corp. Registration is for Basagran Herbicide, to be used on soybeans to control sicklepods and other broadleaf weeds. July 9, 1982.

California

EPA SLN No. CA 82 0038. ICI Americas Inc. Registration is for Insectrin WP, to be used on structural surfaces in dairies, poultry houses, and horse stables to control house flies, stable flies, and other manure breeding flies. July 2, 1982.

EPA SLN No. CA 82 0043. Cotton Pest Abatement District of Imperial County. Registration is for Galecron 4E, to be used on cotton to control tobacco budworms and bollworms. July 8, 1982.

EPA SLN No. CA 82 0055. California Dept. of Food and Agriculture. Registration is for Dursban 2E Insecticide, to be used on citrus plant propagative material to control comstock mealybugs, California red scale, brown soft scale, cottony cushion scale, citricola scale, yellow scale, citrus red mites, two-spotted spider mites, citrus flat mites, citrus thrips, citrus cutworms, and fruit tree leafrollers. July 19, 1982.

EPA SLN No. CA 82 0056. Ventura County Agriculture Dept. Registration is for Morestan 25% WP, to be used on kiwi fruit to control red and two-spotted mites. July 19, 1982.

EPA SLN No. CA 82 0060. Union Carbide Agricultural Products Co., Inc. Registration is for Weedar 649, to be used on ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams to control water hyacinths. July 19, 1982.

Delaware

EPA SLN No. DE 82 0011. E.I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on strawberries to control *verticillium* wilt (CUP). July 6, 1982.

Florida

EPA SLN No. FL 82 0039. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock premises to control flies, lice and ticks. July 2, 1982.

EPA SLN No. FL 82 0040. Kocide Chemical Corp. Registration is for K-Tea, to be used on rivers, streams, and flowing canals to control *Hydrilla verticillata*. July 6, 1982.

EPA SLN No. FL 82 0041. Great Lakes Chemical Corp. Registration is for Soilbrom-90, to be used on peanuts to control nematodes. July 7, 1982.

EPA SLN No. FL 82 0042. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. July 7, 1982.

EPA SLN No. FL 82 0043. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. July 7, 1982.

Georgia

EPA SLN No. GA 82 0015. Stauffer Chemical Co. Registration is for Dyfonate 10-G Insecticide, to be used on corn, sweet potatoes, and peanuts to control whitefringed beetle larvae. July 7, 1982.

EPA SLN No. GA 82 0016. Stauffer Chemical Co. Registration is for Dyfonate 4-EC Insecticide, to be used on corn, sweet potatoes, and peanuts to control whitefringed beetle larvae. July 7, 1982.

Hawaii

EPA SLN No. HI 82 0003. Hawaii State Dept. of Health. Registration is for Fennimore Pyrethrin Fogging Concentrate 7257, to be used on outdoor, non-crop sites to control yellow jackets. July 19, 1982.

Idaho

EPA SLN No. ID 82 0001. J.R. Simplot Co. Registration is for Sim-Tec 0.50, to be used on russet Burbank seed potatoes to control *Fusrium* seed-piece decay. July 7, 1982.

EPA SLN No. ID 82 0006. Tuco Products Co. Registration is for Botran 75W Fungicide, to be used on greenhouse grown conifers and nursery stock to control *Botrytis*. March 24, 1982.

EPA SLN No. ID 82 0020. V.R.E. Inc. Registration is for CPF, to be added to exterior latex paints to control flies, mosquitoes, spiders, ants, ticks, and mites. July 1, 1982.

EPA SLN No. ID 82 0021. Diamond Shamrock Corp. Registration is for Bravo 500, to be used on dry bulbs of sweet Spanish onions and onions grown for seed to control *Botrytis* leaf blight (blast) and purple blotch (CUP). July 1, 1982.

EPA SLN No. ID 82 0022. Dow Chemical Co. Registration is for Garlon 4 Herbicide, to be used on conifer plantations to control brush. July 15, 1982.

EPA SLN No. ID 82 0023. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on potatoes to control weeds and grasses. July 22, 1982.

EPA SLN No. ID 82 0024. Velsicol Chemical Corp. Registration is for Banvel 10G GR Hericide, to be used on croplands rotated to wheat to control perennial weeds. July 21, 1982.

EPA SLN No. ID 82 0025. Bell Laboratories, Inc. Registration is for P.C.O. Rat and Mouse Bait, to be used on orchards to control voles (*Microtus spp.*). July 23, 1982.

Illinois

EPA SLN No. IL 82 0012. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on pure seeded alfalfa (no-till seedings) to control potato leafhoppers, pillbugs, crickets, and grasshoppers. July 12, 1982.

EPA SLN No. IL 82 0013. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on sunflowers to control emerged annual broadleaf weeds and grasses. July 12, 1982.

EPA SLN No. IL 82 0014. FMC Corp. Registration is for Furadan 10G, Insecticide/Nematicide, to be used on cucumbers, melons, squash, and pumpkins to control nematodes and cucumber beetles. July 12, 1982.

Kansas

EPA SLN No. KS 82 0012. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 Emulsible Concentrate, to be used on field corn to control cutworms, armyworms, corn earworms, grasshoppers, European corn borers, and southwestern corn borers. July 15, 1982.

EPA SLN No. KS 82 0013. Motomco Ltd. Registration is for Contrax-P, to be used on orchards and groves to control meadow and pine mice and voles. July 15, 1982.

Louisiana

EPA SLN No. LA 82 0027. V.R.E. Inc. Registration is for CPF, to be added to latex paint to control flying and crawling insects. July 9, 1982.

EPA SLN No. LA 82 0028. Mobay Chemical Corp. Registration is for Guthion 2L, to be used on cotton to control boll weevils. July 12, 1982.

EPA SLN No. LA 82 0029. Platte Chemical Co. Registration is for Clean Crop Methyl P, to be used on cotton to control bollworms, tobacco budworms, cabbage loopers, cotton leaf perforators, boll weevils, cotton fleahoppers, Lygus bugs, whiteflies, and cotton aphids. July 28, 1982.

EPA SLN No. LA 82 0030. Monsanto Co. Registration is for Roundup Herbicide, to be used along roadsides to control rhizome Johnson grass. July 28, 1982.

Maryland

EPA SLN No. MD 82 0013. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 9, 1982.

EPA SLN No. MD 82 0014. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa to control weeds. July 9, 1982.

Michigan

EPA SLN No. MI 82 0019. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control European corn borers and corn earworms. July 19, 1982.

EPA SLN No. MI 82 0020. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control corn root-worms, flea beetles and nematodes; and on cucurbits to control nematodes, striped, and spotted cucumber beetles. July 1, 1982.

Mississippi

EPA SLN No. MS 82 0027. Valley Chemical Co. Registration is for Attac-4-4, to be used on cotton to control aphids, thrips, fleahoppers, plant bugs, and over-wintered boll weevils. July 12, 1982.

EPA SLN No. MS 82 0028. Cotton States Chemical Co., Inc. Registration is for Ketokil No. 52, to be used on cotton to control boll worms and boll weevils. July 13, 1982.

EPA SLN No. MS 82 0029. Helena Chemical Co. Registration is for Helena Metam 5-2, to be used on cotton to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. July 13, 1982.

EPA SLN No. MS 82 0030. Helena Chemical Co. Registration is for Helena Metam, to be used to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. July 13, 1982.

EPA SLN No. MS 82 0032. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on grain sorghum to control chinch bugs. July 22, 1982.

EPA SLN No. MS 82 0033. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. July 30, 1982.

Missouri

EPA SLN No. MO 82 0021. Merck & Co., Inc. Registration is for Mertect 340-F Fungicide, to be used on soybeans grown for seed purposes to control pod and stem blight, anthracnose, brown spot, frog eye leaf spot and purple seed stain (CUP). July 14, 1982.

EPA SLN No. MO 82 0022. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on soybeans grown for seed to control stem and pod diseases (CUP). July 15, 1982.

Nebraska

EPA SLN No. NE 82 0010. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer surfaces of clothing to repel ticks. July 6, 1982.

New Jersey

EPA SLN No. NJ 82 0011. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. June 24, 1982.

EPA SLN No. NJ 82 0012. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on chrysanthemums to control leafminers. July 21, 1982.

EPA SLN No. NJ 82 0013. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 28, 1982.

EPA SLN No. NJ 82 0014. Texize. Registration is for No Pest Strip Insecticide II, to be used in warehouses to control cocoa bean moths. July 29, 1982.

New Mexico

EPA SLN No. NM 82 0016. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on pecans to control aphids. July 9, 1982.

EPA SLN No. 82 0019. U.S. Fish and Wildlife Service. Registration is for 1.6% Strychnine Paste, to be used on rangeland and grassland to control blacktailed jack rabbits. July 9, 1982.

New York

EPA SLN No. NY 82 0010. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 8, 1982.

North Carolina

EPA SLN No. NC 82 0024. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock premises

to control flies, lice, and ticks. July 7, 1982.

EPA SLN No. NC 82 0025. FMC Corp. Registration is for Furadan 4 FL, to be used on alfalfa to control clover root curculio, potato leafhoppers, crickets and grasshoppers. July 28, 1982.

EPA SLN No. NC 82 0026. FMC Corp. Registration is for Furadan 10 GR, to be used on alfalfa to control clover root curculio, potato leafhoppers, crickets and grasshoppers. July 28, 1982.

EPA SLN No. NC 82 0027. FMC Corp. Registration is for Furadan 15 GR, to be used on alfalfa to control clover root curculio, potato leafhopper, crickets and grasshoppers. July 28, 1982.

North Dakota

EPA SLN No. ND 82 0014. Cooperative Power Association. Registration is for Aquazine Algicide, to be used in the circulating water system at Coal Creek stations to control algae. July 1, 1982.

EPA SLN No. ND 82 0015. Agsco, Inc. Registration is for Agsco 2, 4-D Amine Weed Killer, to be used on millet to control certain annual and perennial broadleaf weeds. July 2, 1982.

EPA SLN No. ND 82 0016. Burroughs Wellcome Co. Registration is for Atroban 11% EC, to be used on livestock, poultry and their premises to control ticks, psoroptic (scabies) mites, house flies, and stable flies. July 23, 1982.

EPA SLN No. ND 82 0017. Philips Roxane, Inc. Registration is for Anchor Permectrin 10% EC II Long Lasting Livestock and Premise Spray, to be used on livestock, poultry and their premises to control house flies, coastal flies, stable flies, cockroaches, mosquitoes, and fleas. July 27, 1982.

EPA SLN No. ND 82 0018. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime II Long Acting Livestock and Premise Insecticide, to be used on livestock, poultry and their premises to control house flies, coastal flies, stable flies, cockroaches, mosquitoes, and fleas. July 27, 1982.

Oregon

EPA SLN No. OR 82 0053. V.R.E. Inc. Registration is for CPA, to be used as a paint additive to control flies, mosquitoes, spiders, ants, ticks and mites. July 26, 1982.

EPA SLN No. OR 82 0054. Shell Chemical Co. Registration is for Pyudrin Insecticide 2.4 EC, to be used on filberts to control filbert worms. July 12, 1982.

EPA SLN No. OR 82 0055. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC, to be used on broccoli, cabbage, and cauliflower to control diamondback moths. July 8, 1982.

EPA SLN No. OR 82 0056. PBI/Gordon Corp. Registration is for Ultra-Sulv Amine, to be used on pastures, rangeland, non-crop and fallow land rotated to grow wheat, barley, rye or oats to control weeds. July 26, 1982.

EPA SLN No. OR 82 0057. FMC Corp. Registration is for Kolospray, to be used on peas to control powdery mildew. July 26, 1982.

Pennsylvania

EPA SLN No. PA 82 0021. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on chyrsanthemums to control leafminers. July 19, 1982.

South Carolina

EPA SLN No. SC 82 0020. ICI Americas Inc. Registration is for Ambush 4E EC, to be used on cotton to control boll weevils, budworms, bollworms, pink bollworms, Lygus bugs, cotton aphids, cabbage loopers, and cotton leaf perforators. July 8, 1982.

EPA SLN No. SC 82 0021. Mobay Chemical Corp. Registration is for Guthion 2L, to be used on cotton to control boll weevils. July 27, 1982.

EPA SLN No. SC 82 0022. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control tobacco budworms, cotton bollworms, and Lygus nymphs. July 27, 1982.

EPA SLN No. SC 82 0023. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae, mole crickets, billbugs, chinch bugs, sod webworms, and larvae. July 29, 1982.

EPA SLN No. SC 82 0024. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on staked tomatoes to control crop destruction. July 30, 1982.

Texas

EPA SLN No. TX 82 0030. V.R.E. Inc. Registration is for CPF, to be added to water-based paints to control flying and crawling insects. July 13, 1982.

EPA SLN No. TX 82 0031. Monsanto Co. Registration is for Roundup Herbicide, to be used on roadside Bermuda grass to control rhizome Johnson grass. July 20, 1982.

EPA SLN No. TX 82 0032. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on chrysanthemums to control leafminers. July 20, 1982.

EPA SLN No. TX 82 0033. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Gridball 1 cc Brush Killer, to be used on reforestation areas to control woody plants and as a brush killer. July 20, 1982.

EPA SLN No. TX 82 0034. Helena Chemical Co. Registration is for Milan Emulsifiable Insecticide Concentrate, to be used on cotton to control aphids, boll weevils, cotton leafworms, fleahoppers, and some species of spider mites. July 22, 1982.

EPA SLN No. TX 82 0035. Helena Chemical Co. Registration is for Helena 5 Lb EPN, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms, July 22, 1982.

EPA SLN No. TX 82 0036. Valley Co-op Oil Mill. Registration is for Valco 50, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms, July 22, 1982.

EPA SLN No. TX 82 0037. Valley Co-op Oil Mill. Registration is for Valco 33, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0038. Tide Products, Inc. Registration is for Tide EPN 5E, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0039. Tide Products, Inc. Registration is for Budmor 33, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0040. Platte Chemical Co. Registration is for Clean Crop Methyl Parathion-EPN 3–3EC, to be used on cotton, corn, beans, soybeans, and tomatoes to control thrips, fall armyworms, boll weevils, leafworms, and red spider mites. July 22, 1982.

EPA SLN No. TX 82 0041. Platte Chemical Co. Registration is for Clean Crop EPN 5 EC, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0042. Platte Chemical Co., Inc. Registration is for Clean Crop EPN 4 EC, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0043. Thompson-Hayward Chemical Co. Registration is for PCO Lindane E–1 Insecticide, to be used on structures to control wood-infesting beetles such as *Lyctidae*, *Anobiidae*, and *Cerambycidae*. July 26, 1982.

EPA SLN No. TX 82 0044. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control tobacco budworms, cotton bollworms, and Lygus bugs. July 23, 1982.

EPA SLN No. TX 82 0045. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used for cotton desiccation. July 29, 1982.

EPA SLN No. TX 82 0046. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on winter wheat and cotton to control weeds, grasses and broadleaf weeds. July 30, 1982.

EPA SLN No. TX 82 0047. Ciba-Geigy Corp. Registration is for Igran 80W Herbicide, to be used on winter wheat after harvest for weed control during idle season. July 30, 1982.

Utah

EPA SLN No. UT 82 0008. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies and stable flies. July 20, 1982.

EPA SLN No. UT 82 0009. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies and stable flies. July 20, 1982.

Vermont

EPA SLN No. VT 82 0005. O.M. Scott and Sons Co. Registration is for Proturf Insecticide, to be used on golf course fairways, tees, greens, and roughs to control white grubs (cool season grasses only), sod webworms, chinch bugs, mole crickets and Hyperodes weevils. July 16, 1982.

Washington

EPA SLN No. WA 82 0047. Wilbur-Ellis Co. Registration is for Wilbur Ellis Phosphamidon 8 Spray, to be used on bearing apple trees to control leaf hoppers and green and rosy apple aphids. July 9, 1982.

EPA SLN No. WA 82 0048. Shell Chemical Co. Registration is for Pydrin Insecticide, to be used on filberts to control filbert worms. July 26, 1982.

EPA SLN No. WA 82 0051. Aceto Agricultural Chemicals Corp. Registration is for Phorate 15G Systemic Insecticide, to be used on potatoes to control aphids, leafhoppers, leaf miners, psyllids, wireworms, and flea beetle larvae. July 12, 1982.

EPA SLN No. WA 82 0052. Occidental Chemical Company. Registration is for Dimethoate 25 WP, to be used on wine grapes to control grape leafhoppers and Pacific spider mites. July 13, 1982.

EPA SLN No. WA 82 0054. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on lentils to control aphids. July 23, 1982.

EPA SLN No. WA 82 0055. Aceto Agricultural Chemicals Corp. Registration is for Dimethogon 267 Systemic Insecticide, to be used on cherries to control cherry fruit flies. July 27, 1982.

EPA SLN No. WA 82 0056. Platte Chemical Co., Inc. Registration is for Clean Crop Phosphamidon 8, to be used on apples (post bloom) to control green and rosy apple aphids and leafhoppers. July 27, 1982.

EPA SLN No. WA 82 0057. PBI/Gordon Corp. Registration is for Ultra-Sulv Amine, to be used on grain crops, pastures, non-cropland and fallow land to control field bindweed, Canada thistle, and musk thistle. July 17, 1982.

West Virginia

EPA SLN No. WV 82 0008. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 2, 1982.

Dated: February 8, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-4105 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL 2307-8]

PSD Applicability Determination for Crown Zellerbach at Camas, Washington

Notice is hereby given that the Environmental Protection Agency has determined that Crown Zellerbach's proposed modifications at the Camas, Washington mill are not subject to PSD review. The August 7, 1980 PSD regulations required that the construction or modification of a major stationary source is subject to PSD review if the resulting increase in potential emissions is greater than the significant levels. EPA has reviewed the projected emissions from the subject facility and has concluded that potential emission increases are less than the PSD applicability threshold amounts subject to federally enforceable permit requirements.

The applicant was notified of this determination on February 17, 1983. Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD non-applicability status is available only by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the determination of nonapplicability which is the subject of today's notice may not be challenged later in civil or criminal proceedings for enforcement.

Copies of the applicability determination are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, M/S 532, Seattle, Washington, 98101.

Dated: January 31, 1983.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-4108 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Closed Circuit Test of the Emergency Broadcast System During the Week of March 28, 1983

February 11, 1983.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of March 28, 1983. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a Closed Circuit Test and Will Not Be Broadcast Over the Air.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4152 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Mobile Services Advisory Committee; Meeting

February 9, 1983.

The Mobile Services Advisory Committee will meet on Tuesday, March 29, 1983, at 9:30 a.m. in Room 856 (Commission Meeting Room), 1919 M Street, NW., Washington, D.C.

With the Commission's recent allocation of nearly 70 new paging channels and the rapid growth in paging demand, it is anticipated that misdirected and interfering pages may become a serious problem. Accordingly, the Advisory Committee is being convened to discuss the possible organization of a nationwide system for

coordinating codes for pagers using the POCSAG code. Topics for discussion will include the desirability of a nationwide coordinating body, the identification of the coordinating body, the source of funding for such a body, the extent of liability of the coordinating entity, and other related issues. Pager manufacturers, common carriers and all other interested persons are invited to attend.

For further information, contact Claudia Borthwick at (202) 632-6400.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4154 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1396]

Petitions for Reconsideration of Actions in Rule Making Proceedings

February 9, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: MTS and WATS Market Structure. (CC Docket No. 78-72, Phase II)

Filed by: Robert K. McGuire, Alan Y. Naftalin & Margot Smiley Humphrey, Attorneys for Alascom, Inc., on 1-6-83.

Subject: Amendment of Sec. 73.606(b), Table of Assignments, Television Broadcast Stations (Rancho Palos Verdes, California). (BC Docket No. 82-567, RM-4149.)

Filed by: Mark Pierce on 2-3-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4153 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection and Recordkeeping Requirement Submitted to Office of Management and Budget for Review

February 7, 1983.

On February 4, 1983 the Federal Communications Commission submitted the following information collection and recordkeeping requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Application for Aircraft Radio Station License and Temporary Aircraft Radio Station Operating Authority.

Form No.: FCC 404/404-A.

Action: Revision.

Respondents: Individuals, Associations, Partnerships, Corporations, and Local Governmental entities eligible to hold a radio station authorization in the Aircraft Radio Service.

Estimated Annual Burden: 26,000 Responses; 5,200 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4155 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Study Groups A and B of U.S. Organization for International Telegraph and Telephone Consultative Committee (CCITT); Meeting

February 9, 1983.

The Department of State announces that Study Groups A and B of the U.S. Organization for the CCITT will meet on Wednesday, March 2, at 10:30 a.m. in Room 1107 of the Department of State, 2201 C Street NW., Washington, D.C. These Study Groups deal inter alia with the United States positions related to international inter-active Videotex services under consideration in CCITT Study Groups I and VIII.

The meeting will receive reports on the recent meetings in Geneva of Study Groups I and VIII and consider the approach the United States should follow as the international discussions on Videotex proceed in CCITT.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to March 2, 1983 members of the general public who plan to attend the meeting inform Mr. William Lowell, Office of International Communications Policy, Department of State, telephone (202) 632-6583, of their intention. All attendees must use the C Street entrance to the building.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4157 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Friday, February 18, 1983 at 10 a.m. in the Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.-Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the February 18, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4149 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

February 11, 1983.

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Friday, February 18, 1983 at 10 a.m. in the Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

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American Regional Broadcasting Agreement (NARBA).

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For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4151 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Income and Other Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled to meet on Thursday, February 24, 1983. The meeting will begin at 9:30 a.m. and will be open to the public. The meeting location is as follows: *Thursday, February 24, 1983,* AT&T, 1120 20th St., NW., Room 905, Washington, D.C.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659-3484) at least five days prior to the meeting date.

William J. Tricarico,

Federal Communications Commission.

[FR Doc. 83-4156 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Mellon National Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania (consumer finance, leasing and credit related insurance activities): To engage through a *de novo* office of its subsidiary, Mellon Financial Services Corporation, in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to, loans and other extensions of credit secured by mortgages or deeds of trust on real property; leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all the qualifications specified in Section 225.4(a)(6) of Regulation Y; and acting as agent for the sale of related credit life, credit accident and health insurance and credit property insurance in connection with extensions of credit by any of Applicant's subsidiaries. The credit property insurance activities satisfy exemptions (B) and (D) of section 601 of the Garn St-Germain Depository Institutions Act of 1982. Applicant received approval to engage in these activities in May of 1978. These activities will be conducted from an office in Riverside, California, serving customers in Riverside and surrounding areas in California. Comments on this application must be received not later than March 10, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Tennessee National Corporation,* Memphis, Tennessee (financing activities; Alabama, Arkansas, California, Georgia, Kentucky, Mississippi, Missouri, New York, North Carolina, Tennessee, Virginia): To engage directly in making or acquiring loans and other extensions of credit, for its own account and for the account of others. These activities would be conducted from Applicant's main office located in Memphis, Tennessee, serving the eleven states listed in the caption to this notice. Comments on this application must be received not later than March 10, 1983.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4096 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Independent Bankshares Corp.; Proposed Acquisition of Independent Bankshares Corporation

Independent Bankshares Corporation, San Rafael, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) (2) of the Board's Regulation Y (12 U.S.C. 225.4(b)(2)), for permission to acquire voting shares of Learnex Corporation, LaJolla, California.

Applicant states that the proposed subsidiary would engage in the activity of providing management consulting services to financial institutions, including but not limited to banks, savings and loan associations, industrial banks and credit unions. These activities would be performed from offices in San Rafael, California, and the

geographic area to be served is the United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 10, 1983.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4095 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Commerce Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commerce Bancorp, Inc.*, Marlton, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce Bank, N.A., Marlton, New Jersey. Comments on this application must be received not later than March 11, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citi-Bancshares, Inc.*, Leesburg, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Leesburg, Leesburg, Florida. Comments on this application must be received not later than March 11, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mid-South Bancshares, Inc.*, Bossier City, Louisiana; to become a bank holding company by acquiring at least 99.2 percent of the voting shares of Bank of the Mid-South, Bossier City, Louisiana. Comments on this application must be received not later than March 11, 1983.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4160 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Merger of Bank Holding Companies; Gwinnett Holding Co.

Gwinnett Holding Company, Snellville, Georgia, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Fulton Bancshares, Inc., Snellville, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not sufice 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.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4159 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Establishment of a Branch Office; Old Colony Co-Operative Bank

Old Colony Co-Operative Bank, Providence, Rhode Island, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to establish a *de novo* office in East Providence, Rhode Island.

Applicant states that the proposed subsidiary would engage in the activities of a Rhode Island building-loan association (primarily accepting share deposits and making real estate mortgage loans). The geographic area to be served is the City of East Providence, Rhode Island. The Board has previously approved, by Order, the acquisition or retention of a Rhode Island thrift institution or the establishment of an office thereof by a bank holding company. *Newport Savings and Loan Association*, 58 Federal Reserve Bulletin 313 (1972); *Old Colony Co-operative Bank*, 58 Federal Reserve Bulletin 417 (1972); *Old Colony Co-operative Bank*, 66 Federal Reserve Bulletin 665 (1980); *Old Colony Co-operative Bank*, 68 Federal Reserve Bulletin 785 (1982). However, the operation of such institutions in Rhode Island has not been specified by the Board in section 225.4(a) of Regulation Y as permissible generally for bank holding companies.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4158 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Annual Revision of Poverty Income Guidelines

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: This notice provides a revision of the Federal poverty income guidelines to account for increases in the Consumer Price Index, and to reflect minor technical changes made by the Censes Bureau in the poverty definition.

DATE: Effective February 17, 1983.

ADDRESS: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: For information about the poverty guidelines in general, contact George Grob (telephone: (202) 245-7150); or Joan Turek-Brezina (telephone: (202) 245-6141). Questions pertaining to the application of these guidelines to an individual program should be referred to the Federal office which is responsible for that program.

This notice provides the 1983 revision of the poverty income guidelines required by sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981. (The 1982 revision of those guidelines was published in the **Federal Register** for April 9, 1982, at 47 FR 15417.) As required by the statute, this revision reflects changes in the Consumer Price Index; it was accomplished using the same methodology used in previous years, applied to the slightly modified poverty definition recently adopted by the Census Bureau.

These poverty income guidelines are used as an eligibility criterion by a number of Federal programs. For some programs, however, the poverty guidelines are only one of several eligibility criteria used; for others, the guidelines may be modified (e.g., multiplied by 130%). Such other eligibility criteria or program-specific modifications in the application of these guidelines are described in the authorizing legislation or regulations for the programs in question. These poverty income guidelines may not become effective for certain programs until a regulation or notice specifically applying to the program in question has been issued.

The Bureau of the Census announced several technical changes in the official statistical definition of poverty in the **Federal Register** for December 28, 1981, at 46 FR 62674; these changes were incorporated into the poverty statistics from the Current Population Survey beginning with estimates for calendar year 1981, issued in July 1982. Two of the three changes announced directly affect the revision of the annual poverty income guidelines: (1) The farm/nonfarm distinction has been eliminated; and (2) the statistical poverty matrix has been expanded so that the upper limit for the guidelines matrix is now eight persons rather than six persons. In accordance with the first of these changes, any references in legislation or regulation to nonfarm income poverty guidelines or thresholds shall be deemed to refer to the single set of guidelines given below, as indicated in the Bureau of the Census **Federal Register** announcement.

1983

POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit	Poverty guideline
1	$4,860
2	6,540
3	8,220
4	9,900
5	11,580
6	13,260
7	14,940
8	16,620

For family units with more than 8 members, add $1,680 for each additional member.

POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$6,080
2	8,180
3	10,280
4	12,380
5	14,480
6	16,580
7	18,680
8	20,780

For family units with more than 8 members, add $2,100 for each additional member.

POVERTY INCOME GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$5,600
2	7,530
3	9,460
4	11,390
5	13,320
6	15,250
7	17,180
8	19,110

For family units with more than 8 members, add $1,930 for each additional member.

The following definitions, derived from U.S. Bureau of the Census, *Current Population Reports*, Series P-60, Nos. 91, 124, and 130, are made available for use in connection with the poverty income guidelines. Some programs may use somewhat different versions of these definitions, as noted in their authorizing legislation or regulations.

(a) *Size of family unit.* In conjunction with the Federal poverty income guidelines, a family unit of size one is an unrelated individual (as defined by the Census Bureau)—i.e., a person 15 years old or over (other than an inmate of an institution) who is not living with any relatives. An unrelated individual may be the sole occupant of a housing unit, or may be residing in a housing unit (or in group quarters such as a rooming house) in which one or more persons also reside who are not related to the individual in question by birth, marriage, and/or adoption. (Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.) Family units of size greater than one include only persons related by birth, marriage, and/or adoption who reside together; all such related persons are considered as members of one family. (If a household includes more than one family and/or more than one unrelated individual, the poverty guidelines are applied separately to each family and/or unrelated individual, and not to the household as a whole.)

(b) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm after deductions for business or farm expenses). They include regular payments from public assistance (including Supplemental Security

Income), social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions, and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts. For eligibility purposes, income does not refer to the following money receipts: capital gains; any assets drawn down as withdrawals from a bank, sale of property, house, or car; tax refunds, gifts, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are non-cash benefits, such as employer-paid health insurance and other employee fringe benefits, food or rent received in lieu of wages, the value of food and fuel produced and consumed on farms, and the imputed value of rent from owned-occupied nonfarm of farm housing.

Dated: February 10, 1983.

Thomas R. Donnally, Jr.,

Acting Secretary.

[FR Doc. 83-4132 Filed 2-16-83; 8:45 am]

BILLING CODE 4150-04-M

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1983:

Name: Health Services Research Review Subcommittee.

Date and time: March 3-4, 1983, 8:30 a.m.

Place: Bethesda Marriott Hotel, Chevy Chase Room, 5151 Pooks Hill Road, Bethesda, Maryland 20814. Open March 4, 8:30 a.m.-9:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open session of the meeting on March 4, 1983 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph. D., National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Care Technology Study Section.

Date and time: March 7-8, 1983, 8:30 a.m.

Place: Bethesda Marriott, 51 Pooks Hill Road, Bethesda, Maryland 20814, 301-897-9400. Open March 7, 8:30 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session of the meeting on March 7, 1983 will include a presentation by the Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Services Developmental Grants Review Subcommittee.

Date and time: March 13-15, 1983.

Place: Washington Circle Inn, Rock Creek Room, 2430 Pennsylvania Avenue, NW., Washington, D.C. Open March 13, 8:30 p.m. to 10:00 p.m. and March 14, 8:30 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open session of the meeting on March 13 and 14 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Healath Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: February 7, 1983.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 83-4093 Filed 2-16-83; 8:45 am]

BILLING CODE 4160-17-M

National Center for Health Services Research; Notice of Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use (indications) of programmable or multiprogrammable cardiac pacemakers vs. standard pacemakers. Specifically, we are interested in the medical indications for the: (1) Implantation of programmable pacemakers; and (2) use of the newer programmable and multiprogrammable pacemakers including those with the capacity to monitor themselves while in use.

For the purposes of this announcement, programmable or multiprogrammable cardiac pacemakers are defined as those that have an implantable pulse generator that can be activated, adjusted, and controlled noninvasively to vary the output and produce a stable, but reversible change in pacemaker function. Programmable pulse generators can be varied according to the functions designed by the manufacturers such as the rate; impulse, amplitude, or duration; sensitivity, refractory period and hysteresis; and pacing mode. Usually, the hand-held programmer, a noninvasive device external to the pulse generator, is used to send a preselected coded message to the implanted pulse generator to change the pacemaker function. The message may be transmitted by: magnetic field (continuous or pulsed), radio frequency waves, or ultrasound (via crystal oscillators).

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCHA) in establishing Medicare coverage policy. Any person or group wishin to provide OHTA with information relevant to this assessment

should do so in writing no later than May 30, 1983, or approximately 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1979, and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought.

Written material should be submitted to: Office of Health Technology Assessment, Park Bldg., Room 3-10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dr. Rita K. Chow, Health Science Analyst, at the above address or by telephone (301) 433-4990.

Dated: January 27, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment National Center for Health Services Research.

[FR Doc. 83-4092 Filed 2-16-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-83-694]

Little Rock Area Office; Designation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Area Manager is designating officials who may serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: This designation is effective November 24, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy J. Mattox, Director, Management and Budget Division, Office of Regional Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 221 West Lancaster Ave., Box 2905, Fort Worth, TX 76113, Phone (817) 870-5451 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position: 1. Deputy Area Manager, 2. Area Consel, 3. Director, CPD Division, 4. Director, Fair Housing & Equal Opportunity Division, and 5. Director, Housing Division.This designation supersedes the designation effective March 13, 1981.

(Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971)

Dated: February 14, 1983.

John T. Suskie,

Area Manager, Little Rock Area Office.

Dick Eudaly,

Regional Administrator, Region VI.

[FR Doc. 83-4112 Filed 2-16-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Montana and North Dakota; Availability of Final Environmental Impact Statement and Call for Filing of Surface Owner Consents in the Fort Union Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a final environmental impact statement (EIS) on seven production maintenance/bypass tracts and 17 new production tracts located in Montana and North Dakota.

In addition, BLM is issuing a call for submission to the BLM of written surface owner consents given by qualified surface owners that would permit mining of Federal coal on the identified tracts where the Federal coal is overlain by privately owned surface. Qualified surface owners also have the opportunity to submit written refusals to consent. The legal descriptions of all the tracts considered for regional lease sale in the final EIS are provided in Appendix A of this Notice.

DATES: The dates for filing valid surface owner consent agreements, or evidence thereof, shall be published in the Federal Register following establishment of a lease sale schedule.

FOR FURTHER INFORMATION CONTACT: Lloyd Emmons, Team Leader, Fort Union Regional Coal EIS, Billings, Montana at the address given below.

ADDRESSES: Single copies of the final EIS may be obtained from and are available for inspection at the following addresses:

Montana State Office Public Room, Bureau of Land Management, 222 North 32nd Street, Billing, Montana 59107

Dickinson District Office, Gate City Savings & Loan Building, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58601

Miles City District Office, Bureau of Land Management, West of Miles City on Garry Owen Road, P.O. Box 940, Miles City, Montana 59301

Office of Public Affairs, Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The final statement analyzes environmental impacts that could result from leasing Federal coal in the Fort Union Coal Region. The statement further analyzes the environmental impacts that could result from the implementation of each of six alternatives. The regional implications of the Woodson Preference Right Lease Application and Meridian Land and Mineral Company's proposed coal exchange are also analyzed in conjunction with Alternative 3. The alternatives are as follows:

Alternative 1. No action or production maintenance/bypass (203.2 million tons).

Alternative 2. Production maintenance/bypass (203.2 million tons) plus five new production tracts (510.4 million tons) totaling 713.6 million tons.

Alternative 3. Production maintenance/bypass (203.2 million tons) plus nine new production tracts (790.2 million tons) total 993.4 million tons.

Alternative 4. Production maintenance/bypass (203.2 million tons) plus nine new production tracts (822.4 million tons) totaling 1025.6 million tons.

Alternative 5. Production maintenance/bypass (203.2 million tons) plus 11 new production tracts (1031.6 million tons) totaling 1234.8 million tons.

Alternative 6. Production maintenance/bypass (203.2 million tons) plus all the new production tracts (1600.0 million tons) totaling 1803.2 million tons.

In accordance with 43 CFR Part 3427 of the coal management regulations, the BLM is also requesting that written surface consent agreements, or evidence

thereof, given by qualified surface owners for lands within the region be submitted to the appropriate BLM State Office at the address given above. Valid written consent for lands in which the ownership of the surface is held by qualified surface owners, where the ownership of the underlying coal is reserved to the Federal Government, will be accepted until a yet-to-be determined date prior to the lease sale for the specific lands involved. The actual deadline for submission of written consents shall be determined after the lease sale dates have been established, and shall be published in the **Federal Register.** It is the responsibility of parties intending to file consents to be aware of pending lease sale dates, as set forth in an announced regional lease sale schedule, and deadlines for submission of written consents as announced in the **Federal Register.** Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0–5(gg)), qualifed surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands:

(2) Have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operation; and

(3) Have met the conditions of paragraphs (gg) (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (gg) (1) and (2) of this section. In computing the 3-year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection.

Valid written consent is defined in the regulations (43 CFR 3400.0–5(qq)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for the permission, including in-kind considerations; (3) describe any consideration given in terms of type or method of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(d), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified owner as defined in the regulations and that the title for split estate lands described in the filing is held by the named qualified owner(s). In addition, to be considered valid, consents entered into after the August 3, 1977, enactment of the Surface Mining Control and Reclamation Act must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if it provides that after the lease sale for the tract to which the consent applies (i) The successful bidder shall assume all rights and obligations of the holder of the consent, including the obligation to make all payments to the grantor of the consent and to reimburse the holder of the consent for all money previously paid to the grantor under the consent contract; and (ii) neither the holder nor the grantor of the consent has any right under the consent contract to prevent the successful bidder from assuming the rights and obligations of the holder of the consent by imposing additional costs or conditions or otherwise. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the items of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner that has not been contacted by, or requested to enter into any agreement with, a private party and who may wish to give consent to enter and commence surface coal mining may prepare, sign, and submit a consent document to the BLM Montana State Office. The consent document should include the information and requirements specified earlier in this Notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(qq)) and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party prior to the deadline for the filing of consents for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Montana State Office at the address given above. Early submission of a refusal to consent, hereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

A Secretarial decision for leasing in the Fort Union Region is expected in May 1983 after filing of the final EIS. As part of that decision, the Secretary may choose to hold a series of lease sales beginning in July 1983.

Dated: January 28, 1983.

Robert F. Burford,

Director, Bureau of Land Management.

Approved: February 7, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

Appendix A.—Fort Union Coal Region Legal Description of Federal Coal Tracts

Tracts Included in Preferred Alternative:

Maintenance tracts

Antelope

T. 145 N., R. 87 W., 5th P.M.,
Sec. 6, SE¼;
Sec. 20, NW¼;
Sec. 32, NE¼, NE¼SE¼;
Sec. 34, NE¼NE¼.

T. 145 N., R. 88 W., 5th P.M.,
Sec. 2, lot 1, SE¼NE¼.

Center

T. 142 N., R. 83 W., 5th P.M.,
Sec. 30, lot 4.
T. 141 N., R. 84 W., 5th P.M.,
Sec. 2, lots 3, 4, SW¼NW¼;
Sec. 10; N½NE¼, NE¼NW¼.
T. 142 N., R. 84 W., 5th P.M.,
Sec. 14, NE¼, N½NW¼, N½S½NW¼, SE¼SW¼NW¼, S½SE¼NW¼;
Sec. 20, N½NE¼, SW¼NE¼, NW¼.

Glenharold

T. 143 N., R. 83 W., 5th P.M.,
Sec. 20, NW¼SE¼, S½SW¼;
Sec. 30, lots 1, 2, 3, 4, NE¼NE¼, SE¼NW¼, NE¼SW¼.
T. 143 N., R. 84 W., 5th P.M.,
Sec. 6, lot 5, SW¼NE¼, SE¼NW¼, SE¼;
Sec. 8, E½, N½NW¼, S½SW¼;
Sec. 14, SW¼SE¼;
Sec. 18, lots 1, 2, 3, 4, NW¼NE¼, E½W½, W½SE¼;
Sec. 22, S½SW¼;
Sec. 24, SE¼NW¼, NE¼SW¼, SW¼SW¼, NE¼SE¼, S½SE¼;
Sec. 26, all;
Sec. 28, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼;
Sec. 30, lot 1, NW¼NE¼, NE¼NW¼.
T. 144 N., R. 84 W., 5th P.M.,
Sec. 28, SW¼, NW¼SE¼.
T. 143 N., R. 85 W., 5th P.M.,
Sec. 24, NW¼.

North Beulah

T. 144 N., R. 88 W., 5th P.M.,
Sec. 10, SW¼, NW¼SE¼, S½SE¼;
Sec. 14, N½SW¼, SW¼SW¼;
Sec. 20, SE¼NE¼;
Sec. 22, N½NE¼, SW¼NE¼, NW¼.

Renner

T. 145 N., R. 87 W., 5th P.M.,
Sec. 32, NW¼SW¼, S½SW¼.
T. 144 N., R. 88 W., 5th P.M.,
Sec. 2, lots 3, 4, S½NW¼, NW¼SE¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, N½SW¼;
Sec. 18, lot 1, N½NE¼, NE¼NW¼.
T. 145 N., R. 88 W., 5th P.M.,
Sec. 4, lot 4, SW¼NW¼, SW¼;
Sec. 22, all;
Sec. 26, N½NE¼, SW¼NE¼, W½, NW¼SE¼;
Sec. 28, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 32, NE¼NW¼, S½NW¼, SW¼;
Sec. 34, N½N½, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼.
T. 144 N., R. 89 W., 5th P.M.,
Sec. 2, lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 10, E½, N½NW¼, SE¼NW¼;
Sec. 12, all;
Sec. 14, N½.

Schoolhouse

T. 142 N., R. 87 W., 5th P.M.,
Sec. 4, lots 1, 4;
Sec. 6, lots 1, 2, 3, 4.
T. 143 N., R. 87 W., 5th P.M.,
Sec. 6, N½SE¼, SE¼SE¼;
Sec. 8, E½NE¼, NW¼NW¼, S½SE¼;
Sec. 20, NW¼NE¼, S½NE¼, N½SE¼;
Sec. 28, NE¼SW¼, S½SW¼;
Sec. 30, lots 3, 4, NW¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 32, NW¼;
Sec. 34, N½, SW¼, N½SE¼, SW¼SE¼.
T. 143 N., R. 88 W., 5th P.M.,
Sec. 2, SW¼;
Sec. 10, SE¼SE¼;
Sec. 14, NW¼NW¼, E½SW¼NW¼, SE¼NW¼, E½W½SW¼, E½SW¼;
Sec. 24, NW¼NW¼, S½NW¼, SW¼, S½SE¼;
Sec. 26, NE¼NE¼NE¼.

Underwood

T. 146 N., R. 81 W., 5th P.M.,
Sec. 30, lot 4, SE¼SW¼, S½SE¼.
T. 146 N., R. 82 W., 5th P.M.,
Sec. 2, lot 4, S½NW¼;
Sec. 3, lots 1, 2, S½NE¼, SE¼;
Sec. 6, NE¼SE¼;
Sec. 10, E½;
Sec. 24, NE¼NW¼;
Sec. 34, NE¼NE¼, NW¼SW¼, S½SW¼.

New Mine Development Tracts

Bloomfield

T. 20 N., R. 53 E., P.M.M.,
Sec. 8, all;
Sec. 10, all;
Sec. 14, NE¼, N½NW¼, SW¼NW¼;
Sec. 18, NE¼NE¼;
Sec. 22, N½, SE¼.
T. 21 N., R. 53 E., P.M.M.,
Sec. 30, lots 3, 4, E½SW¼, SE¼;
Sec. 32, all.

Circle West III

T. 19 N., R. 44 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 10, all;
Sec. 12, N½, N½SW¼, SE¼SW¼, SE¼.
T. 20 N., R. 44 E., P.M.M.,
Sec. 24, E½NE¼, E½SW¼, SE¼;
Sec. 26, S½SW¼, SW¼SE¼;
Sec. 34, S½NE¼, S½.
T. 19 N., R. 45 E., P.M.M.,
Sec. 6, lots, 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, N½, W½SW¼;
Sec. 18, N½NE¼, E½NW¼.
T. 20 N., R. 45 E., P.M.M.,
Sec. 4, SW¼NW¼, W½SW¼;
Sec. 8, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼;
Sec. 18, E½, E½SW¼;
Sec. 20, E½NE¼, NW¼, S½;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, S½;
Sec. 33, SW¼SW¼.

South Wilbaux-Beach

T. 13 N., R. 60 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½NE¼, N½SE¼;
Sec. 10, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 12, N½, SW¼;
Sec. 14, NE¼, NE¼SW¼;
Sec. 24, S½SW¼.
T. 14 N., R. 60 E., P.M.M.,
Sec. 26, S½SE¼;
Sec. 28, NW¼NW¼, S½NW¼, S½;
Sec. 34, W½.
T. 13 N., R. 61 E., P.M.M.,
Sec. 6, lots 1, 2, 3, 4;
Sec. 18, lots 1, 2;
Sec. 30, lots 1, 2, 3, 4.
T. 139 N., R. 106 W., P.M.,
Sec. 10, lots 1, 2, 3, 4;
Sec. 14, NW¼;
Sec. 22, lots 1, 2, 3, 4.
T. 140 N., R. 106 W., P.M.,
Sec. 34, lots 3, 4.

Dunn Center

T. 144 N., R. 93 W., P.M.,
Sec. 4, lots 1, 2, 3, 4, S½N½, SE¼;
Sec. 6, lots 4, 5, 6, E½SW¼;
Sec. 8, W½NE¼, NW¼, SE¼;
Sec. 18, lots 1, 2, 3, 4, E½W½, SE¼.
T. 145 N., R. 93 W., P.M.,
Sec. 32, all;
Sec. 34, N½, SE¼.
T. 143 N., R. 94 W., P.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½.
T. 144 N., R. 94 W., P.M.,
Sec. 2, lots 1, 2, S½NE¼, SE¼;
Sec. 10, NW¼, S½;
Sec. 12, all;
Sec. 14, NE¼, S½;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, NE¼NW¼, SE¼;
Sec. 32, SE¼SE¼;
Sec. 34, all.

Garrison

T. 149 N., R. 84 W., 5th P.M.,
Sec. 5, SE¼SE¼;
Sec. 7, NE¼;
Sec. 8, SW¼;
Sec. 9, W½NE¼;
Sec. 15, W½SW¼;
Sec. 17, SE¼.
T. 149 N., R. 85 W., 5th P.M.,
Sec. 3, E½SE¼;
Sec. 4, NW¼SE¼;
Sec. 9, E½NW¼,N½SW¼,SE¼SW¼;
Sec. 13, N½SW¼, SW¼SW¼;
Sec. 15, SE¼;
Sec. 24, W½NW¼, NW¼SW¼.

Sakakawea

T. 148 N., R. 84 W., 5th P.M.,
Sec. 13, NW¼;
Sec. 14, E½NE¼;
Sec. 23, SW¼NW¼.

Truax

T. 145 N., R. 86 W., 5th P.M.,
Sec. 2, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 4, lots 2, 3, 4, S½NW¼, SW¼SW¼;
Sec. 6, lots 3, 4, 5, SE¼NW¼;
Sec. 8, E½E½, NW¼NW¼, SE¼NW¼, SE¼SW¼, SW¼SE¼;
Sec.10, NW¼NW¼, S½NW¼;
Sec. 18, E½;
Sec. 20, SW¼;
Sec. 26, E½SE¼.
T. 146 N., R. 86 W., 5th P.M.,
Sec. 32, E½E½;
Sec. 34, SE¼;
Sec. 36, NE¼, SW¼, N½N½SE¼.

Werner

T. 145 N., R. 92 W., 5th P.M.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 145 N., R. 93 W., 5th P.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½
Sec. 4, lots 1, 2, S½NE¼, S½;
Sec. 8, NW¼, S½;
Sec. 10, all;
Sec. 12, N½, SW¼.

Tracts Included in Other Alternatives in the Fort Union EIS

Circle West I

T. 20 N., R. 44 E., P.M.M.,
Sec. 24, E½ NE¼, E½SW¼, SE¼.
T. 19 N., 45 E., P.M.M.,
Sec. 8, N½, W½SW¼.
T. 20 N., R. 45 E., P.M.M.,
Sec. 4, SW¼NW¼, W½SW¼;
Sec. 8, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼;
Sec. 18, E½, E½SW¼;
Sec. 20, E½NE¼, NW¼, S½;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, S½;
Sec. 33, SW¼SW¼.

Circle West II

T. 19 N., R. 44 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 10 all;
Sec. 12, N½ N½SW¼, SE¼SW¼, SE¼.
T. 20 N., R. 44 E., P.M.M.,
Sec. 26, S½SW¼, SW¼SE¼;
Sec. 34, S½NE¼, S½.
T. 19 N., R. 45 E., P.M.M.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec.18, N½ NE¼, E½NW¼.

North Wibaux-Beach

T. 14 N., R. 60 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½ NE¼, SW¼NW¼, NW¼SW¼;
Sec. 6, lot 1;
Sec. 10, E½E½, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 12, NW¼, S½;
Sec. 14, all;
Sec. 22, E½E½, NW¼NE¼;
Sec. 24, NW¼, NW¼SW¼, SE¼;
Sec. 26, N½ NW¼.
T. 15 N., R. 60 E., P.M.M.,
Sec. 26, S½;
Sec. 28, E½SE¼;
Sec. 32, E½, E½W½, SW¼NW¼;
Sec. 34; N½, NW¼SW¼, S½SW¼, NE¼SE¼.
T. 14 N., R. 61 E., P.M.M.,
Sec. 6, lots 1, 2, 3, 4;
Sec. 18, lots 1, 2.
T. 15 N., R. 61 E., P.M.M.,
Sec. 30, lots 1, 2, 3, 4.
T. 141 N., R. 105 W., 5th P.M.,
Sec. 18, lots 1, 2. 3. 4, S½N½NE¼, S½NE¼, E½W½;
Sec. 20, W½E½NE¼, W½NE¼. S½;
Sec. 30, lot 1, E½, E½NW¼;
Sec. 32, W½.
T. 140 N., R. 106 W., 5th P.M.,
Sec. 2, lots 5, 6, 11, 12;
Sec. 10, lots 1, 2.

Redwater I

T. 19 N., R. 48 E., P.M.M.,
Sec. 2, lots 1, 2, 3, S½N½, S½;
Sec. 12, N½NE¼, NW¼, N½SW¼, SW¼SW¼.
T. 20 N., R. 48 E., P.M.M.,
Sec. 2, SW¼"
Sec. 12, S½ NW¼, SW¼;
Sec. 14, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 24, N½; NE¼SE¼.
T. 19 N., R. 49 E., P.M.M.,
Sec. 2, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 4, lots 1, 2, 3, 4, SW¼NE¼, S½NW¼, NE¼SW¼, SW¼SW¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, all.
T. 20 N., R. 49 E., P.M.M.,
Sec. 18, lots 1, 2, 3, 4, NE¼, E½W½, NW¼SE¼, S½SE¼;
Sec. 20, all;
Sec. 22, all;
Sec. 23, NW¼NE¼, S½N½, NE¼NW¼, E½SE¼;
Sec. 24, all;
Sec. 26, N½, NE¼SW¼, E½SE¼;
Sec. 28, all;
Sec. 30, lots 3, 4, E½, E½W½;
Sec. 32, all;
Sec. 34, W½.

Redwater II

T. 21 N. R. 48 E., P.M.M.,
Sec. 26, S½NE¼, SE¼;
Sec. 34, SE¼.
T. 20 N., R. 49 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;1
Sec. 8, NE¼, N½NW¼, SE¼NW¼;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all.
T. 21 N., R. 49 E., P.M.M.,
Sec. 20, S½SW¼, SW¼SE¼;
Sec. 22, E½, E½W½, W½SW¼;
Sec. 24, SW¼NW¼, N½ SW¼, SW¼SW¼;
Sec. 26, N½, N½S½, S½SW¼;
Sec. 28, all;
Sec. 30, E½NE¼, SE¼;
Sec. 32, all;
Sec. 34, N½, N½SW¼, SW¼SW¼, NW¼SE¼.

Southwest Glendive

T. 15 N., R. 53 E., P.M.M.,
Sec. 10, SE¼NE¼;
Sec. 14, NE¼, E½NW¼, S½;
Sec. 22, all;
Sec. 24, NW¼;
Sec. 26, N½ N½SW¼, SE¼SW¼, SE¼1
T. 16 N., R. 53 E., P.M.M.,
Sec. 10, N½NE¼, SW¼NE¼, W½;
Sec. 14, S½NE¼, NW¼, S½;
Sec. 22, NE¼NE¼, NE¼SE¼;
Sec. 24, W½E½, W½, SE¼SE¼;
Sec. 26, NE¼, NE¼NW¼.
T. 14 N., R. 54 E., P.M.M.,
Sec. 4, lots 3, 4, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 6, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 8, N½NE¼, NE¼NW¼.
T. 15 N., R. 54 E., P.M.M.,
Sec. 6, lots 6, 7, E½SW¼, S½SE¼;
Sec. 8, NW¼NE¼, W½, SW¼SE¼;
Sec. 20, all;
Sec. 28, W½NW¼;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, all.
T. 16 N., R. 54 E., P.M.M.,
Sec. 30, lots 1, 2, 4, SE¼SW¼, S½SE¼;
Sec. 32, lots 1, 2, NW¼NW¼, S½NW¼, N½SW¼.

Zenith

T. 139 N., R. 98 W., 5th P.M.,
Sec. 8, SW¼NW¼,NW¼SE¼NW¼, S½SE¼NW¼, N½SW¼, S½S½;
Sec. 18, lots 1, 2, 3, 4, E½, E½, W½;
Sec. 20, all;
Sec. 30, lots 1, 2, 3, 4, E½W½.
T. 139 N., R. 99 W., 5th P.M.,
Sec. 2, N½S½S½SE¼;
Sec.10, SW¼;
Sec. 12, N½, SE¼;
Sec. 22, NE¼, S½;
Sec. 24, N½, SE¼;
Sec. 26, all;
Sec. 28, S½.

These tract descriptions may be slightly altered during finalization of the lease sale notice.

[FR Doc. 83-4101 Filed 12-16-83; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15106]

Motor Carriers; Robert H. Fates—Continuance in Control Exemption—R. C. Service, Inc., and Allen Freight Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 363 I.C.C. 113 (1928), Robert H. Fates seeks an exemption from the requirement under section 11343 of prior regulatory approval of his continuance in control of R. C. Service, Inc. (No. MC-152082), and Allen Freight Lines, Inc. (No. MC-164771), upon the latter becoming a motor carrier subject to the jurisdiction of the Commission.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601.

Comments should refer to No. MC-F-15106.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the

offices of the Interstate Commerce Commission during usual business hours.

Decided: February 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4143 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.— All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-238

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 2934 (Sub-3-55TA), filed February 3, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Electronic Instruments:* between points in the U.S. (excluding AK and HI), under continuing contracts with Leeds & Northrup Instruments (Florida Operations), 300 Old Roosevelt Road, St. Petersburg, FL 33702. Supporting shipper: Leeds & Northrup Instruments (Florida Operations), 300 Old Roosevelt Road, St. Petersburg, FL 33702.

MC 166038 (Sub-3-1TA), filed February 3, 1983. Applicant: AMERICAN TARA CORPORATION, 5667 New Peachtree Rd., Atlanta, GA 30341. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd. NE., Atlanta, GA 30326. *Irregular routes: Contract carrier: business forms, stock tabs, and related materials, equipment and supplies used by office business supply houses,* between the facilities of Coastal Stock Tab Company, at or near Georgetown, DE and Atlanta, GA under contract or continuing contracts with Coastal Stock Tab Company of Georgetown, DE.

MC 165917 (Sub-3-1TA), filed February 3, 1983. Applicant: B & H VAN LINES, INC., 524 Cooper Street, Asheboro, NC 27203. Representative: Albert R. Byrd, Rt. 2, Box 351-A, Pleasant Garden, NC 27313. *New & Used Household Goods;* between Randolph and Guilford Counties, NC on the one hand, and on the other, points in: SC, GA, FL, AL, LA, MS, TN, VA, WV, KY, OH, PA, NY, NJ, DE, and MD. Supporting shippers: There are 6 support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 166069 (Sub-3-1TA), filed February 4, 1983. Applicant: TROSPER TRUCKING, INC., 130 Edgewood, Ripley, TN 38063. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Flanges* from the facilities of Gulf-Western, Taylor Forge Division, at or near Cicero, IL, to facilities of Taylor Forge Division at or near Memphis, TN. Supporting shipper: Gulf-Western, Taylor Forge Division, 5577 Tay-For Rd., Memphis, TN 38127.

The following applications were filed in Region 4. Send protests to: ICC Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 65210 (Sub-4-2TA), filed February 3, 1983. Applicant: SPARTA-LACROSSE TRUCK LINES, INC., Route 5, Box 468, Sparta, WI 54656. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. *Paper products and plastic products* from New Berlin and Beloit, WI to Waukon and Lansing, IA and Spring Grove, MN. An underlying ETA seeks 120 day authority. Supporting shipper: Northern Engraving Corporation, 803 South Black River Street, Sparta, WI 54656.

MC 97932 (Sub-4-8TA), filed February 2, 1983. Applicant: WREN, INC., d.b.a. LAKEVILLE MOTOR EXPRESS, P.O. Box 8167, Roseville, MN 55113. Representative: Richard L. Gill, Gill and Brinkman, 1805 American National Bank Bldg., Saint Paul, MN 55101. *General commodities (except those of unusual value and Classes A and B explosives and household goods),* between Mpls.-St. Paul, MN and its commercial zone and all points in the State of WI. Applicant intends to tack with existing authority in MC 97932 (Sub-9) and intends to interline at Mpls.-St. Paul, MN. Supporting shipper: Rosemount Office Systems, Inc., P.O. Box D, Lakeville, MN 55044; Hoffman Engineering, 9th & Tyler Sts., Anoka, MN; Office Electronics, Inc., 21565 Hamburg Ave., Lakeville, MN 55044.

MC 152257 (Sub-4-6TA), filed February 3, 1983. Applicant: LORDCO TRUCKING INC., 535-F Tollgate Road, Elgin, IL 60120. Representative: Paul J. Maton, 27 E. Monroe St., Suite 1000, Chicago, Il 60603, (312) 332-0905. *Contract,* irregular, *Food and Related Products* between points in IL and WI under continuing contract(s) with Gateway Foods of LaCrosse, WI. Supporting shipper: Gateway Food, 1647 St. James, LaCrosse, WI 54601.

MC 153046 (Sub-4-1TA), filed February 3, 1983. Applicant: LAKE COUNTRY FARMS, INC., RR 2, Rice, MN 56367. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Food and related products,* between WI and Chicago, IL, on the one hand, and, on the other, points in the MN counties of Hennepin, Ramsey, Sherburne, and Wright. Shippers: Lemke Cheese Co., Inc., POB 688, Wausau, WI 54401; Wrightco, Inc., 206 W 4th St., Monticello, MN 55362; Gilgosch, Kane & Reiners, Inc., 5948 Pleasant Av. S., Minneapolis, MN 55419.

MC 166031 (Sub-4-1TA), filed February 2, 1983. Applicant: KELLY KOST, d.b.a. KELLY KOST TRUCKING, Bowdon, ND 58418. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. *Such commodities as are dealt in or used by wholesale beverage distributors* between Milwaukee County, WI, and points in the Minneapolis, MN Commercial Zone, on the one hand, and, on the other, Foster County, ND, under contract(s)

with Central Distributing Company, Inc. Supporting shipper: Central Distributing Company, Inc., 695 South 6th Street, Carrington, ND 58421.

MC 65781 (Sub-4-3TA), filed February 4, 1983. Applicant: BARRETT MOVING & STORAGE, INC., 7100 Washington Avenue South, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Household goods, computers, displays and exhibits, energy avionic aeronautical, medical, building control, communication, and analog/digital text systems and equipment and parts, materials and supplies* used in the manufacture, distribution, sale and maintenance of these commodities between points in the United States (except AK and HI) under continuing contract with Honeywell, Inc., Honeywell Plaza, Minneapolis, MN 55408.

MC 74681 (Sub-4-1TA), filed February 4, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. Transporting General Commodities (except Class A & B Explosives) between points in the U.S., under continuing contract(s) with Picker International, Inc. of Cleveland, OH.

MC 139837 (Sub-4-1TA), filed February 4, 1983. Applicant: K & I DISTRIBUTORS, INC., P.O. Box 29, New Haven, IN 46774. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635-2339. Contract: *Such commodities as are dealt in by retail appliance stores,* between the facilities of Highland Appliance Company, Inc., located at South Bend, IN, on the one hand, and, on the other, points in MI, under continuing contract(s) with Highland Appliance Company, Inc., of Taylor, MI.

MC 157240 (Sub-4-2TA), filed February 4, 1983. Applicant: KOTTKE TRUCKING, INC., P.O. Box 206, Buffalo Lake, MN 55314. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. *Pet food,* between DeGraffe, MN on the one hand, and, on the other, points in IA and WI. Supporting shipper is the Supreme Pet Food Company of DeGraffe, MN.

MC 74681 (Sub-4-1TA), filed February 4, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. Transporting General Commodities (except Class A & B Explosives) between points in the U.S., under continuing contract(s) with Picker International, Inc. of Cleveland, OH.

MC 3526 (Sub-4-1TA), filed February 1, 1983. Applicant: M & R TRUCKING, INC., 17351 Halsted Drive, So. Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. *Articles of Iron and Steel,* including billets, forgings and scraps, between the Chicago Commercial Zone on the one hand and on the other points and places in IL, IN, MI, WI, OH, PA, KY, TN, and AL. Supporting shippers: Velko Hinge, 9325 Kennedy Ct., Munster, IN, Stanadyne, Western Steel Division, 4000 E. 7th Ave., Gary, IN, Wyman Gordon, 14600 S. Wood St., Harvey, IL 60426.

MC 153610 (Sub-4-2TA), filed February 1, 1983. Applicant: LEASEWAY TRUCKING, INC., 1101 31st St., Downers Grove, IL 60515. Representative: Thomas B. Hill (same address as applicant) (312) 971-8400. Transporting *General commodities* (except household goods, commodities in bulk, and Classes A and B explosives), from Milwaukee, WI to points in OH, KS, MN, MI, IN, IL and IA, under continuing contract(s) with The Goodyear Tire and Rubber Company. An underlying ETA seeks 120 days' authority. Supporting shipper: The Goodyear Tire and Rubber Company, 1144 E. Market St., Akron, OH 44316.

MC 162610 (Sub-4-12TA), filed January 31, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th Street, Lyons, IL 60534. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Chicago, IL 60601. *Contract; Irregular: Such commodities* as are dealt in by manufacturers and distributors of link chain and attachments, from Broadview, IL to points in IA, IL, IN, KS, MI, MN, MO, NE, ND, OH, SD and WI, under continuing contract(s) with Columbus McKinnon Corp. of Broadview, IL.

MC 165217 (Sub-4-3TA), filed February 1, 1983. Applicant: POSTMA CARTAGE, INC., 13550 South Indiana, Riverdale, IL 60626. Representative: Andrew K. Light, SCOPELITIS & GARVIN, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. *Food and related products (in bulk, in tank vehicles),* from Chicago, IL, and its commercial zone to Milwaukee, WI and Kalamazoo, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Knappen Molasses, Division of Pacific Molasses, 13550 South Indiana, Riverdale, IL 60626.

MC 165298 (Sub-4-1TA), filed February 1, 1983. Applicant: STEVEN R. GROSSMANN d.b.a. COUNTY CAB, 16020 Lake Blvd., Center City, MN 55012. Representative: Steven R. Grossmann (same as applicant), (612) 257-4876. Transporting *items used in hospitals and clinics* as: Biological and laboratory samples, specimens, cultures, perishable bacteriogical culture media, supplies, business reports between points in MN and WI. Supporting shipper is American Red Cross, St. Paul Region Blood Services, 100 South Robert Street, St. Paul, MN 55107.

MC 165971 (Sub-4-1TA), filed January 31, 1983. Applicant: V. B. MOTOR SERVICE, INC., 9870 Franklin Avenue, Franklin Park, IL 60131. Representative: Donald B. Levine, 180 North LaSalle Street, Chicago, IL 60601. *Steel products,* between Chicago, IL and points in its commercial zone on the one hand, and, on the other, Milwaukee, Racine, Waukesha and Washington Counties, WI for 270 days. Supporting shippers—Masterform Tool Company, 9901 Franklin Avenue, Franklin Park, IL 60131, and Cylinder Components, Inc., P.O. Box 591, Wooddale, IL 60191.

MC 165977 (Sub-4-1TA), filed January 31, 1983. Applicant: WAYN THYGESON d.b.a. THYGESON TRUCKING, Middle River, MN 56737. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Malt beverages,* from St. Louis, MO and Memphis, TN to Thief River Falls, MN, for 270 days. Supporting shipper: Northwest Beverages, Inc., POB 575, Thief River Falls, MN 56701.

MC 165978 (Sub-4-1TA), filed January 31, 1983. Applicant: ACME BARREL COMPANY, INC., 2300 West 13th Street, Chicago, IL 60608. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract irregular: Steel drums,* between the facilities of PPG Industries, Inc. at or near Oak Creek, WI, on the one hand, and, on the other, points in the Chicago, IL Commercial Zone, under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 165858 (Sub-4-1TA), filed January 31, 1983. Applicant: CHARLES MOELLER d.b.a. MOELLERS TRUCK SERVICE, Box 103, Highway 28, Bryant, SD 57221, (605) 628-2331. Representative: Same as above. Transporting *lumber* and *wood products* between points in ID, IA, MN, MT, ND, SD, WI, and WY. Supporting shipper, Sprenger Midwest, Inc., 2901 West 11th, Sioux Falls, SD 57106.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 33037 (Sub-5-3TA), filed February 4, 1983. Applicant: STUDER TRUCK LINE, INC., Beattie, KS 66406. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. *Fertilizer*, Between Stratford, TX on the one hand, and on the other, points in AZ, CA, LA and UT. Supporting shipper: Conklin Co., Inc., Shakopee, MN.

MC 67234 (Sub-5-45TA), filed February 2, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular, *General Commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. (including AK and HI) under continuing contract(s) with Volkswagen of America, Inc. Supporting shipper: Volkswagen of America, Inc., Warren, MI.

MC 67234 (Sub-5-46TA), filed February 4, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular, *General Commodities (except Classes A and B explosives and commodities in bulk)* between points and places in the U.S. (including AK and HI) under continuing contract(s) with Picker International. Supporting shipper: Picker International, Highland Heights, OH.

MC 123476 (Sub-5-17TA), filed February 2, 1983. Applicant: CURTIS TRANSPORT, INC., P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit. Same address as applicant. *Liquified Petroleum Gases (LPG) in bulk, in tank vehicles*, from Douglas County, IL to St. Louis, MO. Supporting shipper: Monsanto Chemical Co., St. Louis, MO.

MC 141914 (Sub-5-24TA), filed February 4, 1983. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same as applicant). *Paper, paper products and the materials and supplies used in the manufacture thereof* between Mayes County, OK, on the one hand, and, on the other, points in and West of ND, SD, NE, KS & TX. Supporting shipper: Orchids Paper Products, La Palma, CA.

MC 147552 (Sub-5-9TA), filed February 3, 1983. Applicant: CAJUN CARTAGE AND WAREHOUSING CORPORATION, P.O. Box 10686, New Orleans, LA 70181-0686. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *General Commodities, including bulk liquid and dry bulk shipments only when moving in ocean containers (Except Classes A & B Explosives and Household Goods)*, between the commercial zones of Baton Rouge, LA, Lake Charles, LA and new Orleans, LA, on the one hand, and on the other, points in AR, MS and AL. Supporting shippers: (8).

MC 156611 (Sub-5-2TA), filed February 2, 1983. Applicant: FOOD TRANSPORT, INC., P.O. Box 446, Fayetteville, AR 72701. Representative: Grant M. Davis, 2217 Juneway Terrance, Fayetteville, AR 72701. Contract, irregular: *food and related products* between points in the United States (except HI and AK) under continuing contract with Land O' Lakes, Inc., Arden Hills, MN.

MC 156720 (Sub-5-2TA), filed February 4, 1983. Applicant: McNEILL TRUCKING CO., INC., Box 456, Calico Rock, Ark. 72519. Representative: David E. McNeill (same as above). Contract, irregular: *Such commodities as are dealt in by wholesale and retail grocery houses, (except commodities in bulk)*, between points in the U.S. (except AK and HI), under continuing contracts with Mondi, Inc., of Cincinnati, OH, and Grand Enterprises, Inc., of Springfield, MO. Supporting shippers: Mondi, Inc., Cincinnati, OH; Grand Enterprises, Inc., Springfield MO.

MC 165857 (Sub-5-2TA), filed February 4, 1983. Applicant: VINER'S INC. P.O. Box 290, Emerson, IA 51533. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Hides and cattle switches* on shipments moving for the account of Philadelphia Hide Brokerage Corporation, between points in the U.S. (except AK and HI). Supporting shipper: Philadelphia Hide Brokerage Corporation, Philadelphia, PA.

MC 165945 (Sub-5-1TA), filed February 2, 1983. Applicant: MID-KANSAS BUS SERVICE, INC., Route 2, Newton, KS 67114. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. *Passengers and their baggage in special and charter operations*, between points in McPherson, Reno and Harvey Counties, KS on the one hand, and on the other, all points in CO. Supporting shipper: Bethel Mennonite Church, Inman, KS.

MC 165984 (Sub-5-1TA), filed February 4, 1983. Applicant: OLYMPIA PETROLEUM TRANSPORT, INC., 3518 Travis Street, Houston, TX 77002. Representative: Virgil O. Musick, 6220 Gaston Ave., Suite 605, Dallas, TX 75214. Contract; Irregular, *Natural gas liquids, liquified petroleum gas, natural gasoline and mixtures thereof*, between points in the U.S. Supporting shipper: Olympia Petroleum, Inc., Houston, TX.

MC 166058 (Sub-5-1TA), filed February 4, 1983. Applicant: JIM CURRIE INC., Route 2, Manhattan, KS 66502. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110-L, Topeka, KS 66612. *(Part 1) Cereal Malt Beverages and Mineral Water (Part 2) Pallets, Load-Jacks, Cardboard Separaters, Empty Bottles and Empty Kegs*, (Part 1) From the Commerical zones of St. Louis, MO., Minneapolis-St. Paul, MN and LaCrosse, WI to points in Pottawatomie County, KS. (Part 2) From points and places in Pottawatomie County, KS to the Commerical zones of St. Louis, MO, Minneapolis-St. Paul, MN and LaCrosse, WI. Supporting shipper: Campbell Distributors, Manhattan, KS.

MC 166059 (Sub-5-1TA), filed February 3, 1983. Applicant: CLIFFORD A. PHILLIPS d.b.a. Cam's Trucking, 2123 S. Barcliff, Springfield, MO 65804. Representative: Bruce McCurry, Dickey, Allemann, Chaney & McCurry, 910 Plaza Towers, Springfield, Mo. 65804. *Foodstuffs*, except commodities in bulk, between points in Greene County, MO on the one hand and points in Johnson and Wyandotte Counties, KS and points in FL on the other hand. Supporting shipper: Associated Wholesale Grocers, Inc., Springfield, MO.

MC 166062 (Sub-5-1TA), filed February 4, 1983. Applicant: OLYMPIA PETROCHEMICAL TRANSPORT, INC., 3518 Travis Street, Houston, TX 77002. Representative: Virgil O. Musick, 6220 Gaston Ave., Suite 605, Dallas, TX 75214. Contract; Irregular, *Natural gas liquids, liquified petroleum gas, natural gasoline and mixtures thereof*, between points in the U.S. Supporting shipper: Olympia Petroleum, Inc., Houston, Texas.

MC 166064 (Sub-5-1TA), filed February 4, 1983. Applicant: THERMO DISTRIBUTION, INC., 13789 Rider Trail, Earth City, MO 63045. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043. *Contract: Irregular; (1) fruits and flavor syrups* between Fenton, MO, Compton, CA and Somerset, NJ under continuing contract(s) with Universal Flavors of Missouri, Inc. of Fenton, MO, and *(2) chemicals and containers used in the paint industry* between St. Louis, MO, Memphis, TN, Kansas City, MO and Denver, CO on the one hand, and, on the

other, points in the U.S. (except AK & HI) under continuing contract(s) with Walsh & Associates, Inc. of St. Louis, MO. Supporting shippers: Universal Flavors of Missouri, Inc., Fenton, MO, Walsh & Associates, Inc., St. Louis, MO.

MC 166064 (Sub-5-2TA), filed February 4, 1983. Applicant: THERMO DISTRIBUTION, INC., 13789 Rider Trail, Earth City, MO 63045. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043. *Contract: Irregular;* transporting *(1) protective coatings and materials, equipment and supplies used in the manufacture and distribution thereof* between points in the U.S. (except AK & HI) under continuing contract(s) with Thermo Chemical Products, Inc. of Earth City, MO and *(2) containers used in the food, drug and chemical industries* between points in the U.S. (except AK & HI) under continuing contract(s) with Northwestern Bottle Co., Inc. of St. Louis, MO. Supporting Shippers: Thermo Chemical Products, Earth City, MO, Northwestern Bottle Co., Inc., St. Louis, MO.

MC 166070 (Sub-5-1TA), filed February 4, 1983. Applicant: ARAM BOYAJIAN, Box 192, Irwin, Iowa 51446. Representative: Aram Boyajian (same as applicant). *Anhydrous ammonia, bulk dry fertilizers, liquid fertilizers, and chemicals* between points in Bureau and Henry Counties, IL; Washington, Douglas, and Sarpy Counties NE; and Pottawattamie, Harrison, Shelby, and Audubon Counties, IA. Supporting shippers: Irwin Farm Suppy, Inc., Irwin, IA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4144 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15081]

Motor Carriers; Murrell Enterprises, Inc.; Continuance in Control Exemption; Earl C. Smith, Inc. and Magra, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures Handling Exemptions Filed By Motor Carriers,* 367 I.C.C. 113 (1982), Murrell Enterprises, Inc., (Murrell) and, in turn, Ronald C. Murrell, Lorraine M. Burman, Robert S. Boris and James Byrne, who jointly control Murrell, seek an exemption from the requirement under 11343 of prior regulatory approval for the continuance in control of Earl C. Smith, Inc. (No. MC-80498) and Magra, Inc. (No. MC-164848).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representatives, Ronald J. Mastej and Neill T. Riddell, 900 Guardian Building, Detroit, Michigan 48226.

Comments should refer to No. MC-F-15081.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representatives. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 9, 1983.

By the Commission, Herber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4146 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30100]

Rail Carriers; Cairo Terminal Railroad Company; Exemption; Issuance of Notes

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission has exempted the issuance by the Cairo Terminal Railroad Company of notes in the principal amount of $740,000 to finance the acquisition of a line of railroad between Davis and Elco, IL.

DATES: The exemption will become effective on February 17, 1983. Petitions to reopen must be filed by March 9, 1983.

ADDRESSES: Send petitions to reopen to:

(1) Interstate Commerce Commission, Rail Section, Room 5349, Washington, DC 20423.

(2) Petitioner's representative: Peter A. Gilbertson, Suite 350, 1575 Eye Street NW., Washington, DC 2005.

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 contact: TS Infosystems, Inc., Room 227, 12th & Constitution Ave., NW. Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4145 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Railcarriers; Kansas City Terminal Railway Company—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee); Termination of Claim Settlement Operations

AGENCY: Interstate Commerce Commission.

ACTION: Directed rail carrier ordered to terminate claim settlement and accounting operations; proposed wind-down procedures authorized.

SUMMARY: Kansas City Terminal Railway Company, directed rail carrier (KCT-DRC), operated over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) in 1979-80. KCT-DRC personnel are performing accounting services at Rock Island Trustee headquarters relating to directed service. On December 9, 1981, we ordered KCT-DRC to terminate claim settlement and accounting operations on March 31, 1983. We authorize KCT-DRC to wind down its accounting operations in accordance with its petition of November 10, 1982, subject to the requirement that it retain personnel as necessary through the end of 1983 to assist the Commission with specified functions. All claims must be submitted by February 28, 1983, if they are to be processed by the carrier before the termination of the accounting operations.

DATES: This decision is effective on February 17, 1983.

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 contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4137 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13015; 811-2296]

The Fore Fund, Inc.; Filing of Application

February 7, 1983.

In the matter of The Fore Fund, Inc., c/o The Partners Fund, Inc., 342 Madison Avenue, New York, NY 10173.

Notice is hereby given that the Partners Fund, Inc. ("Partners"), on November 18, 1982, filed an application on behalf of the Fore Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of Maryland on June 3, 1972, and on June 21, 1972, it registered under the Act. On June 29, 1972, it filed a registration statement pursuant to the Securities Act of 1933 (File No. 2-44939), which was declared effective on March 30, 1973, the date that Applicant commenced the public offering of its shares of capital stock. As of March 31, 1976, Applicant had 1,500,000 shares of authorized capital stock, $1.00 par value, of which 45,152 shares were outstanding representing net assets of $546.078.

According to the application, Applicant was merged with Partners, registered under the Act as an open-end, diversified management investment company, effective July 30, 1976 ("Effective Time"), in accordance with the laws of the State of Maryland. At the Effective Time, all property, rights, privileges and franchises of Applicant were transferred to, vested in and devolved upon Partners, and Partners became liable for all the debts and obligations of Applicant. Each whole and fractional share of Applicant outstanding at the Effective Time was converted into a number of whole and fractional shares of Partners having an equivalent net asset value at the close of business on the last business day preceding the Effective Time. The merger of Applicant with Partners was approved by Applicant's and Partner's boards of directors on April 27, 1976, and by Applicant's shareholders at a special meeting held on July 30, 1976.

The application states that Applicant is not engaged in any business; is not involved in any administrative proceeding or litigation; it has no assets and no securityholders; no outstanding debts or liabilities; no separate trust was created for the benefit of its securityholders; and that it has filed the Articles of Merger with the State of Maryland's Department of Assessments and Taxation.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and that, upon the effectiveness of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 4, 1983, 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 Applicant 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. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an 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. 83-4116 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks: Alaska Airlines, Inc., Common stock, $1 par value (File No. 7-6513), Instrument Systems Corporation, Common stock, $.25 par value (File No. 7-6514).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 2, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4118 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19496; File No. SR-NSCC-82-26]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

February 9, 1983.

On November 18, 1982, NSCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that amends NSSC Rule 4 to permit NSCC participants to secure their clearing fund obligations by pledging certain types of securities. Notice of the proposed rule change, together with the terms of the proposed rule change, was given by

publication of Securities Exchange Act Release No. 19273 (November 24, 1982), 47 FR 54393 (December 1, 1982). One letter of comment was received.[1]

All NSCC participants are required by NSCC's existing rules to contribute to NSCC's clearing fund in accordance with a formula adopted by NSCC's board of directors.[2] The proposed rule change would permit a participant to secure the non-cash portion of its clearing fund contribution ("open account indebtedness" (by pledging "qualifying securities" to NSCC.[3] The proposal defines "qualifying securities" to be: (i) Exchange-listed or over-the-counter ("OTC") debt securities or equity securities that have and maintain a market value of at least $5.00 per share ("liquidity requirement");[4] and (ii) securities that are eligible for deposit in a Qualified Securities Depository.[5] The proposal further provides that qualifying securities shall be valued at 50% of their daily market value ("value limitation");[6] and that no greater than $100,000 or 5% of a participant's open account indebtedness, whichever is less, may be secured by the deposit of a single issue of any qualifying securities, unless a lesser amount is deemed appropriate by NSCC because of special market risks ("concentration requirement"). Hypothecable qualifying securities would be pledged to NSCC on such terms and conditions as NSCC shall require, with such pledges being effected by appropriate book-entry movements at DTC.[7]

In its filing, NSCC states that its proposal is designed to expand the types of assets that can be used by participants in satisfying their open account indebtedness and to reduce participants' costs of satisfying their clearing fund obligations. NSCC previously sought to achieve these objectives by allowing participants to use letters of credit to secure their open account indebtedness.[8] NSCC notes, however, that the increasing cost of letters of credit and the reluctance of many banks to issue unsecured letters of credit on behalf of broker-dealers have reduced the ability of participants to satisfy their clearing fund requirements easily and inexpensively. Accordingly, NSCC has submitted this proposed rule change to establish another low-cost method of securing clearing fund obligations. NSCC believes that because firms generally are able to loan or otherwise use only a portion of their securities inventory, the pledge of hypothecable qualifying securities to secure clearing fund obligations will be inexpensive for participants.[9]

Finally, NSCC believes the proposal's limitations, (*i.e.*, the liquidity requirement, value limitation, and concentration requirement) would insulate NSCC from most market risks and would prevent NSCC from becoming unduly dependent upon any one issue of securities as collateral. Moreover, NSCC believes that these limitations would enable NSCC to liquidate qualifying securities readily and without untoward impact on the marketplace, if, for example, NSCC became financially exposed as the result of a participant insolvency.[10] Accordingly, NSCC believes that the proposal is consistent with Section 17A(b)(3) of the Act, which provides that a registered clearing agency must be organized and have the capacity to safeguard securities and funds in its custody or control or for which it is responsible.

The Commission believes that NSCC's proposal would reduce participants' costs of securing their open account indebtedness and would not impair NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible. Nevertheless, the Commission believes that the proposal raises two concerns. First, NSCC's proposed value and concentration requirements may be too strict in certain circumstances, thereby diminishing unnecessarily the proposal's utility.[11] For example, the Commission believes that NSCC should consider whether a relaxation of the concentration requirement for equity securities and high grade debt securities would increase the proposal's usefulness without jeopardizing NSCC's ability to safeguard funds and securities.

Second, the proposal lacks a liquidity requirement for debt securities. Thus, for example, under NSCC's proposal a corporation's common stock will not constitute qualifying securities if its market price is under $5.00 per share; yet at the same time, that corporation's deferred convertible debentures will constitute qualifying securities. The Commission believes that such disparate treatment of similar securities of a single issuer seems anomalous. NSCC explains that, in its experience, equity securities priced below $5.00 generally tend to be volatile and often

[1] Leonard Mayer, Vice President of Mayer & Schweitzer, Inc., letter dated November 29, 1982, discussed at note 6 *infra*.

[2] NSCC Rule 2, section 2(f), Rule 4, section 1, and Procedures XIV, Subsection (a).

[3] Under NSCC's existing rules, participants may secure their open account indebtedness by the pledge of (i) certain unmatured bearer bonds issued and guaranteed by the United States or a state or one of its subdivisions ("qualifying bonds"); or (ii) letters of credit issued by a bank approved by NSCC. NSCC Rule 4, section 1, paragraph 2.

The Commission has been advised by the staff of the Board of Governors of the Federal Reserve System ("BOG") that the proposed rule change is not inconsistent with either Regulation G (12 CFR Part 207) or Regulation T (12 CFR Part 220.1 *et seq.*).

[4] NSCC's staff has informed the Commission that NSCC would monitor daily the market values of qualifying securities. NSCC also has indicated that if a participant's open account indebtedness becomes inadequately secured by qualifying securities because of a decline in the aggregate market value of those securities or because some of those securities no longer are qualifying securities, the participant would be required to supply substitute or additional collateral within ten days or such earlier time as NSCC deems appropriate. *See also* NSCC Rule 15, § 3.

[5] A "Qualified Securities Depository" is defined in NSCC Rule 1 to mean "a Registered Clearing Agency which has entered into an agreement with [NSCC] pursuant to which it will act as a securities depository for [NSCC] and effect book-entry transfers of securities to and by [NSCC] in respect of the [Continuous Net Settlement] System." At this time, the only Qualified Securities Depository is The Depository Trust Company ("DTC").

[6] In a November 29, 1982 letter to the Commission, Leonard Mayer agreed with the purpose of the proposal, *i.e.*, allowing participants to pledge hypothecable securities to secure participants' open account indebtedness. He stated, however, that the proposed $5.00 liquidity requirement seems inordinately strict because stocks with lower market values are not necessarily volatile. Similarly, Mr. Mayer suggested that the 50% value limitation is excessive for securities with stable market values. *See* notes 10 and 11 *infra*.

[7] The proposal would permit pledging participants to receive any dividends or interest earned or paid on any pledged qualifying securities.

[8] SR-NSCC-80-15, approved by the Commission in Securities Exchange Act Release No. 18052 (August 21, 1981), 46 FR 43341 (August 27, 1981).

[9] The proposal is similar in substance to an Options Clearing Corporation ("OCC") filing previously approved by the Commission. That proposed rule change (SR-OCC-82-11) enables OCC participants to meet their OCC margin obligations by pledging common stocks underlying outstanding option classes. Securities Exchange Act Release No. 18994 (August 20, 1982), 47 FR 37731 (August 26, 1982) ("Release No. 34-18994"). The objectives underlying OCC's proposed rule change, as articulated in Release No. 34-18994, are substantially similar to those underlying NSCC's proposal.

[10] NSCC based the $5.00 liquidity requirement and the 50% value limitation on similar provisions in Regulation T. Specifically, § 220.8(h)(8) permits broker-dealers to pledge an OTC equity security for financing customer margin if the security's minimum average bid price is at least $5.00 per share. In addition, § 220.8(a)(1) generally limits the credit value of non-equity securities to 50% of their market value. In like manner, Regulation U (12 CFR 227.4(a)) limits the maximum loan value of any margin stock to 50% of its current market value. It should be noted, however, that these regulations do not apply directly to NSCC's proposal.

[11] As discussed *supra* at note 6, Mr. Mayer expressed similar concerns in his comment letter. The Commission believes, however, that the credit policy considerations underlying the analogous provisions in Regulation T, *e.g.*, volatility, market depth, liquidity, market-maker performance, and issuer creditworthiness, are instructive to NSCC as a clearing agency creditor and support the proposition that the proposed liquidity requirement and value limitation are, at a minimum, reasonable and consistent with the Act.

trade in thin markets. NSCC further explains that debt securities often are less volatile than equity securities, which obviates the need for a similar liquidity requirement for debt securities. While the Commission believes that price volatility is a fundamental consideration underlying liquidity limitations, other factors, including issuer creditworthiness, are relevant. Accordingly, it is the Commission's view that this apparent disparate treatment requires further study by NSCC.

NSCC has agreed to review the value, concentration, and liquidity requirements in light of the Commission's concerns, as well as to monitor the operation of the program generally to ascertain whether additional modifications may be appropriate. The Commission welcomes such a review and believes that future modifications to this rule change should increase the opportunity for participants to secure their clearing fund obligations practically and inexpensively.

In conclusion, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act.[12] The Commission believes that the proposal's liquidity requirement, value limitation, and concentration requirement should protect NSCC from most market risks, including the risk posed by an illiquid market, and should reduce substantially the likelihood that NSCC will become unduly dependent upon any one issue of securities. In addition, the procedure of valuing pledged securities daily should contribute substantially to the safety of the proposal. In any event, the proposal allows NSCC not to accept any qualifying security in special risk circumstances. With these safeguards, together with the potential benefits of the proposal to NSCC and its participants, the Commission believes that the proposal should be approved in its current form.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR-NSCC-82-26) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4113 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

[12] *See also* Release No. 34-18994.

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1983.

The above named national securities exchange had filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of: U.S. Air Group, Common stock, $1 par value (File No. 7-6515).

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 2, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4119 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13014, (812-5430)]

Pulte Home Credit Corp.; Filing of an Application

February 7, 1983.

In the Matter of Pulte Home Credit Corporation, 4380 S. Syracuse Street, Suite 200, Denver, Colorado 80237.

Notice is hereby given that Pulte Home Credit Corporation ("Applicant"), a Michigan corporation which is an indirect wholly-owned subsidiary of Pulte Home Corporation ("Pulte"), a Delaware corporation, filed an application on January 20, 1983, and an amendment thereto on February 7, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was incorporated on January 6, 1983 and that all of its outstanding stock is owned by Pulte Financial Companies, Inc., a wholly-owned subsidiary of Pulte. According to the application, Pulte is one of the largest independent publicly-owned builders of single-family homes in the United States. Through subsidiaries, Pulte also engages in mortgage banking and mortgage financing activities providing mortgage funds for purchasers of its homes.

Applicant states that its sole business will be the lending of funds derived either from capital contributions or from funds borrowed within the United States to Pulte and its subsidiaries and, accordingly, substantially all of its assets will consist of amounts receivable from, and other obligations of, Pulte or its subsidiaries. Applicant has recently completed an offering of subordinated debentures (the "Debentures") due 2008 convertible into common stock of Pulte. The Debentures are guaranteed by Pulte. Pulte's obligation to pay under such guarantee is subordinated to Pulte's obligation to pay principal and interest on senior debt as that term is defined in the indenture for the Debentures. Applicant proposes to undertake, on behalf of Pulte, to issue and sell additional debt securities ("Securities") in the United States from time to time.

Payment of principal of and premium, if any, and interest on the Securities would be unconditionally guranteed by Pulte on a subordinated basis as in the case of the Debentures. Applicant represents that, as in the case of the Debentures, the terms of the Pulte guarantees will be such that in the event of a default with respect to a Security legal proceedings may be instituted directly against Pulte to enforce the guarantee of such Security without first proceeding against the Applicant. Applicant further states that it would advance to, deposit with, or apply toward the purchase of assets from, Pulte or subsidiaries of Pulte substantially all of the proceeds of sales of Securites made by the Applicant. Insofar as the proceeds of the offering of the Debentures are concerned, Applicant states that it plans to acquire mortgages or other liens on or interests in real estate from a subsidiary of Pulte until such time as it is determined that Applicant is not an investment company subject to regulation under the Act. Applicant represents that, at the times

of issuance and sale of Securities and so long as any Securities are outstanding, Applicant will remain a wholly-owned subsidiary of Pulte or one of Pulte's subsidiaries and Applicant will own or hold no equity securities other than equity securities of Pulte and subsidiaries of Pulte.

Applicant represents that its offerings of Securities would take the form of a public offering of securities registered under the Securities Act of 1933 (the "1933 Act"). Applicant further represents that Applicant and Pulte would not sell such Securities until the registration statement was declared effective by the Commission and the related indenture was qualified under the Trust Indenture Act of 1939.

Applicant states that it may be deemed an investment company under Section 3(a)(3) of the Act on the grounds that its proposed advances to, or deposits with, Pulte may be deemed "investment securities" and would constitute more than 40% of its total assets. However, contending that it has been organized solely for the purpose of financing operations of Pulte, Applicant states that it does not view itself as an investment company. Accordingly, in order to eliminate any doubt that it would be entitled, without registration under the Act, to issue and sell the Securities and invest the proceeds in securities of Pulte and its subsidiaries, Applicant requests an exemption from all provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to Applicant, expansion of its activities and those of Pulte and its affiliates is appropriate in the public interest in that such expansion will create jobs in a depressed housing market and foster economic growth. Without the requested exemption, Applicant argues, its activities will be restricted, thereby reducing its contribution to the growth of Pulte and its affiliates. Furthermore, Applicant states that the relief sought is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Securities to be issued by the Applicant will be registered under provisions of the 1933 Act and will be sold to investors on the basis of a prospectus meeting requirements of the Act. Upon sale of the Securities, Applicant expects that it will be subject to registration and periodic reporting requirements of the Securities Exchange Act of 1934. Therefore, Applicant asserts that the interests of investors will be protected by Applicant's compliance with the disclosure requirements of those Acts. Applicant contends that the relief sought is also consistent with a proposed revision of Rule 6c-1 under the Act (Investment Company Act Release No. 12679, September 21, 1982), which if adopted, would allegedly allow the proposed transactions without first obtaining an exemption.

In view of the Pulte guarantees and the fact that Applicant will derive all of the funds needed to repay the purchasers of its Securities from Pulte, Applicant asserts that it is appropriate that, as a subsidiary financing company of Pulte, it should be exempted from the requirements of the Act for the same reasons that Pulte itself would be exempt from the provisions of the Act. Therefore, Applicant requests that the Commission enter an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 3, 1983, 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 Applicant 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. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an 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. 83-4117 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

Ranger Oil Limited; Application To Withdraw From Listing and Registration

February 8, 1983

In the Matter of Ranger Oil Limited, Common Stock, No Par Value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Ranger Oil Limited ("Company") is listed and registered on the Amex and the Pacific Stock Exchange ("PSE"). Pursuant to a Registration Statement on Form 8-A which became effective on January 3, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining listing of the common stock on the Amex, PSE and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the PSE and NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 2, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4121 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13016; (812-5412)]

Winthrop Residential Associates III, et al.; Filing of an Application

February 7, 1980.

In the matter of Winthrop Residential Associates III, Two Winthop Properties, Inc., and Linnaeus-Oxford Associates, 225 Franklin Street, Boston, MA 02110.

Notice is hereby given that Winthrop Residential Associates III ("Partnership"), a Maryland limited partnership, and its general partners, Two Winthrop Properties, Inc. ("Two Winthrop"), and Linnaeus-Oxford Associates ("General Partners" and, together with the Partnership, collectively referred to herein as "Applicants"), filed an application on December 23, 1982, and an amendment thereto on January 31, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Partnership was formed under the Maryland Uniform Limited Partnership Act on June 28, 1982. Applicants state that the Partnership will operate as a "two-tier" partnership; i.e., the Partnership will invest, as a limited partner, in other limited partnerships ("Local Limited Partnerships"), that in turn, will be engaged in the development, rehabilitation, ownership and operation of government-assisted apartment complexes ("Properties").

Applicants represent that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both liability limited to their capital investment and the ability to claim on their individual tax return, the deduction, losses, credits, and other tax items arising from the Partnership's interests in Local Limited Partnerships that own, operate, and construct or rehabilitate the Properties. Applicants further represent that the Partnership is requesting a private ruling from the Internal Revenue Service that the Partnership will be classified as a partnership and not as an association taxable as a corporation.

Applicants state that the Partnership's investment objectives are to preserve, and protect the Partnership's capital, provide capital appreciation through appreciation in value of the Properties of the Local Limited Partnerships, provide "tax losses" during the early years of the Partnership's operations that the Limited Partners may use to offset income from other sources, provide quarterly cash distributions that will not constitute taxable income and which may increase over time, and build additional equity through reduction of mortgage loans of the Local Limited Partnerships.

The application states that on December 23, 1982, the Partnership filed a registration statement under the Securities Act of 1933 (the "Securities Act"), pursuant to which the Partnership intends to offer to the public 15,000 units of limited partnership interest ("Units") at $1,000 per Unit with a minimum investment of $5,000 per investor. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership. In the event that subscriptions for more than 15,000 Units are received, the Partnership has registered a total of 25,000 Units and has granted to Winthrop Securities Co., Inc. ("Selling Agent") a right to sell up to 10,000 additional units. According to the application, the maximum amount of funds available to the Partnership for investment in Properties from the proceeds of its offering will be between $1,305,000 and $13,575,000 ($22,625,000 if the Selling Agent exercises its right to sell an additional 10,000 Units), after deductions for sales commissions, anticipated offering expenses, acquisition fees and expenses, and the establishment of a contingency reserve.

Applicants state that subscriptions for Units must be approved by Two Winthrop ("Managing General Partner"), and that such approval will be made conditional upon representations as to suitability of the investment for each subscriber. Applicants further state that the subscription agreement for Units will require that, at least for the first five calendar years of the Partnership's operation, transfers of Units will be permitted only if the transferee meets the same suitability standards as had been imposed upon the transferor Limited Partner.

Applicants state that the Partnership will be controlled by its General Partners pursuant to the Partnership Agreement, and the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. It is asserted that a majority in interest of the Limited Partners will have the right to amend the Partnership Agreement, dissolve the Partnership, and remove any General Partner and elect a replacement therefor. Any amendment to the Partnership Agreement, however, may not allow the Limited Partners to take part in the control of the Partnership's business or otherwise affect their limited liability.

According to the application, the Partnership will receive an opinion of counsel to the effect that the Partnership's liability in respect of each Local Limited Partnership will be limited to the Partnership's capital contribution to the Local Limited Partnership. Applicants represent, in addition, that under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants state that the fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated at arm's length. They represent, however, that terms of all such compensation will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties.

According to the application, the Partnership will invest any net proceeds not immediately utilized to acquire Local Limited Partnership interests or for other Partnership purposes (such as the establishment of a reserve equal to 1 percent of the Gross Proceeds) in United States Government securities, securities issued or fully guaranteed by the United States Government agencies, certificates of deposit and time or demand deposits in commercial banks having a net worth of at least $25,000,000 or commercial paper rated P-1 by Moody's Investors Service, Inc. Applicants further state that after the Partnership has made an initial capital contribution to a Local Limited Partnership, other funds allocated for subsequent investment in that Local Limited Partnership will be temporarily invested by the Partnership in tax-exempt securities. It is represented that all such tax-exempt investments made by the Partnership will be rated MIG-2 or better by Moody's and have maturities not exceeding one year.

Applicants state that the Partnership expects to file with the Commission, pursuant to Section 15(d) of the Securities Exchange Act of 1934, all required annual reports, quarterly reports, and current reports on Forms 10-K, 10-Q and 8-K, respectively, as well as any other reports required by that act. In addition to these reporting requirements, the Partnership's prospectus states that the Partnership will distribute to Limited Partners annual and quarterly financial statements and an annual report of the Partnership's activities. It is also stated

in the prospectus that a detailed statement describing any new arrangement or contract between the Partnership and the General Partners or their affiliates and the amount of all fees and other compensation paid to the General Partners and their affiliates will be distributed to Limited Partners quarterly.

Applicants represent that the Partnership Agreement provides that the Partnership shall indemnify the General Partners for losses sustained by them or their affiliates by reason of acts or omissions performed in connection with the business of the Partnership. Applicants further state, however, that insofar as indeminification for liabilities under the Securities Act may be permitted to the General Partners, the Partnership has been advised that in the opinion of the Commission, such indemnification is contrary to public policy as expressed in said Act and is therefore unenforceable. Therefore Applicants assert that the Partnership Agreement provides that there shall be no indemnification in connection with (1) any claim or settlement involving the Securities Act unless (a) the persons seeking indemnification are successful in defending such action and (b) such indemnification is specifically approved by a court that has been advised as to the current position of the Commission regarding such indemnification (unless Partnership counsel advises that the matter has been settled by controlling precedent), or (2) any liability imposed by law, including for fraud, bad faith or negligence.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from the provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides in pertinent part that the Commission may exempt any person from any provision of the Act and rules thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the exemption of the Partnership from all provisions of the Act is both necessary and appropriate in the public interest.

In support of their request, Applicants represent that by investing in Local Limited Partnership interests, the Partnership is implementing the national policy enunciated by Congress in Section 901 of Title IX of the Housing and Urban Development Act of 1968. Applicants state that such investment is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Applicants assert that the limited partnership structure is the only way of bringing private equity capital into government-assisted housing, particulary because outside investors usually perceive investment in low and moderate income housing programs as more risky than real estate investment generally. Applicants state that the limited partnership form insulates each limited partner from personal liability and limits his financial risk to the amount he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the income and losses from the investment.

Applicants assert that the limited partnership form of organization is incompatible with the operational framework of the Act. Thus, an exemption from these basic provisions is necessary, and, Applicants contend, it is appropriate that such exemption be granted so as not to discourage use of the two-tier limited partnership entity. To do so, Applicants assert, would frustrate the public policy established by the housing laws.

The application further states that the contemplated arrangement of the Partnership is not susceptible to abuses of the sort the Act was designed to remedy. Finally, Applicants assert that the suitability standards set forth in the subscription agreement, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Local Limited Partnership by various federal, state and local agencies, provide protection to investors in Units comparable to and in some respects greater than that provided by the Act. Applicants contend, therefore, that the requested exemption would be entirely consistent with the protection of investors and the purposes and policies of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 4, 1983, 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, or 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 Applicant 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. Persons who request a hearing will receive any notice and orders issued in this matter. After said date an 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. 83-4115 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S-730]

Aeron Marine Shipping Co., Aries Marine Shipping Co., Atlas Marine Co., Aquarius Marine Co., American Shipping, Inc., Pacific Shipping, Inc., and Worth Oil Transport Co.; Notice of Joint Application for Section 805(a) Permission

Aeron Marine Shipping Company, Aries Marine Shipping Company, Atlas Marine Company, Aquarius Marine Company, American Shipping, Inc., Pacific Shipping, Inc., and Worth Oil Transport Company (Berger subsidized companies) are each holders of long-term operating-differential subsidy contracts. By letter of counsel dated February 9, 1983, the Berger subsidized companies request written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended, to be affiliated with three companies, as yet unformed (herein the "Operating Companies"), which, upon delivery, expect to become the bareboat charterer and operator, respectively, of the BALTIMORE, MOBILE and PHILADELPHIA for their owners, Third Tug/Barge Corporation, Fourth Tug/Barge Corporation, and Fifth Tug/Barge Corporation, each a wholly-owned subsidiary of Amerada Hess Corporation. The BALTIMORE, MOBILE, and PHILADELPHIA are approximately 50,000 DWT, CATUG design, integrated tug/barge crude oil and product carriers, the barge portions of which are being completed at Bethlehem Steel Sparrows Point and the tug portions of which are nearing completion at Halter Marine's Chickasaw yard.

The BALTIMORE, MOBILE and PHILADELPHIA are the fourth, fifth and sixth tug/barge units so constructed, following the JACKSONVILLE,

GROTON and NEW YORK, also operated by affiliates of the Berger subsidized companies. The applicants state that the Operating Companies will, when formed, have common officers and directors with the Berger subsidized companies. However, except for the bareboat charters, they will have no ownership interest in the tug/barge units.

The applicants further advised that, at the same time each Operating Company enters into the bareboat charter with the respective owning company, it will time charter the CATUG it will operate on a "hell-or-high water" basis to Amerada Hess Corporation. The Operating Companies expect that the BALTIMORE, MOBILE and PHILADELPHIA will operate primarily in the Virgin Islands to U.S. trade, which does not require permission under section 805(a). However, under the time charters, Amerada Hess would control the trading of the vessels and will require that the vessels be utilized from time to time in the Gulf Coast to East Coast trade, and other domestic trades, during the period of the Berger subsidized companies' operating-differential subsidy contracts. Accordingly, the permission requested would cover domestic trade operations of the BALTIMORE, MOBILE and PHILADELPHIA for the period of each subsidy contract.

Any person, firm, or corporation having any interest in such application (within the meaning of section 805(a) of the Act) and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20259, by close of business on March 8, 1983, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations: (a) Could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Dated: February 10, 1983.

Murray A. Bloom,

Acting Assistant Secretary.

[FR Doc. 83-4123 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public 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 402-Public-Private-Relaltionship Subcommittee meeting of the National Highway Safety Advisory Committee to be held March 8, 1983. The subcommittee will be meeting to outline plans for the 1984 Highway Safety Conference. Topics to be discussed include: (1) What issues should be addressed at the Conference; (2) How should the Conference be structured; (3) Who should participate and attend; and (4) Date and location of Conference.

The meeting will be held at the Holiday Inn, 8221 N. Tamiami Trail, Sarasota, Florida. The subcommittee will meet from 9 a.m.—6 p.m. in the Dolphin Room. Attendance is open to the interested public, but may be limited to the space available. Members of the public may present a written statement to the Committee at any time.

The meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA, Executive Secretariat, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C. on February 14, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-4124 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[General Counsel Order No. 21 (Rev. 2)]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—
- Chairperson, Margery Waxman
- Arnold Intrater
- Jordan Luke
- Richard Fitzgerald
- Richard Abbey
- Marvin Dessler

(2) For the IRS Panel—
- Chairperson, the Deputy Chief Counsel, Internal Revenue Service
- Deputy General Counsel
- An Associate Chief Counsel for the Internal Revenue Service
- A rotating Regional Counsel
- A rotating Division Director of the Internal Revenue Service and such other SES officials as designated by the Chief Counsel

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of 5 U.S.C. Code of the members of the IRS Panel.

Effective date: February 8, 1983.

Peter J. Wallison,

General Counsel.

[FR Doc. 83-4103 Filed 2-16-83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Notice of Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB, for review, the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice contains an extension and a revision and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The Agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans

Administration 810 Vermont Avenue, NW., Washington, D.C. 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-6880.

DATES: Comments on forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 9, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

SUPPLEMENTARY INFORMATION:

Revision

(1) Department of Memorial Affairs
(2) State Cemetery Grant Program Questionnaire
(3) VA Form 40-4996 (formerly VAF 40-9976(NR))
(4) Annually
(5) States and Territories
(6) 55
(7) 15 minutes
(8) No—Not applicable under 3504(H)

Extension

(1) Information and Regulations Staff
(2) Certification of Inability to Pay Transportation Costs
(3) VA Form 00-2323
(4) Annually
(5) Nonservice-connected beneficiaries who are not in receipt of pension after VA has established that annual family income is not above the maximum annual base pension rates established in 38 U.S.C.521
(6) 552,500
(7) Five minutes
(8) Section 3504(H) of Pub. L. 96-511 does not apply

[FR Doc. 83-4122 Filed 2-16-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

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

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Thursday, February 17, 1983.

February 10, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, February 17, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Joint Motion for Dismissal of Action with Prejudice and Termination of Proceedings in the Western States Telephone Company Common Carrier proceeding (Docket No. 16883).

This item is closed to the public because it concerns adjudicatory matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission February 9, 1983: Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone (202) 254-7674.

Issued: February 10, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-221-83 Filed 2-15-83; 10:11 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From February 9th Open Meeting

February 9, 1983.

The following items have been deleted from the list of agenda items scheduled for consideration at the February 9, 1983 Open Meeting and previously listed in the Commission's Notice of February 2, 1983.

Agenda, Item No., and Subject

General—2—*Title:* A Re-Examination of Technical Standards. *Summary:* The staff has prepared a combined Notice of Inquiry and Proposed Rule Making which examines the basis for the FCC's technical regulations. The item includes a table in which FCC technical standards have been classified according to their purpose.

Audio—1—*Title:* In re application of Ettlinger Broadcasting Corporation, File No. BPH-10,075, for a new FM station in Westmorland, California. *Summary:* The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

Policy—1—*Title: Report and Order* in the rule making proceeding on the Suburban Community Policy, the *Berwick* Doctrine and the *De Facto* Reallocation Policy. *Summary:* The Commission will consider the *Report and Order* in BC Docket 82-320.

Video—2—*Title:* "Request for Tax Certificate" (CSR-2075) filed February 4, 1982, by Fetzer Broadcasting Company. *Summary:* Fetzer Broadcasting Company, pursuant to Section 1071 of the 1954 Internal Revenue Code, requests issuance of a tax certificate in connection with the sale of Wolverine Cablevision, Inc.

Issued: February 9, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-219-83 Filed 2-15-83; 10:11 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, February 17, 1983.

February 10, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 17, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* A Re-Examination of Technical Standards. *Summary:* The staff has prepared a combined Notice of Inquiry and Proposed Rule Making which examines the basis for the FCC's technical regulations. The item includes a table in which FCC technical standards have been classified according to their purpose.

Private Radio—1—*Title:* Amendment of Parts 81 and 83 of the Commission's rules to specify the circumstances under which limited coast stations may be exempted from the watch requirements on 156.8 MHz and to authorize the use of marine VHF Channel 88A in the Lake Michigan area. *Summary:* The Commission will consider whether to adopt rules which will: (1) Specify criteria for exempting limited coast stations from the requirement to maintain a watch on the marine VHF distress and safety frequency, and (2) permit ship stations to utilize VHF channel 88A on most of Lake Michigan.

Common Carrier—1—*Title:* CC Docket No. 79-252, Competitive Carrier Rulemaking proceeding. *Summary:* The Commission will consider three petitions for reconsideration of its Second Report and Order in this proceeding forbearing from tariff and facilities regulation of resellers of basic domestic terrestrial common carrier services.

Common Carrier—2—*Title:* Joint Requests for Approval of Settlement Agreements and Related Relief. *Summary:* The Commission will consider the Joint Requests for Approval of Settlement Agreement and Related Relief and Partnership Agreements filed by the nonwireline applicants in the cellular communications service for the Indianapolis, Indiana and Milwaukee, Wisconsin, Standard Metropolitan Statistical Areas.

Common Carrier—3—*Title:* Policy and Rules Concerning the Furnishing of Customer Premises Equipment by the Bell Operating Companies. *Summary:* The Commission will consider whether to issue a Notice of Inquiry and Proposed Rulemaking seeking public comment on whether Computer II structural separation requirements should be applied to the divested BOCs.

Common Carrier—4—*Title:* Application of GTE Corporation and Southern Pacific Company for Consent to Transfer Control of Southern Pacific Communications Company and Southern Pacific Satellite Company. *Summary:* The Commission will

decide whether the Bureau properly dismissed MCI's Opposition to the request for confidentiality made by GTE and SP with respect to materials submitted by GTE and SP in connection with the above-captioned application.

Common Carrier—5—*Title:* Motions of Cincinnati Bell Inc. and Southern New England Telephone Company for Declaratory Ruling to Remove Uncertainty of Their Status Under the Commission's Decisions in the Second Computer Inquiry (CC Docket 20828). *Summary:* Commission will consider whether to adopt staff proposal concerning the two Bell Companies' petitions for reconsideration of the October 20, 1981 Order requiring Computer II structural separation.

Audio—1—*Title:* (1) Application of Santa Monica Broadcasting, Inc., licensee of FM Station KSRF, Santa Monica, California, for a construction permit for modification of facilities; the decision of the U.S. Court of Appeals in *Western Broadcasting Company* v. *F.C.C.*, 674 F. 2d 44 (D.C. Cir. 1981). *Summary:* The Commission will consider the Court's decision and the applicability of Section 316(a) of the Act on the application for modification.

Audio—2—*Title:* In re application of Etteinger Broadcasting Corporation, File No. BPH-10,075, for a new FM station in Westmorland, California. *Summary:* The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

Video—1—*Title:* Application (BPCT-800213KF) of Capitol Broadcasting Company for a construction permit for a construction permit for a new satellite television broadcast station to operate on channel 18, Laurel, Mississippi. *Subject:* The Commission considers the application of Capitol Broadcasting Company for a new satellite television station in Laurel, Mississippi and the petition to deny filed by Central Television, Inc., permittee of television broadcast station WLHT, channel 22, Hattiesburg, Mississippi.

Audio—2—*Title:* Application for review and request for stay of Bureau action returning as untimely filed the application of Caldwell Television Associates, Ltd. for a new commercial television station in Caldwell, Idaho. *Summary:* The Commission will determine whether it properly returned the application as untimely filed.

Audio—3—*Title:* License Renewal Application of WAVY Television, Inc., for Television Station WAVY-TV, Portsmouth, Virginia. *Summary:* The Commission will consider a petition to deny the above license renewal application filed on behalf of the Media Forum of Tidewater and the National Black Media Coalition.

Video—4—*Title:* (1) Applications for the voluntary assignment of station KSDK-TV, St. Louis, Missouri, from KSDK, Inc., a subsidiary of the Pulitzer Publishing Company, to Multimedia, Inc., in exchange for Multimedia, Inc.'s stations WFBC-TV, Greenville, South Carolina, and WXII(TV), Winston-Salem, North Carolina (File Nos. BALCT-820219HD through BALCT-820219HF); and (2) petitions to deny these applications filed by the National Black Media Coalition and others and by the St. Louis Broadcast Coalition. *Summary:* The Commission will consider the petitioners' allegations concerning lack of candor; equal employment opportunity performance; and the adequacy of present and proposed programming.

Video—5—*Title:* License Renewal Application, as supplemented, of WHYY, Inc. for noncommercial educational television Station WHYY-TV, Wilmington, Delaware. *Summary:* The Commission considers a "complaint" filed against WHYY-TV by the Broadcast and Communications Committee of the City Council of Wilmington, Delaware.

Policy—1—*Title:* Amendment of Part 73 Subpart E of the Commission's Rules concerning the minimum aural power limit for TV broadcast stations. *Summary:* The FCC will consider proposing to permit TV stations to operate with an aural power of less than 10% of the peak radiated power of the visual transmitter (RM-4086).

Policy—2—*Title: Report and Order* in the rule making proceeding on the Suburban Community Policy, the *Berwick* Doctrine and the *De Facto* Reallocation Policy. *Summary:* The Commission will consider the *Report and Order* in BC Docket 82-320.

Enforcement—1—*Title:* Application for Review filed by Henry W. Maier, Mayor of Milwaukee, Wisconsin of the Bureau's ruling of July 29, 1982. *Summary:* The Commission will consider whether or not to reverse the Bureau's ruling with respect to a broadcast licensee's obligations under the Fairness Doctrine and personal attack rule.

Enforcement—2—*Title:* Application for Review filed by Brother Rama Behera and Disciples of Lord Jesus of the Bureau's ruling of August 25, 1982. *Summary:* The Commission will consider whether or not to reverse the Bureau's ruling with respect to whether the complainant was "identified" for purposes of the personal attack rule and whether the licensee has satisfied its obligations under the personal attack rule.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone (202) 254-7674.

Issued: February 10, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-220-83 Filed 2-15-83; 10:11 am]

BILLING CODE 6712-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Saturday, February 12, 1983, 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 American State Bank, Bradley, Illinois, which was closed by the Illinois Commissioner of Banks and Trust Companies on Saturday, February 12, 1983; (2) accept the bid for the transaction submitted by Midwest Trust and Savings Bank of Bradley, Bradley, Illinois, a newly chartered State nonmember bank; (3) approve the applications of Midwest Trust and Savings Bank of Bradley, Bradley, Illinois, for Federal deposit insurance, and for consent to purchase certain assets of and to assume the liability to pay deposits made in American State Bank, Bradley, Illinois; and (4) 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 facilitate the purchase and assumption transaction.

At that same meeting, the Board of Directors made funds available for the payment of insured deposits in State Bank of Barnum, Barnum, Minnesota, which was closed by the Commissioner of Banks of the State of Minnesota on Wednesday, February 9, 1983.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-222-83 Filed 2-15-83; 3:46 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

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 2:30 p.m. on Monday, February 14, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of 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:

Application for assistance pursuant to section 13(i) of the Federal Deposit Insurance Act and the FDIC's Capital Assistance Plan: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Memorandum and Resolution re: Selection of Presiding Officer for hearing Under Section 308.61 of the Corporation's Regulations.

The Board further determined, by the same majority vote, that no earlier notice of the 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)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-223-83 Filed 2-14-83; 3:47 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

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(3)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 14, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of 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:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Cast No. 45,587-L: The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: February 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-224-83 Filed 2-15-83; 3:47 pm]

BILLING CODE 6714-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., February 23, 1983.

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. 10459: APL/Sea-Land Joint Feeder Vessel Agreement.
2. Agreement No. 10461: U.S./Philippines Equal Access Agreement.
3. Docket No. 80-56: Rulemaking Proceeding Concerning Temporary Tariff Filings—Proposed Amendments to General Order 13—Proposed Final Rule.

Portion closed to the public.

1. Activities of Terry Marler d.b.a. Titantic Steamship Line.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-226-83 Filed 2-15-83; 4:00 pm]

BILLING CODE 6730-01-M

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NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-5]

TIME AND DATE: 9 a.m., Thursday, February 24, 1983.

PLACE: Conference Room 8 ABC, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report:* Followup Study of the U.S. Air Traffic Control System and Recommendations to the Federal Aviation Administration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

February 15, 1983.

[S-225-83 Filed 2-15-83; 3:45 pm]

BILLING CODE 4910-58-M

federal register

Thursday
February 17, 1983

Part II

Environmental Protection Agency

Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

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: Proposed regulation.

SUMMARY: EPA is proposing effluent limitations guidelines and standards under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works (POTW) from particular nonferrous metals manufacturing facilities. The Clean Water Act and a consent decree require EPA to propose and promulgate this regulation. The purpose of this action is to propose effluent limitations based on best practicable technology, best available technology and best conventional technology, new source performance standards based on best demonstrated technology, and pretreatment standards for existing and new indirect dischargers. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted by April 18, 1983.

ADDRESSES: Send comments to: Mr. James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: Nonferrous Metals Manufacturing Comments. Technical information and copies of technical documents may be obtained from Mr. James R. Berlow, Effluent Guidelines Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or call 202/382-7126. The economic analysis may be obtained from Mr. John Kukulka, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or call 202/382-5388.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 382-7126.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. It also summarizes comments on a draft technical document circulated in November 1979, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

This proposed regulation are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *General Development Document for Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category* and the subcategory supplements. The Agency's economic analysis is found in *Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category.*

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

The reporting or recordkeeping (information) provisions in this rule have been submitted for approval to the Office of Management and Budget (OMB) under Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

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J. Toxic Pollutants Detected But Present Solely as a Result of Their Presence in the Intake Waters.

I. Legal Authority

EPA is proposing the regulation described in this notice under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) ("the Act"). These regulations also are proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by additional orders of August 25, 1982 and October 26, 1982.

II. Background

A. The Clean Water Act and the Settlement Agreement

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). By July 1, 1977, existing industrial dischargers were

required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), Section 301(b)(1)(A). By July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable—which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing discharges to publicly owned treatment works ("POTW") were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. The requirements for direct discharge were to be incorporated into National Pollutant Discharge Elimination System (NDPES) permits issued under Section 402 of the Act. Pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct discharges on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Section 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Section 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the District Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by additional orders of August 25, 1982 and October 26, 1982.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMP") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

The 1977 Amendments added Section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those mentioned specifically in Section 304(a)(4) (biochemical oxygen demands, TSS coliform, and pH), and any additional pollutants defined by the Administrator as "conventional." (To date, the Agency has added one such pollutant, oil and grease, 44 FR 44501, July 30, 1979.)

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test, *American Paper Institute* v. *EPA*, 660 F. 2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50372). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

On October 29, 1982, the Agency proposed a revised BCT methodology. 47 FR 49176. This methodology has been applied to each of the Subcategories and is discussed in Section XIII of this preamble.

For non-toxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to provide effluent limitations guidelines for BPT, BAT and BCT, and to establish NSPS, pretreatment standards for existing source, (PSES), and pretreatment standards for new sources (PSNS), under Sections 310, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA already has promulgated effluent limitations and standards pretreatment standards for certain nonferrous metals manufacturing subcategories. These regulations, and the technological basis are summarized below.

Primary Aluminum Subcategory. EPA has promulgated BPT, BAT, NSPS, and PSNS in this subcategory. 39 FR 12822 (March 26, 1974). BPT is based on lime precipitation and sedimentation technology. BAT is based on this technology and flow reduction; NSPS and PSNS are based on the same technology and additional flow reduction.

Secondary Aluminum Subcategory. Existing regulations in this subcategory cover BPT, BAT, NSPS, PSES and PSNS. See 39 FR 12822 (March 26, 1974) and 41 FR 54854 (December 15, 1976) (establishing pretreatment standards). BPT is based on lime precipitation and sedimentation with pH adjustment to control ammonia. BAT is no discharge of

wastewater pollutants, PSES is based on oil skimming, pH adjustment and ammonia air stripping, while NSPS and PSNS are based on lime precipitation and sedimentation and flow reduction. (Promulgated NSPS and PSNS are less stringent than BAT and PSES because the processes believed to be necessary to achieve zero discharge were not demonstrated in 1974 or 1976, but we believed they would be demonstrated by the time of the BAT and PSES compliance dates.)

Primary Copper Smelting. Existing regulations cover BPT and BAT. Current BPT, the most recently promulgated regulation, is no discharge of process wastewater pollutants subject to an exception for unlimited discharge of the volume of water falling within impoundments in excess of the 10-year, 24-hour storm (known as a catastrophic precipitation event) when a storm of at least that magnitude occurred. See 45 FR 44926 (July 2, 1980). Existing BAT, promulgated earlier (40 FR 8523 (February 27, 1975)), is presently less stringent than BPT, allowing as exemptions to zero discharge a similar unlimited discharge for stormwater (except the allowance is for a volume of wastewater in excess of a 25-year, 10-hour storm), and a further discharge during any calendar month equal in volume to the difference between precipitation on and evaporation from the impoundment during that month. This later discharge is subject to concentration-based limitations.

Primary Electrolytic Copper Refining. Existing regulations cover PBT and BAT. The BPT regulation for this subcategory allows a mass-based continuous discharge based on lime precipitation and sedimentation. 45 FR 44926 (July 2, 1980). The BAT regulation promulgated earlier (40 FR 8524 (December 15, 1976)) is impoundment rather than hardware-based, and establish a mass-based continuous discharge limitation, based on flow reduction, lime precipitation, sedimentation, and the same allowances for catastrophic stormwater discharge and net precipitation discharge described for primary copper smelting, above. (Refiners located in areas of net evaporation, however, cannot discharge process wastewaters, based on the use of solar evaporation. The monthly net precipitation and catastrophic discharges may be discharged.)

Secondary Copper. EPA has established BPT, BAT and PSES in this subcategory. BPT and BAT, based on the presence of impoundments (or cooling tower circuits), require no discharge of process wastewater pollutants with allowances for catastrophic stormwater discharge and net precipitation discharge as described above when impoundments are used instead of cooling tower circuits. See 40 FR 8526 (February 27, 1975). PSES, promulgated later (41 FR 54854 (December 15, 1976)) is based on lime precipitation and sedimentation.

Primary Lead. The existing BPT and BAT limitations in this subcategory are based on impoundments. See 40 FR 8527 (February 27, 1975). These limitations provide for no discharge of process wastewater pollutants, with exemptions for catastrophic stormwater and new precipitation discharge of acid plant blowdown (subject to mass limitations) and monthly net precipitation on impoundments.

Primary Zinc. We have promulgated BPT and BAT in this subcategory. See 40 FR 8528 (February 27, 1975). These limitations are based on lime precipitation and sedimentation technology for BPT, with flow reduction added for BAT.

Metallurgical Acid Plants. This subcategory was established in 1980, and presently includes only acid plants. (*i.e.*, plants recovering by-product sulfuric acid from sulfur dioxide smelter air emissions) associated with primary copper smelting operations. See 45 FR 44926. Primary lead and zinc plants also have associated acid plants, but their discharges presently are covered under the primary lead and zinc subcategories. BPT for copper smelting acid plants is based on lime precipitation and sedimentation.

The Agency has not proposed or adopted regulations for primary columbium-tantalum, primary tungsten, secondary silver or secondary lead subcategories.

Table 1 indicates the regulations currently in place for phase I of the nonferrous metals manufacturing category.

We are proposing today to amend some of these existing regulations, but to leave others in place. As a general matter, we are not amending existing BPT regulations, the only exception being in the primary lead subcategory. We also are including zinc and lead acid plants within the metallurgical acid plant subcategory, to be subject to the existing BPT limitations.

We are proposing today to amend all existing BAT, NSPS, PSES and PSNS limitations and standards. Our reasons for all of these decisions are stated later in the preamble.

TABLE 1.—CURRENTLY PROMULGATED LIMITATIONS AND STANDARDS—NONFERROUS METALS MANUFACTURING

Subcategory	BPT	BAT	NSPS	PSES	PSNS
Primary aluminum	LS	LS, FR	LS, FR[1]		LS, FR[1]
Secondary aluminum.	LS, pH	ND	LS, FR	OS, pH, AS	LS, FR
Primary copper smelting.	ND[2]	ND[2,3]			
Primary electrolytic copper refining.	LS	LS, FR[2], [4]			
Secondary copper	ND[2, 3]	ND[2, 3]		LS	
Primary lead	ND[2, 3]	ND[2, 3]			
Primary zinc	LS	LS, FR			
Metallurgical acid plants[4].	LS				
Primary tungsten					
Primary columbium tantalum.					
Secondary silver					
Secondary lead					

[1] Includes additional flow reduction beyond BAT.
[2] Allows a discharge without limitation during a 10-year, 24-hour rainfall (or 25-year, 24-hour rainfalls at BAT) for stormwater falling on the wastewater cooling or settling pond.
[3] Allows a discharge, subject to concentration limitations, for a flow equal to the net monthly precipitation on the wastewater settling pond.
[4] Copper acid plants only; zinc and lead acid plants are currently covered in the primary zinc and primary lead subcategories.
LS=lime precipitation and sedimentation.
FR=flow reduction.
ND=no discharge.
OS=oil skimming.
pH=pH adjustment.
AS=ammonia air stripping.

C. Overview of the Category

The nonferrous metals manufacturing category includes plants producing primary metals from ore concentrates and recovering secondary metals from recycled metallic wastes (aluminum cans, lead batteries, etc.). 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 proposed 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 21 primary metals and metal groups, 15 secondary metals and metal groups and bauxite refining, will be considered separately and is scheduled for proposal in September, 1983. 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 XVII of this preamble). These metals were excluded from regulation either because the manufacturing processes do not use water or because they are regulated by toxics limitations and standards in other categories (ferroalloys and inorganic chemicals). EPA also has studied the segments of the nonferrous metals industry associated with forming or casting nonferrous metals. Proposed regulations for aluminum forming (47 FR 52626), copper forming (47 FR 51278), and metal molding and casting (47 FR 51512) were issued in November, 1982. The forming of metals other than aluminum and copper will be addressed in a proposed regulation for nonferrous metals forming that is scheduled for September, 1983.

There are 314 plants in the phase I subcategories which, according to EPA estimates, employ 61,000 people and annually generate raw wastes containing approximately 5 million kilograms of toxic pollutants. There are 76 (25 percent) direct dischargers which currently discharge 2 million kg/yr of toxic pollutants and there are 58 (18 percent) indirect dischargers which currently discharge an additional 76,000 kg/yr of toxics. There are 180 plants in this category (57 percent) that do not discharge process wastewater.

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 proposing discharge limitations standards for each of the wastewater sources identified below. The limitation for an individual plant would then be the sum of all limitations or standards 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-seven plants are direct dischargers and the remaining four 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 electrolytic cells used in the Hall-Heroult Process are called pots. These pots, ranging in size from 1.8 x 5.5 to 4.3 x 12.8 meters (6 x 18 to 14 x 42 feet), are made of cast iron and lined with carbon. This carbon lining serves as the cathode in the electrolytic circuit, collecting aluminum ions from the electrolyte. Large numbers of these pots (from 100 to 250 cells) are hooked electrically in series. This forms the potline, the basic production unit of the reduction plant. Potlines are generally contained in one or two long, ventilated buildings called potrooms. The electrolyte is a solution of cryolite, a double fluoride salt of calcium and aluminum. Alumina is periodically added to and dissolved in the electrolyte solution. The cells are heated to about 950 C, and when an electrical current is passed through the molten cryolite, the alumina is converted to aluminum ions. These ions then migrate to the cathode, where they are reduced to aluminum. The molten aluminum, because of its heavier weight, collects in the bottom of the pot, forming a layer beneath the cryolite solution.

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The electrolytic cells used in the Hall-Heroult Process are called pots. These pots, ranging in size from 1.8 × 5.5 to 4.3 × 12.8 meters (6 × 18 to 14 × 42 feet), are made of cast iron and lined with carbon. This carbon lining serves as the cathode in the electrolytic circuit, collecting aluminum ions from the electrolyte molten bath. Large numbers of these pots (from 100 to 250 cells) are hooked electrically in series. This forms the potline, the basic production unit of the reduction plant. Potlines are generally contained in one or two long, ventilated buildings called potrooms. The molten electrolyte bath is a solution of cryolite, a double fluoride salt of calcium and aluminum. Alumina is periodically added to and dissolved in the molten cryolite. The cells are heated to about 950 C, and when an electrical current is passed through the molten cryolite, the alumina is converted to aluminum ions. These ions then migrate to the cathode, where they are reduced to aluminum. The molten aluminum, because of its heavier weight, collects in the bottom of the pot, forming a layer beneath the cryolite solution.

The anode is the electrical counterpart of the cathode in the electrolytic cell. The anode used in the primary aluminum industry is made from coal tar pitch and petroleum or metallurgical coke and when electrically connected is given a positive charge. This positive charge attracts negative ions from the cryolite solution, transferring the positive charge to the aluminum. This is the manner in which the positive aluminum ions, which are attracted to the negatively charged cathode, are formed. Additionally, the carbon anode reacts with by-product oxygen to form carbon monoxide and carbon dioxide. Thus, the anode is consumed by the process of charge transfer and must be replaced periodically. Potline cells are generally operated with currents of from 80,000 to 100,000 amperes. Anodes used in the Hall-Heroult Process are of two basic types: prebaked and Soderberg anodes. Fabrication of these anode types is initiated in the same manner. Coal tar pitch and ground coke are blended together to form a paste. Operations included in the paste plant are crushing, screening, calcining, and grinding and mixing. Anode preparation releases particulates, tars, oils, and hydrocarbons to the air.

When manufacturing prebaked anodes, the paste is formed into green (unbaked), free-standing anodes. These green anodes are then cast and baked in an anode bake plant housing a ring furnace or tunnel kiln. During baking, an electrical connector, a steel or ion electrode, is bonded to the anode. The prebaked anode is gradually consumed by the electrolysis and eventually becomes too short to be effective. The resulting anode "butts," as they are commonly referred to, are recycled for use in the paste plant and replaced by fresh anodes.

The alternative to the prebaked anode is the Soderberg anode. In the Soderberg process, the anode paste is used in the electrolytic cell without further processing. The paste is periodically fed into a rectangular steel compartment above the pot. The heat of the chemical reaction in the pot then bakes the paste, fusing the new material with the old anode. The tip of this anode projects through the steel shell into the electrolyte. As the tip is oxidized, constant replacement of the anode is possible. Two configurations exist in the aluminum industry using the Soderberg process: (1) The Horizontal Stud Soderburg (HSS) process and (2) the Vertical Stud Soderberg (VSS) process.

The HSS system uses horizontal studs or pins to support the anode body, while the VSS system uses vertical pins. In the horizontal Soderberg process, the holding pins are adjusted from the side of the pot, while in the vertical Soderberg process the pins are adjusted from the top.

It is essential for purity of the product aluminum and the structural integrity of the cell that the molten aluminum be isolated from the iron shell. If the pot was left unlined, the iron would react with the electrolytic bath, and an iron-aluminum alloy would be the result of the electrolysis. Therefore, a carbon liner is used. A service life of up to three years may be attained for a properly installed liner in a well-managed cell, but an average life of between two and three years is reported to be more common.

Upon failure of a liner, the cell is emptied, cooled, and removed from the cell room to a working area. By mechanical drilling or soaking in water, the shell is stripped of old lining material, which may be processed through a wet cryolite facility for recovery of fluoride values or simply set aside in a storage yard.

Potlining or cathode manufacture is sometimes preceded by the in-plant grinding of the anthracite in a wet ball mill. Subsequent filtration and settling process steps result in the production of a wastewater. Four primary aluminum plants reported the presence of this wastewater stream. Potline cells emit gases and oils. The molten aluminum collected in the bottom of the electrolytic pots is tapped and conveyed to holding furnaces for subsequent degassing and alloying. Degassing is performed by injecting chlorine gas (sometimes with nitrogen and carbon dioxide) into the molten metal to remove hydrogen. The addition of gas to the melt also mixes the aluminum to assure that all materials added concurrently for alloying are distributed evenly in the molten aluminum.

Casting is the final step at most reduction plants. Pigs and sows are cast in conventional molds (stationary casting), while direct chill (DC) and continuous rod casting may be used for other shapes. In DC casting, molten aluminum is poured into a bottomless water-cooled mold, and after surface solidification is completed. In continuous drops down through a series of water sprays into a water-filled pit where solidification is completed. In continous rod casting, a ring mold is fitted into the edge of a rotating casting wheel. Molten aluminum is then poured into the mold and cools as the wheel/mold assembly rotates. After the wheel has rotated about 180 degrees, the pliable aluminum bar is released. Contact cooling water is used for cooling of the molten aluminum after it is cast.

The principal sources of wastewater in the primary aluminum subcategory are listed below, along with the pollutants typically found in each:

(1) *Anode paste wet air pollution control* wastewater results from wet scrubbers used to control process emissions from the paste plant; it contains toxic organics 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* water is used to quench the anodes after they are formed; the wastewater contains suspended solids.

(4) *Cathode manufacturing* wastewater results from the manufacture of cathodes to be used in the electrolytic cells; the wastewater contains toxic organics and suspended solids.

(5) *Cathode reprocessing* wastewater results from the recovery of electrolytic solutions and the removal of the cathode lining; it contains toxic organics, cyanide, 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) *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.

(8) *Degassing wet air pollution control* wastewater results from wet scrubbers used to control emissions from degassing; the wastewater contains suspended solids.

(9) *Direct chill and continuous rod casting contact cooling* water is uesd to cool the aluminuim as it is cast. Wastewater from plants using direct chill casting may contain oil and grease when lubricants are used.

Secondary Aluminum

Of the 55 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 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. Thirty-four of these facilities achieve zero discharge through evaporation and recycle. Eight plants are direct dischargers and 13 are indirect dischargers.

Refining scrap into aluminum involves a two-step process: scrap pretreatment and smelting and refining. Secondary aluminum raw materials include: Old sheet and castings, new clippings and forgings, borings and turnings, residues, and high run.

Scrap pretreatment involves preparing the raw material for further processing removing contaminants. There are three general methods of pretreating scrap: mechanical. hydrometallurgical, and pyrometallurgical, with the method used being dependent on the type of scrap. The mechanical method consists of shredding, classifying, baling, crushing and screening. Hydrometallurgical treatment involves leaching with water and pyrometallurgical processing requires burning or drying and sweating.

Residues, such as drosses, skimmings, and slags, are treated by both wet and dry methods. The wet process involves leaching with water to remove contaminants. Such as fluxing salts from the drosses and slags. The dry process consists of crushing, screening, and iron removal by magnetic separation. The smelting and refining step in secondary aluminum processing consists of five substeps: charging scrap to the furnace; addition of fluxing agents; addition of alloying agents; demagging or degassing; and skimming.

Scrap is charged to the furnace continuously or by batch. The molten charge is then fluxed. There are two general types of fluxes: cover fluxes that are used to reduce oxidation of the melt by air and solvent fluxes that react with contaminants such as nonmetallics, residues from burned coatings, and dirt to form insolubles which float on the surface of the melt as slag.

Next, alloying agents are added to the melt in varying amounts according to production specifications. Copper, silicon, manganese, magnesium or zinc are typical alloys added. Mixing the furnace contents is necessary to assure uniform composition. Nitrogen or other inert gases may be injected to aid in the mixing.

The next step. demagging is accomplished by chlorination. Chlorine gas is normally used although other chlorinating agents such as anhydrous aluminum chloride or chlorinated

organics are sometimes used. The chlorine gas is injected under pressure through tubes or lances into the molten aluminum. As the chlorine bubbles to the surface it reacts with the aluminum to form aluminum chloride, which then reacts with the magnesium to form magnesium chloride which floats to the surface and is skimmed off. Degassing is normally done by lancing the melt with nitrogen, chlorine, or mixtures of the two to remove dissolved hydrogen, oxygen, and moisture. Other techniques include the use of vibration, vacuum, and solidification with remelting.

In the skimming step, the dross or slag with its associated impurities is skimmed from the molten aluminum. The cooled slag is stored for shipment to a residue processor, recycled or discarded.

The molten aluminum is cast into ingots, billets, notched bars or shot. Cooling of direct chill cast aluminum is accomplished by a combination of contact and noncontact cooling water; air cooling is generally used to cool aluminum by stationary means.

The principal sources of wastewater in the secondary aluminum industry 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 of 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, chloride, fluoride and suspended solids characterize this wastewater.

(5) *Direct chill casting contact cooling* water results from casting the molten aluminum into ingot, bars, or shot. This wastewater contains oil and grease, chloride, phenols, and suspended solids.

Primary Copper Smelting

The primary copper smelting industry consists of 20 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 are two direct dischargers, no indirect dischargers, and 18 zero dischargers.

In smelting copper sulfide concentrates, six processes may be used. However, at several facilities these processes, discussed below, may not be used or combined in several ways. The processes used depend on the age of the facility and the raw materials.

Concentrated copper sulfide ore contains various impurities; however, the major impurity of the ore is iron sulfide. In the first step, roasting, the iron sulfide contained within the ore is converted to iron oxide and sulfur dioxide gas. Off-gases from this process are treated in a sulfuric acid plant to remove smelting furnace for separation of copper sulfide and iron oxide. In this process fluxing agents are added to form an iron silicate slag which floats to the top of the charge and is removed. Oftentimes two separate processes are not required so that roasting and smelting may take place in one furnace.

Copper matte, tapped from the smelting furnace, is composed of copper sulfides and iron sulfides not removed during the smelting operation. The copper matte is charged to a furnace where additional air and fluxing agents are added to remove any remaining iron sulfide or oxide. After the iron sulfides and oxides are removed, compressed air is blown through the charge to convert the copper sulfide to copper oxide and sulfur dioxide. After this conversion process, further purification of the copper is required to prevent the interference of impurities in refining processes or to improve physical characteristics such as ductility and conductivity. Fire refining is very similar to the conversion process in that compressed air is blown through the copper sulfide to copper oxide and sulfur dioxide. After this conversion process, further purification of the copper is required to prevent the interference of impurities in refining processes or to improve physical characteristics such as ductility and conductivity. Fire refining is very similar to the conversion process in that compressed air is blown through the molten copper. Impurities within the charge oxidize and rise to the surface and are skimmed off. Repeated iterations of oxidizing and skimming are performed until the copper has become completely oxidized. Reducing agents are then added to convert the copper oxide to copper, reducing the oxygen concentration to approximately 0.3 percent.

The copper recovered from the fire refining process is cast for further marketing. Depending on the intended use of the copper, it may be cast into shapes that can be formed, or cast into usable shapes for further refining.

The principal sources of wastewater in the primary copper smelting subcategory are listed below, along with the pollutants typically found in each:

(1) *Slag granulation* wastewater results from the conditioning of slag tapped from the furnaces. Wastewater from this operation contains impurities 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

The primary electrolytic copper refining industry consists of 15 refining and electrowinning facilities located along maritime centers and in the southwest near smelters. Four of these facilities are direct dischargers while 11 achieve zero discharge. The average age of these facilities is approximately 30 years, while 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.

At the refinery, anodes and starter sheets of electrolytic refined copper are suspended in solutions of sulfuric acid and copper sulfate. Through electrolysis, positive copper ions from the anode migrate through the copper sulfate-sulfuric acid medium and are deposited on the starter sheet which has become the cathode. To drive the reaction, an electric current is passed through each cell.

Impurities released into the electrolyte either go into solution or settle to the bottom of the tank. Electrolyte is continously circulated through the system of cells with a small slip stream removed for purification.

After approximately two weeks when the cathodes reach a designated size,

generally 180 pounds, they are removed and rinsed. Another set of starter sheets is inserted with the anodes for another two week period. At the end of the second cycle, both the cathodes and anodes are removed. The anodes are not completely consumed, but if they were left in the cell they soon would break, falling into the cell and shortcircuiting it. Scrap anodes may be rinsed and then returned back to anode casting. The cathodes are either sold and shipped with no further modifications, or they are cast into wire bar, ingots, or billets for copper forming operations.

Processing the spent electrolyte is accomplished with various methods, but the most popular uses a two-stage process. In the first step, commonly referred to as electrowinning, copper is removed from solution by electrolysis in much the same way as was done in the tank house. The major difference is that an insoluble anode, such as lead or iron, is used to force the copper out of solution and plate onto a cathode. This process uses two to three liberator cells connected in a series. In the first cell, the cathode copper is of high purity with slight lead contamination and may be used with no additional refining. As the copper concentration in the electrolyte decreases, the purity of the copper cathode also decreases.

The spent electrolyte is now composed of nickle sulfate and sulfuric acid. Through evaporation, the decopperized solution is concentrated and then cooled. As the solution cools, nickel sulfate is precipitated leaving what is known as black acid. The acid is usually recycled back to the refining process, but it may be used for leaching operations or fertilizer manufacture.

The principal sources of wastewater in the primary electrolytic copper refining subcategory are listed below, along with the pollutants typically found in each:

(1) *Anode and cathode rinse water* results from the rinsing of anodes and cathodes when they are removed from the electrolytic cells. Characteristics of the rinse water include a low pH due to the sulfuric acid rinsed from the anodes or cathodes along with 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 subcategory is fairly well established; the average plant age falls between 30 and 40 years, somewhat older than the average for plants in primary copper. The average production of secondary copper plants is only about one-tenth of the average of plants in primary copper. 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.

Pretreatment consists basically of separating the raw materials into low-, intermediate-, and high-grade scrap and readying these materials for the next process they will undergo, depending on the desired end product. In the next step, smelting, the low-grade scrap is charged into either a blast or cupola furnace. Then, the pre-melted low-grade materials, intermediate-grade scrap, and high-grade scrap are refined or alloyed in reverberatory or rotary furnaces. The methodology of further refining or alloying varies with the scrap charged, the finished product, equipment available, and individual manufacturer preference. When the melt has attained the degree of purity required by product specifications, the metal is cast and cooled. A few secondary copper facilities practice electrolytic refining. Copper anodes are alternated with refined copper starter sheets in the electrolytic cell. Pure copper is deposited on the starter sheets, which serve as the cathode in the electrolytic reaction. The starter sheets, with deposited cathode copper, are periodically removed. The electrolyte, a solution of sulfuric acid and copper sulfate, is washed from the cathode copper. Casting of electrolytically refined copper is essentially the same as for fire-refined copper.

The principal sources of wastewater with the secondary copper subcategory 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) *Contact cooling* wastewater results when the water used in ingot or anode cooling is discharged without recycle. This stream is characterized by the presence of suspended solids and toxic metals.

(4) *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 is characterized by the presence of toxic metals.

Primary Lead

Only One of the seven plants in the primary lead subcategory is a direct discharger. All others (six) have achieved zero discharge. 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 prior to World War I, another in 1920, and the final two in the 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 five distinct steps as described below.

In the initial step, ore concentrates are sintered in a traveling grate furnace. This sintering operation which drives off sulfur a sinter of suitable size and strengths for the blast furnace and recover sulfur as sulfuric acid.

The second step is blast furnace reduction. In this process, sinter, fluxes, and coke are charged to a blast furnace. Lead bullion is tapped off the bottom while slag from the top of the furnace may be granulated with water or sent to a fuming furnace where zinc and other

metal impurities can be volatilized away.

Drossing is the next primary lead production step. Molten bullion is transferred to large, hemispherical drossing kettles, and the temperature is subsequently lowered to a point where lead oxides or impurities such as copper soildify. The solid scum or "dross" floats to the top and is removed by skimming. The drossed skim is charged to a reverberatory furnace where the melt again separates into layers. The top layer, slag is returned to the blast furnace, and speiss and matte, the intermediate layers, are sold to copper smelters. Lead is tapped from the bottom.

The fourth step, softening and refining, is performed to remove antimony and other specific impurities which may persists in the bullion. These processes are similar to drossing in that they involve efforts to "float" impurities to the top of the lead melt and then skim the scum away. This is accomplished through oxidation or by adding chemicals which combine with impurities. Antimony rich slag may be refined in furnaces to recover "hard" or antimonial lead.

Casting is the fifth production step. Refined, high purity lead bullion is cast into a variety of sizes and shapes. There is no process wastewater generated during casting. Cooling is accomplished using noncontact cooling water or air cooling.

The principal sources of wastewater in the primary lead subcategory 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 the fuming of 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 fumes. Toxics metal and substained solids are presented in this wastewater.

(4) *Dross reverberatory furnace granulation* wasterwater is used to prepare speiss and matte from the dross reverberatory furnace for resale. Metals and suspended solids again 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. Again, 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.

Wastewater discharges associated with sintering wet air pollution control are included as a part of the metallurgical acid plant.

Primary Zinc

There are seven primary zinc plants in the United States. The primary zinc industry is well established; the average plant age is about 50 years. The zinc industry is not confined to any particular geographic location. Four plants are located east of the Mississippi river, two plants are located in the southwest (Texas and Oklahoma), and one plant is located in the northwest. The average plant has a production of 100,000 to 200,000 tons per year. The production of three plants is less than 100,000 tons per year while the production of one plant is more than 200,000 tons per year. At present, five of the plants are direct dischargers 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.

In the pyrolytic process, the roasting calcine is sintered and then reduced to metallic zinc. Sintering agglomerates the calcine and drives off any residual sulfur. The sintered calcine is reduced to metallic zinc in vertical retort or electrothermic furnaces. The metallic zinc may be refined further by liquation or redistillation or cast into various shapes and sold.

In the electrolytic processes, zinc is leached from the calcine by a solvent comprised of sent electrolyte and sulfuric acid. Various impurities such as cadmium and copper are precipitated from the leachate. The purities zinc sulfate solution is then electrolyzed. In the electrolytic cells, zinc from the zinc sulfate solution (electrolyte) deposits on the cathodes. When the cathodes attain the desired thickness the zinc is stripped, melted, cast in various shapes and sold.

There are a number of by-products associated with the production of zinc. Cadmium and sulfuric acid are the two major by-products. Currently, all seven zinc plants have sulfuric acid and cadmium recovery plants associated with them.

The principal sources of wastewater in the primary zinc subcategory are listed below, along with the pollutants typically found in each:

(1) *Zinc reduction furnace wet air pollution control* wastewater results from the conditioning of off-gases from the reduction furnaces, and contains zinc, cadmium, and several other toxic metals at treatable concentrations.

(2) *Leaching* wastewater results from leaching tank dischargers to prevent the buildup of dissolved solids) or the thickeners and filters associated with leaching. Leaching wastewater is characterized by the presence of toxic metals.

(3) *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.

(4) *Cathode and anode washing* wastewater results from the periodic washing of the cathodes and anodes used in the eletrolytic zinc process. Cathode and anode washing wastewater contains toxic metals and suspended solids.

(5) *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.

(6) *Casting contact cooling* wastewater results from the contact cooling of metal castings and contains toxic metals.

(7) *Cadmium plant* wastewater results from by-product 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

There are 22 metallurgical sulfuric acid plants in the United States. Of these, eight are direct dischargers, one is an indirect discharger and 13 achieve zero discharge. Eleven metallurgical sulfuric acid plants are located on-site with primary copper smelting plants, four are on-site at primary lead plants, and there is one on-site at each of the seven 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 two are zero discharge acid plants and are located in Idaho and Montana. Only one of the plants associated with zinc is a zero discharger. It is also the only zinc-related plant west of Texas. The other six zinc-related acid plants, five direct dischargers and one indirect discharger, 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 sulfer oxide emissions of pyrometallurgical operations. By producing acid, the acid plants not only clean the smelter emissions of many tons per day of sulfur oxides, but they also produce a marketable sulfuric acid product.

Prior to entering the acid plant, the off-gas stream from pyrometallurgical operations will usually undergo various pretreatment steps. The pretreatment steps include cooling, cleaning, conditioning (humidification), mist precipitation, drying and compression.

In the acid production section, a vanadium pentoxide catalyst converts the sulfur dioxide in smelter off-gases to sulfur trioxide, and the sulfur trioxide is absorbed into a sulfuric acid stream. The sulfur trioxide combines with water in the absorbing sulfuric acid (which, in effect, increases the strength of the contacting acid stream).

The principal wastewater sources in metallurgical acid plants are as follows:

—Sintering wet air pollution control,
—Roasting wet air pollution control,
—Conversion wet air pollution control,
—Acid plant wet air pollution control,
—Mist precipitator,
—Bearing cooling,
—Compression,
—Steam generator,
—Box cooler, and
—Mist eliminator.

These wastewater sources are usually combined into a single wastewater stream—acid plant blowdown—which is mixed, a (treated and then recycled or discharged. Plants usually reported this discharge to EPA as a single flow. Therefore, we intend to consider this discharge as a single process.

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 eight primary tungsten plants in the United States, two are direct dischargers, three are indirect dischargers, and three are zero dischargers. Seven of the eight plants are located around the Great Lakes, and all, except one in California, are in areas of net precipitation. 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 discussed below.

The first step involves chemical separating impurities from tungsten ore concentrates with either an acidic or alkaline leaching process, dependent on the purity of the concentrates. Relatively high quality scheelite ores ($CaWO_4$) are leached with hot hydrochloric acid to produce tungstic acid, H_2WO_4. Wolframite ores (Fe, Mn)WO_4, and lower purity scheelite ores are leached with an alkaline leaching agent to produce a sodium tungstate intermediate (Na_2WO_4).

The second step involves purifying the leaching products into another intermediate, ammonium paratungstate (APT). Calcium chloride is added to a sodium tungstate solution to precipitate chloric acid to produce tungstic acid. Tungstic acid, from either synthetic or natural scheelite leaching, is dissolved in ammonium hydroxide, and APT is crystallized out of solution. Some plants produce APT from Na_2WO_4 using a newer, liquid ion-exchange process instead of the traditional methods described above.

In the third step, dried APT is calcined in rotary furnaces to metal powder is then produced by the reduction of tungsten oxides in hydrogen filled, high temperature reduction furnaces.

The principal sources of wastewater in the primary tungsten subcategory are listed below, along with the pollutants typically found in each:

(1) *Tungsten 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 HCl 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 stream contains toxic metals and suspended solids.

(4) *Ion-exchange raffinate* is a waste stream from the liquid are present in this stream due to the use of organic compounds as an ion-exchange median. This stream is also characterized by the presence of toxic metals and suspended solids.

(5) *$CaWO_4$ precipitation* wash water results from the precipitation of $CaWO_4$ from a sodium tungstate solution to which calcium chloride has been added. The resulting waste stream is characterized by the presence of calcium chloride and 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) *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.

(9) *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.

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. Only the plant in Oklahoma is in area of net evaporation; the remaining facilities are in net precipitation areas. EPA data show that average plant production is approximately 450 tons per year, and that all plants discharge wastewater. There are three direct dischargers, 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. Four basic operations from ore or slag to metal must be performed, as described below.

In the first step, the ore or slag is pulverized to approximately the consistency of talcum power. Then, columbium and tantalum (along with some impurities) are leached from the powder by either hydrofluoric acid or by chlorine gas.

The second step, which involves separation and purification of the columbium and tantalum fluorides, is accomplished using solvent extraction. Methyl isobutyl ketone (MIBK) is the most commonly used solvent. Usually, a low normality feed stream is contacted with MIBK, whereupon tantalum salt of high purity is extracted. More hydrofluoric acid is then added to the aqueous phase (the columbium-laden stream) and is contacted with more fresh MIBK, extracting the columbium salt. Impurities remain in the raffinate waste stream, which is very highly acidic. The columbium and tantalum are then extracted from the MIBK into deionized water. The MIBK is recycled. This step also requires wet air pollution control equipment.

In the third step, the salts are precipitated, usually by the addition of potassium chloride or ammonia. Finally, the crystals are then filtered from the aqueous mother liquor (which is run to waste), then subjected to a water wash and dried.

Treatment of the ore or slag powder with chlorine gas at 500 to 1,000° C evolves the volatile pentachlorides of columbium, tantalum, as well as the chlorides of various other substances. These are removed by selective condensation and the columbian and tantalum chlorides are separated by distillation. This process is completely anhydrous and generates no wastewater streams. The process has been used in the past, but is not now in use on a commercial scale.

The principal sources of wastewater in the primary columbium-tantalum subcategory are listed below, along with the pollutants typically found in each:

(1) *Concentrate digester wet air pollution control* wastewater results from the digestion of ore concentrates and slags with hydrofluoric acid, and contains suspended solids, fluorides and toxic metals.

(2) *Solvent extraction raffinate* is a product of 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 the precipitation of pure metal salts from the aqueous phase by ammonia addition to form columbium and tantalum oxides, or 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, and potassium fluorides, and chlorides, for the respective processes.

(4) *Metal salt drying wet air pollution control* wastewater are produced as the precipitates are dried and calcined to yield purified salts. The solvents produced reflect the precipitation process employed.

(5) *Reduction of 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.

(6) *Reduction of 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.

(7) *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.

Secondary Silver

There are 44 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 (four) of secondary silver plants are direct dischargers. Of the remainder, 17 are indirect dischargers and 23 are zero dischargers. Fourteen plants process only photographic materials, 15 process only nonphotograph materials, and 16 process both types. The average plant age is between 15 and 24 years.

Over half of the 44 secondary silver plants that reported data, produce in excess of 100,000 troy ounces of silver per year; 12 of these plants produce over 1,000,000 troy ounces of silver per year. Five 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 proceses can be discussed in the context of two sources of raw materials: photographic and nonphotographic materials.

In the most common method for recovering silver from film, the film is granulated and stripped of the emulsion using nitric acid. The waste film is removed by sedimentation and the silver precipitated from solution. Precipitation reagents commonly used are caustic soda (NaOH), and soda ash ($Na_{2G1}{}^{CO}{}_{3}$). The silver precipitate is dewatered by gravity, filtered and dried. The dried cake is roasted in a reverberatory furnace and cast into ingots or Dore plates (electrodes). Dore plates are electrolytically refined on-site or shipped to other facilities. The refined silver is melted and recast as ingots.

Film processing solutions are processed similarly, using chemical precipitation, metallic replacement, or direct electrolytic refining methods. Photographic film may also be incinerated, and the silver-bearing ash roasted and refined.

Nonphotographic waste plating solutions are treated to precipitate the silver. The process consists of precipitation, filtration and washing, roasting, casting, refining, and recasting. Precipitation is usually accomplished by addition of sodium hypochlorite. Roasting, casting and electrolytic refining operations are identical to those used in photographic materials processing.

Silver scrap from electrical components is smelted in a reverberatory furnace to produce lead bullion, copper matte, and slag. The slag is smelted in a blast furnace and its constituents recycled. Lead bullion is discarded or further refined for other precious metals. The copper matted is crushed, ground, roasted, and leached. Leaching may be effected with nitric, sulfuric, or hydrochloric acid. The leaching agent either dissolves the base metals, leaving silver to be roasted and refined, or dissolves the silver which is precipitated from solution, roasted, and refined. High-purity sterling-silver scrap is frequently melted and recast without further refining.

Silver-rich sludges from waste plating solutions, stripping solutions, and photographic solutions are leached, and the silver recovered using processes described above. Leaching agents employed include nitric acid, sulfuric

acid and hydrochloric acid. The silver-rich solution that results is put through precipitation filtration, roasting, electrolytic refining, and casting steps to produce refined silver ingots.

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 has been stripped from photographic film. This effluent contains toxic organics and metals, as well as cyanide, phenols, suspended solids, and oil and grease.

(2) *Film stripping 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, phenols and suspended solids.

(3) *Precipitation and filtration of film stripping solution* wastewater consists of discharged silver-free solution from the silver precipitation/filtration process, and contains toxic organic, toxic metals, and suspended solids.

(4) *Precipitation and filtration of film stripping solution wet air pollution control* wastewater is produced from scrubbers employed on precipitation and filtration operations. This wastewater contains toxic organics and toxic metals.

(5) *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.

(6) *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.

(7) *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.

(8) *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.

(9) *Casting contact cooling* water is used in casting the silver into ingots or Dore plants. This wastewater contains toxic organics, toxic metals, ammonia, cyanide, fluoride, phenols, suspended solids and oil and grease.

(10) *Casting wet air pollution control* wastewater is scrubber liquor from casting operations, and contains toxic organics and metals, phenols, cyanide, suspended solids and oil and grease.

(11) *Leaching* wastewater is a product of the leaching of nonphotographic silver sludges and cooper matte associated with the melting of electrical components parts. This stream contains toxic organics and metals, ammonia, flouride, phenols, cyanide, suspended solids, and oil and grease.

(12) *Leaching 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.

(13) *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, fluoride, phenols, suspended solids, and oil and grease.

(14) *Precipitation and filtration wet air pollution control* wastewater results from the scrubbing of air emissions from precipitation and filtration operations. Toxic organics and metals, phenols, cyanide, suspended solids, and oil and grease are found in this wastewater.

Secondary Lead

Sixty-nine secondary lead plants presently operate in the United States, and are predominately located in or near major urban centers where most of the raw materials are readily available. Twenty-one plants (30 percent) are located west of the Mississippi River, and the remaining 48 percent are located in two bands east of the Mississippi, around the Great Lakes and in the South. Seventeen plants discharging to a POTW and 46 plants achieving zero discharge are found in all areas, while seven plants discharging directly to receiving waters are found in the East and South.

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 54 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 in 1976.

There are three major phases involved in the secondary lead subcategory: scrap pretreatment, smelting, and refining and casting. However, not all secondary lead plants perform all of these processes.

The scrap pretreatment methods used in the secondary lead industry are dependent on the raw materials. Scrap pretreatment for used batteries involves crushing or cutting to allow separation of the lead from the battery case. Lead scrap is processed through crushing of drosses and oversize scrap, and sweating of lead alloys. The general crushing operations reduce larger pieces of scrap to a suitable size using mechanical methods such as jaw crushers. Sweating involves charging lead alloy scrap to a furnace where the lead is separated by selective melting. The molten lead is collected and cast and the residue is removed from the furnace.

There are two types of furnaces used to smelt lead scrap, both of which produce different characteristics in the lead. A reverberatory furnace is used to produce a higher purity product known as soft lead. Processed scrap is charged to a reverberatory furnace and melted with the impurities allowed to rise to the top of the melt. The smelted lead is tapped from the bottom of the furnace for refining and the slag is skimmed from the top of the bath and further processed in a blast furnace.

In the blast furnace, slag from the reverberatory furnace, scrap lead, and iron form the raw materials for hard lead, or what is often called antimonial lead. Compressed air is blown through the alternating layers of scrap metal and coke allowing the coke to ignite and melt the charge. The iron added acts as a reducing agent to produce molten lead containing significant amounts of antimony.

Refining of the lead from the smelter is done in large kettles where fluxing agents are added to the molten charge. After agitation and slag skimming, a soft, high purity lead is produced. Certain desired physical characteristics are achieved by adding antimony, arsenic, copper, silver, and tin to form lead alloys. Finally, the refined lead or antimonial lead is cast into ingots for further processing and forming operations.

The principal waste streams that are produced in the secondary lead subcategory are described below, together with the major pollutants found in each:

(1) *Battery cracking* produces a wastewater stream containing dissolved toxic metals, total suspended solids, and oil and grease. It is generated when the

electrolyte is drained from the battery case and when water is used to cool saws used to cut batteries.

(2) *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.

(3) *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.

(4) *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.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of a new chapter in water pollution control requirements. The 1973–1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (or "classical") pollutants.

In this round of rulemakings EPA is emphasizing the achievement by July 1, 1984, of the best available technology economically achievable (BAT), which will result in reasonable further progress toward the discharge of all pollutants. In general, this technology level represents the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In developing the regulation, EPA studied the nonferrous metals manufacturing category to determine whether differences in raw materials, final products, manufacturing processes, equipment, age, and size of plants, water use, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments (or subcategories) of the industry. This study included the identification of raw waste and treated effluent characteristics, including: the sources, and volume of water used, the processes employed, and the sources of pollutants and wastewaters. Sampling and analysis of specific waste streams enabled EPA to determine the presence and concentration of toxic pollutants in wastewater discharges.

EPA also identified both actual and potential control and treatment technologies (including both in-process and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance, operational limitations, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency then estimated the costs of each control and treatment technology using cost equations developed by standard engineering analyses. EPA derived unit process costs for 145 discharging plants using data and characteristics (production and flow) applied to each treatment process (*e.g.*, chemical precipitation, sedimentation, granular bed—multi-media filtration, etc.). These unit process costs were added to yield the total cost at each treatment level.

As a means of evaluating each technology option, the Agency developed estimates of the pollutant reduction benefits and the compliance costs associated with each option. Our methodologies are described below.

A. *Pollutant Reduction Benefits.* In calculating pollutant reduction benefits, we developed estimates for pollutant loadings in raw wastewater (by subcategory), for the mass of pollutants that would be discharged at each technology option, and for the mass of pollutants discharged currently.

Calculation of raw waste values varied depending upon whether the Agency was able to sample wastewater from unit operations within the subcategory. Where we sampled a unit operation (or sampled the same unit operation at different plants) and were able to obtain both analytical concentration data (mg/1) and production normalized flow values (liters of flow/kkg of production), we computed the mass loading associated with the unit operation (expressed in mg/kg, *i.e.*, pollutant concentration x production normalized flow), and took the mean of these mass loadings at every plant sampled.

After deriving this mean, we multiplied it by the subcategory-wide production associated with that unit operation at each plant (the production data are part of each plant's response to the data collection portfolio (dcp)—see Section IV below). The total represents estimated raw waste values for the subcategory from the unit operation. Summing raw waste values from each unit operation in the subcategory gives the total for the subcategory.

If we sampled a unit operation and were able to determine analytical concentrations of pollutants, but were unable to determine flow, we used production normalized flow data from the dcp's to compute mass loadings and otherwise followed the same procedure.

If we were unable to sample a unit operation at any plant, we computed raw waste values by making an engineering judgment as to which sampled unit operations had wastewater of similar quality. We then took these analytical values and computed a mass limitation using production normalized flow information from the dcp's. These mass limitations then were summed to give total subcategory raw waste values for that unit operation.

In determining mass loadings associated with each technology option, our general procedure is to take the achievable concentrations associated with the option (mg/1) and compute mass loadings using the production normalized flow associated with that option (for example BAT regulatory flow). This mass (mg/kg of production) is then multiplied by the total production in the subcategory (from dcp's as before) to give total mass discharged.

We varied this procedure slightly in computing estimated BPT discharge in a subcategory where there is an existing BPT limitation. In this case, we took the mass limits from the BPT guidelines (for all pollutants limited at BPT) and multiplied these limits by the total subcategory production (from dcp's). (The assumption is that plants are discharging a volume equal to their BPT allowance times their production.) Where pollutants are not controlled by existing BPT, we used the achievable concentration for the associated technology proposed today, and multiplied these concentrations by the total end-of-pipe discharge of process wastewater for the subcategory (from dcp's). The total of both these calculations represents estimated mass loadings for the subcategory BPT discharge.

We used similar means to estimate current discharge. We first identified from dcp responses what treatment was in place. We then evaluated how well the technology was operated on a subcategory-wide basis, and assumed that pollutants will be removed at a rate of 80 percent of the achievable concentration proposed today at less well-operated plants, and will be removed at a 100 percent rate at well-

operated plants. We next identified the end-of-pipe discharge of process wastewater for each plant (also from dcp's). Multiplying these two values gave estimated current discharge per plant, which we then summed to give estimated current discharge levels.

B. *Compliance Costs.* In estimating subcategory-wide compliance costs our first step was to develop universally applicable cost curves, relating total costs associated with installation and operation of wastewater treatment technologies to the volume of plant process wastewater discharged. We next applied these curves on a per plant basis, plant's costs—both capital and operating and maintenance—being determined by what treatment it has in place and by its individual process wastewater discharge (from its dcp). The final step was to annualize the capital costs, and to sum the annualized capitalized costs and the operating and maintenance costs from all of the discharging plants, yielding the cost of compliance for the subcategory. These costs were used in assessing economic achievability (see Section XVIII below.)

IV. Data Gathering Efforts

The data gathering program is described briefly in Section III and in substantial detail in Section V of the General Development Document and the subcategory supplements. A data collection portfolio (dcp) was developed to collect information about the industry and was mailed out in 1977, under the authority of Section 308 of the Clean Water Act, to each company known or believed to perform smelting and refining of the metals discussed in Section III of this notice in the United States. Analytical data were collected from 46 sampled plants. Supplemental data were obtained from NPDES permit files and engineering studies on treatment technologies.

EPA reviewed and evaluated existing literature for background information to clarify and define various aspects of the nonferrous metals manufacturing category and to determine general characteristics and trends in production processes and wastewater treatment technology. Review of current literature continued throughout the development of these guidelines. We also reviewed earlier EPA development documents for particular nonferrous metals manufacturing subcategories.

The available information included a summary of the industry describing the production processes, the wastewater characteristics associated with the processes, recommended pollutant parameters requiring control; applicable end-of-pipe treatment technologies for wastewaters; effluent characteristics resulting from this treatment, and a background bibliography. Also included in these studies were detailed production and sampling information for may plants.

Frequent contact has been maintained with industry personnel. Contributions from these sources were particularly useful for clarifying differences in production processes.

The nonferrous metals manufacturing plants were surveyed to gather information regarding plant size, age and production, the production processes used, and the quantity, treatment, and disposal of wastewater generated at these plants. This information was requested in data collection portfolios (dcp's) mailed to all companies known or believed to belong to the nonferrous metals manufacturing category. A listing of the companies comprising the nonferrous metals manufacturing industry (as classified by standard industrial code numbers) was compiled by consulting trade associations and the U.S. Bureau of Mines.

In all, dcp's were sent to 319 firms (416 facilities). In many cases, companies contacted were not actually members of the nonferrous metals manufacturing category as it is defined by the Agency. Where firms had operations at more than one location, a dcp was submitted for each plant.

If the dcp's were not returned, we collected information on production processes, sources of wastewater, and treatment technology at these plants by telephone survey. The information so gathered was validated by sending a copy of the information recorded to the party consulted. The information was assumed to be correct as recorded if no reply was received in 30 days. In total, information was collected from more than 95 percent of the industry either by mail or by telephone.

The dcp responses were interpreted individually, and the following data were documented for future reference and evaluation:

—Company name, plant address, and name of the contact listed in the dcp.
—Plant discharge status as direct (to surface water), indirect (to POTW), or zero discharge.
—Production process streams present at the plant, as well as associated flow rates; production rates; process capacities; operating hours, wastewater treatment, reuse, or disposal methods; and the quality and nature of process chemicals.
—Capital and annual treatment costs.
—Availability of pollutant monitoring data provided by the plant.

A separate data gathering effort was conducted to obtain plant by plant for economic and financial information. We developed questionnaries concerning the cost structure of the plants in the nonferrous metals manufacturing point source category and mailed them to every known plant in the industry (under authority of Section 308 of the Clean Water Act). These questionnaires covered capacity, production costs, financial data relating to sales, inventories, net working capital and net book value, and existing regulatory costs for the base year of 1976.

Twenty-four major corporations involved in mining, milling, smelting and refining of nonferrous and ferrous metals entered into an agreement with the EPA through the American Mining Congress. Eight of these companies are major nonferrous metals producers in the primary metals sector. This agreement ("third party agreement") covered the handling of the confidential information contained in the questionnaire. EPA agreed to let the industry use a third party data aggregation contractor to assemble the questionnaire on a coded basis into a confidential data base. This data base was made available to the economic contractor on a restricted basis under the terms of the aggreement and, when combined with the questionnaire retured directly to EPA, provided a plant specific data base for use in the study. The third party agreement was used by the producers in the primary copper, lead, zinc, tungsten and columbium-tantalum subcategories. The response rate for questionnaires in the primary subcategories was greater than 90 percent for the primary copper, lead, and zinc subcategories, and 50 percent in the tungsten and columbium-tantalum subcategories.

Companies in the primary aluminum subcategory worked through the Aluminum Association to reach a separate agreement with EPA concerning the aluminum questionnaries. EPA and these companies agreed to use model plants instead of the plant-specific questionnaires to assess economic achievability. The aluminum companies agreed to review and comment on the model plants developed by the economic contractor. EPA agreed to let the companies submit partially completed questionnaires covering employment and pollution control information. However, the portion of the questionnaire dealing with information contained in the model plants was not

required to be filled out. The model plants and partially completed questionnaires had 100 percent industry coverage.

Plants in the secondary metals subcategories submitted their questionnaires to the EPA and were covered by the Agency's standard confidentiality procedures. Response rates in the secondary metals subcategories were approximately 50 percent of the production for secondary aluminum, less than 20 percent for secondary copper, approximately 25 percent for secondary lead, and approximately 30 percent for secondary silver.

V. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, we sampled an analyzed nonferrous metals wastewaters for conventional and nonconventional pollutants as well as inorganic and organic toxic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under Section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464 (December 3, 1979); 44 FR 75028 (December 18, 1979)). Additional information on the development of sampling and analysis methods for toxic organic pollutants is contained in the preamble to the proposed regulations for the Leather Tanning Point Source Category, 40 CFR Part 425 (44 FR 38749 (July 2, 1979)).

Information gathered in the date collection portfolios was used to select sites for wastewater sampling for each subcategory. The plants sampled were selected to be representative of the industry. Considerations included how well each facility represented the subcategory as indicated by available data, potential problems in meeting technology-based standards, differences in production processes used, and wastewater treatment in place.

After selection of the plants to be sampled, each plant was contacted by telephone, and a letter of notification was sent to each plant as to when a visit would be expected. These inquiries led to acquisition of facility information necessary for efficient on-site sampling. The information resulted in selection of the sources of wastewater to be sampled at each plant. The sample points included, but were not limited to, untreated and treated discharges, process wastewater, and partially treated wastewater.

During this program, 36 nonferrous metals manufacturing plants were sampled by the technical contractor and 10 nonferrous metals manufacturing plants were sampled by other contractors or by EPA regional personnel, for a total of 46 plants.

Wastewater samples were collected in two phases: screening and verification. The first phase, screen sampling, was to identify which toxic pollutants were present in the wastewaters from production of the various metals. Screening samples were analyzed for 128 ot the 129 toxic pollutants and other pollutants deemed appropriate. (Because the analytical standard for TCDD was judged to be too hazardous to be made generally available, samples were never analyzed for this pollutant. There is no reason to expect that TCDD would be present in nonferrous metals manufacturing wastewater.) A total of 10 plants were selected for screen sampling. At least one plant in every subcategory was sampled during the screening phase, with some plants providing data for two or more subcategories. Two plants were sometimes screen sampled within a subcategory because the production processes were different. For example, both pyrolytic and electrolytic plants were screen sampled in the primary zinc industry.

The second phase of sampling, verification sampling, was used to determine whether the pollutants identified by screen sampling are present throughout a subcategory, and if so, at what concentrations. The samples gathered under the verification sampling were analyzed only for those pollutants selected from the screening results.

To reduce the volume of data handled, avoid unnecessary expense, and direct the scope of the sampling program, a number of the pollutants analyzed for during the screen sampling were not analyzed for during the verification sampling. Three sources of information were used for selecting the pollutants for the verification phase of the study: the pollutants that industry believes or knows are present in their wastewater, the screen sampling analyses, and the pollutants the Agency believes should be present after studying the processes and materials used by the industry. If a pollutant was not detected during screen sampling, and if industry and the Agency did not believe it would likely be present in the wastewater after studying the processes and materials used, verification analyses for that pollutant were not run. EPA collected this information in the following manner.

The 129 toxic pollutants were listed in each dcp and each facility was asked to indicate for each particular pollutant whether it was: "Known to be Present" (KTBP), "Believed to be Present" (BTBP), "Believed to be Absent" (BTBA), or "Known to be Absent" (KTBA). If the pollutant had been analyzed for and detected, the facility was to indicate KTPB, if analyzed for and not detected, KTBA. If the pollutant had not been analyzed, but might be present in the wastewater, the facility was to indicate BTBP it could not be present, BTBA. The reported results are tabulated in Section V of each of the subcategory supplements.

Wherever possible, each sample of an individual raw waste stream, a combined waste stream or a treated effluent was collected by an automatic time series compositor during sampling periods as long as 24 hours. Where automatic compositing was not possible, grab samples were taken and composited manually.

EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants,* revised in April 1977. A very similar method is found among those proposed on December 3, 1979.

VI. Industry Subcategorization

In developing this regulation, it was necessary to determine whether different effluent limitations and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in identifying subcategories included: waste characteristics, basic material used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, non-water quality characteristics, and unique plant characteristics.

The Agency set forth a subcategorization scheme based on manufacturing processes in its first proposed regulation for this category on November 30, 1973. EPA stated that manufacturing operations and treatability of wastewaters were considered to be the most significant factors affecting the manner in which the category would be regulated. The proposed regulation on November 30, 1973 (38 FR 33170) established three subcategories, bauxite refining, primary aluminum smelting and secondary aluminum smelting in 40 CFR Part 421. These same subcategories were retained in the final rule promulgated on April 8, 1974 (39 FR 12822).

On February 27, 1975, EPA amended 40 CFR Part 421 by adding five new

subcategories, primary copper smelting, primary copper refining, secondary copper, primary lead and primary zinc (40 FR 8514). Again, the manufacturing processes were considered to be the most significant factor in subcategorizing the industry.

On July 2, 1980, EPA modified the subcategorization set forth in the interim final regulation from February 27, 1975 for BPT. The primary copper smelting subcategory was retained. The primary copper refining subcategory which originally included only refineries not on-site with primary copper smelters was changed to the primary copper electrolytic refining subcategory. This new subcategory included all electrolytic refining operations, whether or not they are on-site with a smelter. (45 FR 44926) In addition, EPA added a new subcategory for metallurgical acid plants associated with primary copper smelters. The new subcategory was added because we believed that establishing separate limitations for these three subcategories would ensure that the maximum feasible BPT pollutant reduction could be accomplished for each plant.

The subcategorization scheme is again modified by today's notice. We again considered raw materials, final products, manufacturing processes, geographical location, plant size and age, wastewater characteristics, non-water quality environmental impacts, energy costs, and solid waste generation. Our conclusion, as before, is that—with the exception of the metallurgical acid plants subcategory—subcategorization should be based on manufacturing process alone. The proposed BAT effluent limitations guidelines for primary copper smelting, primary copper electrolytic refining, and metallurgical acid plants use the identical subcategorization as was used in the promulgated BPT. Also, metallurgical acid plants associated (i.e., on-site) with primary lead or primary zinc smelters will be considered a part of the metallurgical acid plants subcateory created for primary copper metallurgical acid plants on July 2, 1980 (45 FR 44926) (see Section VIII—New Subcategorizations). Finally, the proposed regulation set forth below will amend 40 CFR Part 421—Nonferrous Metals Manufacturing Point Source Category, by adding effluent limitations guidelines, new source performance standards and pretreatment standards for new and existing sources for the primary tungsten subcategory (subpart I) primary columbium-tantalum subcategory (subpart K), secondary silver subcategory (subpart L), and secondary lead subcategory (subpart M).

VII. Available Wastewater Control and Treatment Technology

A. Control Technologies Considered

The control and treatment technologies available for this category include both in-process and end-of-pipe treatments. These technologies were considered appropriate for the treatment of nonferrous metals manufacturing wastewater and formed the basis of the regulatory options. These control and treatment technologies are discussed in greater detail in Section VII of the General Development Document. The applicability of each of the technologies to specific sources of wastewater is discussed in the subcategory supplements.

In-process treatment includes a variety of water flow reduction steps and major process changes. The following in-process treatments are considered for this proposal:

Recycle. Recycling of processing water is the practice of treating and returning water to be used again for the same pupose. Total recycle can be achieved (in therory) through the use of reverse osmosis. In establishing PSES for secondary copper, EPA considered complete recycle and reuse of process wastewater after treatment with lime precipitation, and sedimentation to remove suspended solids and metals. EPA also considered partial recycle of process water by using cooling towers and holding tanks. In doing so, we considered that it may be necessary to discharge a bleed stream to purge dissolved and suspended solids that tend to accumulate in the system.

End-of-pipe treatment includes modules used to reduce pollutant concentrations prior to discharge. The following end-of-pipe treatments are considered for this proposal:

Chemical Precipitation. Chemical precipitation generally involves adjusting the pH and adding a flocculationg agent to precipitate out of solution metal ions (e.g., copper) and certain anions (e.g., fluoride). The chemical commonly associated with this treatment is lime.

Sedimentation. Sedimentation is a process which removes solid particles from a liquid matrix by gravitational force. This is done by reducing the velocity of the feed stream in a large volume tank or lagoon so that gravitational settling can occur. This treatment when combined with chemical precipitation is frequently referred to as lime and settle treatment.

Ammonia Steam Stripping. Steam may be used to remove ammonia from process wastewater. Generally, the steam is introduced into a separation column countercurrent to the process wastewater. The ammonia is absorbed into the steam. In some instances it may be necessary to add an additional stripping stage in which the pH of the wastewater is elevated in order to remove certain types of ammonia compounds.

Cyanide Oxidation or Precipitation. With the addition of oxidizing agents or complexing agents cyanide can either be oxidized or complexed. Cyanide can also be precipitated out of solution using ferrous or zinc sulfate. Cyanide precipitation is the more effective technology for removal of cyanide complexed with metals such as iron.

Oil Skimming. Oil and other materials with a specific gravity less than water often float unassisted to the surface of the wastewater. Skimming removes these floating wastes usually in a tank designed to allow floating debris to rise while the water flows to an outlet located below the floating layer. A variety of devices are used to remove the floating layer from the surface.

Carbon Adsorption. The use of activated carbon to remove dissolved organics is one of the most efficient organic removal processes available. The carbon removes contaminants from water by the process of adsorption or the attraction and accumulation of one substance on the surface of another. Activated carbon preferentially adsorbs organic compounds and because of this selectivity is particularly effective in removing organic compounds from aqueous solution.

Activated Alumina. Activated alumina may be used as an end-of-pipe treatment process to further reduce concentrations of arsenic and fluoride below those in the effluent from a chemical precipitation and sedimentation system.

Multimedia Filtration. Gravity mixed-media filtration may be used as an end-of-pipe polishing step to reduce concentrations of toxic metals. Rapid sand or pressure filters perform as well and may be used interchangably with gravity mixed media filters.

Reverse osmosis was considered for the purpose of achieving zero discharge of process wastewater; however, the Agency ultimately rejected this technology because it was determined that its performance for this specific purpose was not adequately demonstrated in this category nor was it clearly transferable from another category. Activated alumina was also

considered; however, this technology was rejected because it too was not demonstrated in this category nor was it clearly transferable to nonferrous wastewater.

B. Status of In-Place Technology

Current wastewater treatment practices in the nonferrous metals manufacturing category range from no treatment to treatment with chemical precipitation, sedimentation and filtration. Of the 134 discharging plants, 61 plants have treatment to remove metals and suspended solids, four have technologies for oil removal, six practice ammonia stripping and 22 practice end-of-pipe filtration. The remainder of the dischargers did not report any treatment for their nonferrous metals manufacturing wastewaters.

Recycle using treatment of lime precipitation and sedimentation is practiced at 20 plants. Three plants use filtration while two other plants use ammonia stripping prior to recycling process water.

C. Control and Treatment Options

EPA considered the following treatment and control options as the basis for BPT, BAT, BCT, NSPS, PSES, and PSNS for facilities within the nonferrous metals manufacturing category:

Option A—End-of-pipe treatment consisting of lime precipitation and sedimentation, and preliminary treatment, where necessary, consisting of oil skimming, cyanide precipitation, and ammonia steam stripping. This combination of technology reduces toxic metals and conventional and nonconventional pollutant.

Option B—Option B uses the same end-of-pipe treatment as Option A (lime precipitation and sedimentation) preceded by flow reduction of process wastewater through the use of cooling towers for contact cooling water and holding tanks for all other process wastewater subject to recycle.

Option C—Option C uses the same in-process flow reduction as Option B and adds polishing filtration to the end-of-pipe treatment included in Options A and B (preliminary treatment, lime precipitation, sedimentation and filtration). This result in a further reduction of toxic metals and TSS.

Option D—Option D uses the in-plant flow reductions and end-of-pipe treatment in Option C and adds treatment of isolated waste streams with activated carbon adsorption for removal of toxic organics and activated alumina for reduction of fluorides and arsenic concentrations.

Option E—Option E consists of Option C flow reduction and end-of-pipe technology plus activated carbon adsorption applied to the total plant discharge as a polishing step to reduce toxic organic concentrations.

Option F—Option F consists of Option C flow reduction and end-of-pipe technology plus reverse osmosis treatment to attain complete recycle of all process wastewater.

VIII. Substantive Changes From Prior Regulations

The regulation proposed today contain several substantive changes to regulations proposed and promulgated previously.

A. *New Subcategorizations.* As discussed in Section VI of this preamble, EPA is proposing to include metallurgical acid plants associated (i.e., on-site) with primary lead or primary zinc smelters as a part of the metallurgical acid plants subcategory created for primary copper metallurgical acid plants on July 2, 1980 (45 FR 44926). All these plants would accordingly have identical effluent limitations and standards. In making this determination, the Agency considered the way in which acid plants are operated when associated with the primary smelters and the characteristics of the wastewater generated by each type of acid plant. Our conclusion is that these processes, rate of process discharge, and wastewater matrices are essentially identical justifying a single subcategory for all acid plants.

Metallurgical acid plants are constructed on-site with primary copper, lead and zinc smelters to treat the smelter emissions, remove the sulfur dioxide, and produce sulfuric acid as a marketable by-product. Although two basic technologies, single contact and double contact, are used in the industry, the Agency found no predominance of either technology in place in plants of the three metal types. Nor was there any significant observable difference in the amount of water discharged from plants using the two technologies.

The processes are also similar in terms of waste streams generated. Wastewaters are typically combined in all three types of acid plants into a single waste stream (acid plant blowdown). Principal streams going into the blowdown (compressor condensate, blowdown from acid plant scrubbing, mist precipitation, mist elimination, and steam generation) are common to all three types of plants. Rate of wastewater discharge from plants associated with all three metals also is similar, as shown by a comparison of mean discharge rates: 2,237 1/kkg of 100 percent acid produced (primary copper smelting), 3,754 1/kkg of 100 percent acid produced (primary zinc smelting), and 3,844 1/kkg of 100 percent acid produced (primary lead smelting). (The mean values for copper and lead smelting exclude one plant in each subcategory with abnormally high wastewater flow.)

The wastewater matrices from all three types of acid plants also are similar. The Agency reviewed the analytical data that were obtained in sampling programs described in Section V and compared the characteristics of untreated acid plant blowdown from plants asociated with each of the three primary metals considered. There were similar concentrations (i.e., in the same order of magnitude) of antimony, arsenic, cadmium, chromium, mercury, selenium, and silver among the three. The lead concentrations were significantly higher in the blowdown from lead acid plants than from copper and zinc plants. The same was true for copper and zinc in acid plants associated with their manufacture. However, all of these metals were present at concentrations that are treatable to the same effluent concentration upon application of chemical precipitation and sedimentation or chemical precipitation, sedimentation and multimedia filtration, and are within the range used in calculating treatment effectiveness for these technologies.

Therefore, in light of these essential similarities of process, wastewater flow and composition, we have chosen to include all acid plants in a single subcategory.

B. *Building Blocks.* In our prior regulations covering nonferrous metals manufacturing subcategories, we generally regulated plants as a single source of wastewater without regard to the specific manufacturing processes contributing to wastewater flow.

The regulations proposed today use the so-called building block approach, whereby EPA considers both end-of-pipe treatment technologies and process changes and controls within the plant prior to discharge to a common end-of-pipe treatment system. This approach is preferable because it allows regulations to be tailored to reflect particular circumstances. (This examination, of course, is mandated by the Clean Water Act. See, e.g., Sections 304(b)(2)(A) and 306(a)(1).) As a result, the proposed regulation identifies principal process steps that discharge wastewater, determines what wastewater flows (and in some cases, pollutant concentrations) are premissible for this indigenous

operation, and establishes a mass-based limitation or standard for each such step ("building block"). These limitations (or standards) then are added together to give the permissible mass discharge for the entire process.

Under the building block approach proposed today, to determine the allowable discharge from a point source a discharger must first identify the specific process sources that comprise that discharge. He should then multiply the limitations or standards (mg/kkg) for each wastewater present in the plant, by the production of that source (kkg), in the units specified, to yield the mass discharge from each source. The mass from all of the sources should then be added to yield the maximum for any one day and the maximum monthly averages for that discharge point. Waste streams (both process and nonprocess) not identified in this preamble may be regulated on a case-by-case basis by the permit writer pursuant to the authority granted in Section 402.

We stress that a plant is to receive a discharge allowance for a particular building block *only if it is actually operating that particular process.* The plant need not be discharging wastewater from the process to receive the allowance, however. Thus, if the regulation contains a discharge allowance for wet scrubber effluent and a particular plant has dry scrubbers, it cannot include a discharge allowance for wet scrubbers as part of its aggregate limitation. On the other hand, if it has wet scrubbers and discharges less than the allowable limit (or does not discharge from the scrubbers), it would receive the full regulatory allowance. In this way, the building block approach recognizes and accommodates the fact that not all plants use identical steps in manufacturing a given metal.

C. *Building Block Approach Applied to Integrated Facilities.* There are several facilities within this category that have integrated manufacturing operations; that is, they combine wastewater from smelting and refining operations, which are part of this point source category, with wastewater from other manufacturing operations which are not a part of this category, and treat the combined stream prior to discharge.

Indirect dischargers that are integrated facilities are subject to standards as specified by the "combined waste stream formula" set forth at 40 CFR 403.6(e). In establishing direct discharger permit requirements for integrated facilities subject to effluent guidelines that are mass-based for each category, the permit writer can apply the same building block approach discussed above, simply aggregating each allowable discharge.

The building block approach is only to be used when the individual discharger combines wastewater from various processes and co-treats the wastewater before discharge through a single discharge pipe. The building block approach allows the determination of appropriate effluent limitations for the discharge point by combining appropriate limitations based upon the various processes that contribute wastewater to the discharge point. EPA does not intend to establish a "water bubble" for nonferrous metals manufacturing and related facilities and will not allow the trading of limitations or allowances from various process wastewaters that are discharged through separate discharge points.

In establishing limitations for integrated facilities for which a portion of the plant is covered by concentration-based limitations, the permit writer can determine the appropriate mass limitations for the entire facility or point source. The portion of the wastewater covered by this category receives mass limitations according to the building block methodology described above. The permit writer must then determine an appropriate flow for the portion of the facility subject to concentration-based limitations and multiply it by the concentration limitations to yield mass limitations. The mass limitations applicable to the discharge are obtained by summing these two sets of mass limitations. (Additional discussion and examples are found in the General Development Document).

D. *Stormwater.* In the preambles of previously promulgated regulations for primary copper smelting, primary copper electrolytic refining, primary zinc, primary lead, and secondary copper subcategories, we have discussed the treatment of stormwater to achieve BPT and BAT limitations when it is commingled with process wastewater prior to discharge. This discussion has led to some confusion as to whether stormwater runoff at these plants should be considered process wastewater and a discharge allowance provided. In our previous discussions of this subject it was not EPA's intent to make a determination as to the appropriateness of a discharge allowance for stormwater runoff at these plants. Instead, we were notifying the public that stormwater, like any nonprocess water, is considered process wastewater when it is mixed with process wastewater prior to discharge. Therefore, NPDES regulations require that it be treated pursuant to permit requirements. At some plants, stormwater runoff may contribute significantly to pollutant loadings. However, the Agency is not proposing effluent limitations guidelines and standards for stormwater runoff because the flow and pollutant generation are site-specific and cannot be related to actual production.

We are soliciting comment on the need to add specific relief in the final regulation for this category for plants that presently combine stormwater and process wastewater prior to end-of-pipe treatment. As a general matter, however, we do not consider such relief appropriate unless data are submitted that prove that:

(1) Stormwater is sufficiently contaminated to warrant treatment;

(2) Contamination of stormwater cannot be eliminated by good housekeeping or best management practices; and

(3) Treatment of contaminated stormwater in the process wastewater system is justified technically and economically (i.e., contaminated stormwater cannot be segregated).

E. *Catastrophic Precipitation Event Allowances and Allowances for Net Precipitation.* Certain existing regulations for nonferrous metal subcategories—namely BPT regulations in secondary copper and primary lead, and BAT regulations in primary copper smelting, primary copper electrolytic refining, secondary copper, and primary lead—are based on use of settling impoundments as BPT or BAT. Facilities in these subcategories are subject to a zero discharge requirement; however, facilities meeting certain design capacity requirements could discharge, regardless of effluent quality, a volume of water falling within the impoundment in excess of the 10-year, 24-hour storm, when a storm of at least that magnitude occurred. Further, they can discharge once per month, subject to concentration-based effluent limitations, a volume of water equal to the difference between precipitation and evaporation in that month.

The Agency began to revise some of these impoundment-based regulations in 1980 for primary copper smelting and electrolytic refining BPT, and today is proposing to revise others. The revised regulations are based on mechanical end-of-pipe treatment using hardware (viz. lime precipitation and sedimentation technology using clarifiers). By eliminating impoundments, we have eliminated the need for a net precipitation allowance and (subject to an exception discussed below) stormwater discharge.

We generally are reluctant to issue limitations based on impoundments for a number of reasons:

—Discharge from impoundments can be as a "slug", allowing potentially heavy and damaging pollutant loadings to be discharged all at once;
—Impoundments allow dilution of heavily contaminated process wastewaters with relatively cleaner process streams;
—Net precipitation limitations are hard to calculate because of periodic shifts between net precipitation and net evaporation;
—Impoundments pose a risk of groundwater contamination; and
—Impoundment-based regulations effectively require the Agency to specify impoundment design.

(See generally 45 FR at 44926 (July 2, 1980), revising impoundment-based regulations in the primary copper smelting and electrolytic refining subcategories.) In addition, plants within these subcategories have, in many cases, already installed hardware-based lime precipitation and sedimentation technology, so that these technologies are now BPT or BAT for these subcategories.

In light of these considerations, we are not including an allowance for net precipitation for BAT, NSPS, PSES, and PSNS for these subcategories because these guidelines and standards are not based on settling and evaporation impoundments. We also are eliminating the allowance for BPT in the primary lead subcategory, because we are revising BPT in this subcategory and revised BPT will be based on lime precipitation and sedimentation technology, not impoundments.

In addition, we are not including an allowance for stormwater discharge at BAT, NSPS, PSES and PSNS (and BPT for primary lead), except where the proposed limitation is based on use of a cooling impoundment. This exception applies for BAT in the primary copper smelting and secondary copper subcategories, where for direct dischargers cooling impoundments for contact cooling water are a common alternative to cooling towers. (We are eliminating the allowance at NSPS because new plants can be constructed exclusively with cooling towers.) As with all such allowances, it applies only to the volume of water falling within the impoundment area (see 45 FR 44928 July 2, 1980). (There is, however, no allowance for net precipitation from these cooling impoundments because they require much smaller surface areas than the settling and evaporative impoundments for which such discharge was allowed.) Table 2 summarizes existing and proposed regulations regarding the catastrophic stormwater and net precipitation allowances.

We recognize that this approach to catastrophic rainfalls varies from the approach used for the ore mining and dressing category (47 FR 54603 December 3, 1982). In that regulation EPA required only that impoundments be designed and operated so as to contain a 10-year, 24-hour storm, while this proposed regulation requires that no discharge from the impoundment may occur except when a 10-year, 24-hour (or 25-year, 24-hour for BAT) storm occurs. We believe this difference is justified by the fact that the nonferrous metals manufacturing allowance applies only to water falling on the surface of the impoundment while the ore mining allowance applies to stormwater drainage from various processing locations at the ore mine and mill. The relative surface area of a nonferrous manufacturing impoundment is a small fraction of the area drained at an ore mine and mill. Therefore, the quantity of stormwater that must be contained at a nonferrous plant impoundment is much smaller, making containment of the stormwater under the provisions of this proposed regulation achievable. The Agency is not reaching any conclusions as to the need to capture and treat surface runoff at any nonferrous metals manufacturing plant. We believe that such decisions are site-specific and are best handled based on the judgment of individual permit writers.

TABLE 2.—STORMWATER/PRECIPITATION ALLOWANCES

Subcategory	Existing regulations			
	BPT		BAT	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary copper smelting	Yes	No	Yes	Yes.
Primary copper electrolytic refining	No	No	Yes	Yes.
Secondary copper	Yes	Yes	Yes	Yes.
Primary lead	Yes	Yes	Yes	Yes.

Subcategory	Proposed regulations					
	BPT		BAT		NSPS	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary copper smelting			Yes	No	No	No.
Primary copper electrolytic refining			No	No	No	No.
Secondary copper			Yes	No	No	No.
Primary lead	No	No	No	No	No	No.

Subcategory	Proposed regulations			
	PSES		PSNS	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary copper smelting	(*)		No	No.
Primary copper electrolytic refining	(*)		No	No.
Secondary copper	No	No	No	No.

Subcategory	Proposed regulations			
	PSES		PSNS	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary lead	(*)		No	No.

Yes=Regulation contains this allowance.
No=Regulation does not contain this allowance.
*=No existing indirect dischargers.

IX. Summary of Generic Issues

EPA has identified several issues that are generic to many of the subcategories and to the limitations and standards proposed in this proposed regulation. These issues are discussed in this section, rather than in the discussion of each particular subcategory.

A. *Data Bases to Determine Achievable Concentrations and Variability Factors for Hydroxide Precipitation-Sedimentation and for Filtration.* As discussed in Section VII, chemical precipitation-sedimentation and filtration were considered as a part of various treatment options for BPT, BAT, BCT, NSPS, PSES and PSNS. The methods of determining achievable concentrations and variability factors used to compute monthly average and daily maximum concentrations are discussed for these technologies below.

Hydroxide Precipitation-Sedimentation. In considering the performance achievable using hydroxide (usually lime) precipitation-sedimentation of metals with and without polishing filtration, EPA evaluated data from nonferrous metals plants and plants in other categories with similar wastewater. The data base we selected for lime precipitation and sedimentation (lime and settle) without filtration is the so-called combined metals data base. This data is a composite of data for nine pollutants from wastewaters treated by lime and settle technology drawn from EPA sampling and analysis of copper and aluminum forming, battery manufacturing, porcelain enameling and coil coating. These wastewaters are similar to nonferrous metals manufacturing wastewater in all material respects because they contain comparable concentrations of dissolved metals.

We regard the combined metals data base as the best available measure for establishing the concentrations attainable with hydroxide precipitation and sedimentation. Our determination is based on the similarity of the raw wastewaters as generally determined by statistical analysis for homogeneity (a separate study of statistical homogeneity of these wastewaters is part of the record of this rulemaking), the larger number of plants used (21 plants versus six nonferrous metals plants available), and the larger number of data points available for each pollutant. The larger quantity of data in the combined metals data base, as well as a greater variety of influent concentrations, enhances the Agency's ability to estimate long term performance and variability through statistical analysis.

We view the use of the combined metals data base as appropriate for nonferrous metals manufacturing plants for the following reasons:

(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 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. We also do not believe any interfering properties (such as chelating agents) exist in nonferrous metals manufacturing wastewater that would interfere with metal precipitation and so prevent attaining concentrations calculated from the combine metals data base.

It should be noted, however, that our statistical analysis indicate that the raw wastewater matrix in nonferrous metals manufacturing contains higher concentrations of lead and cadmium than the raw wastewater of plants used for the combined metals data base. Because the precipitation (and ultimate removal by sedimentation) of these metals is directly related to their solubility, we believe that the differences in raw waste concentrations, while statistically significant, are not large enough to impact the achievable concentrations following treatment. We solicit comment on this judgment, as well as data demonstrating the need for less stringent concentrations for lead and cadmium because of the higher raw wastewater concentrations of these pollutants.

(2) 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 long-term mean effluent concentrations equal to or better than the combined metals data base for five of six metals and TSS. The mean lead concentration for the nonferrous plants is only 0.01 mg/1 greater than the mean for the combined metals plants of 0.12 mg/1. We do not consider this difference to be significant, especially in the context of compliance with all other pollutant performances.

We also compared the combined metals data base long-term mean performance with long-term mean lime and settle performance from an additional nonferrous plant for which we have extensive (over 100 data points) self-monitoring. This plant met or bettered the combined metals data base limits for all pollutants monitored (cadmium, zinc, and TSS).

(3) Previous Regulations: BPT limitations based on more stringent concentrations than those calculated from the combined metals data base have been promulgated for cadmium, copper, lead, and zinc in copper refining and metallurgical acid plants (July 2, 1980, 45 FR 44926). We believe that plants achieving these more stringent limitations will not encounter any difficulty in achieving limitations based on the combined metals data base.

We also are proposing limits based on this technology for certain pollutants not included in the combined metals data base. Treatability limits for these pollutants are calculated either from nonferrous metals manufacturing data (for arsenic, selenium, silver, and antimony) or—for aluminum and fluoride—from categories with wastewaters similar to nonferrous metals manufacturing (aluminum from aluminum forming data and fluoride from electrical components manufacturing data). Chapter VII of the General Development Document

provides a more detailed discussion of these performance calculations. In general, however, we are using these data bases because they represent the best available performance data on removal of these metals from wastewater similar to nonferrous metals wastewater.

The mean of concentrations from nonferrous plants with well operated lime precipitation and sedimentation that the Agency sampled indicates that the plants are meeting the limits for all of these pollutants except for arsenic and selenium. We believe the proposed limitations for these metals are achievable, however, because they are based on permit data from nonferrous metal plants including one of the six plants with treatment sampled by EPA.

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 applies variability factors calculated 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. In fact, the use of the lime and settle combined data base variability factors is probably a conservative assumption because filtration is a less variable technology than lime and settle, since it is less operator dependent.

For pollutants for which there were no data relating to filtration effectiveness, 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. The same rate of removal should apply for other toxic metals and for cyanide because filtration removes precipated toxic metals and cyanide without preference.

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 indentical final effluent. Although the one nonferrous plant samples only supplied data for cadmium, zinc, and TSS, its attainment of the limitations calculated from the extensive porcelain enameling data suggests the ability to attain the other limitations because of the nonpreferential nature of toxic metal removal by filters.

We solicit comment on our use of the combined data base for nonferrous metals manufacturing. We specifically request submission of additional data, including both raw waste and treated waste data, from nonferrous metals manufacturing plants using properly operated lime and settle and lime, settle and filtration systems.

There is one exception to this discussion. In those subcategories where we are not altering existing BPT requirements—primary aluminum, secondary aluminum, primary zinc, primary copper electrolytic refining and metallurgical acid plants—those limitations necessarily continue to be based on subcategory-specific data. It is not logical to write new BPT limits for these plants because permit writers will include BAT limitations (and not new BPT limitations) in the next generation of permits for these plants. BAT limitations for all of these subcategories will, of course, be based on the data base for polishing filtration discussed above.

B. *Mass-Based Standards vs. Concentration-Based Standards for PSES and PSNS.* In proposing PSES and PSNS, we considered whether to propose exclusively mass-based standards, or to allow POTWs the alternative of concentration- or mass-based standards. Mass-based standards ensure that limitations are achieved by means of pollutant removal rather than by dilution. They are particularly important when a limitation is based upon flow reduction because pollutant limitations associated with the flow reduction cannot be measured any way but as a reduction of mass discharged. Mass-based standards, however, are harder to implement because POTWs face increased difficulties in monitoring. POTWs also must develop specific limits for each plant based on the unit operations present and the production occurring in each operation.

We have resolved these competing considerations by proposing mass-based standards exclusively where the PSES and PSNS treatment options include significant flow reductions or where significant pollutant discharge reductions are attributable to flow reductions. This is the case here for the secondary lead, primary tungsten, and primary columbium-tantalum subcategories. The flow reductions over estimated current flows in these subcategories are 7.8 percent in the secondary lead subcategory (with estimated annual removals associated with reduced flow of 205 kg of toxic pollutants and 1,527 kg of nonconventional pollutants over current removals of these pollutants), 32.8 percent in primary tungsten (with estimated annual removals attributable to reduced flow of 42 kg toxic pollutants and 26,047 kg of nonconventional pollutants), and 16.1 percent in primary columbium-tantalum (with estimated annual removals attributable to reduced flow of 10,405 kg toxic pollutants and 59,018 kg of nonconventional pollutants). We believe the incremental pollutant removals associated with flow reduction are significant enough to warrant mass-based standards exclusively in these subcategories (for both PSES and PSNS).

In the secondary silver subcategory we also are proposing mass-based PSES without alternative concentration-based standards although the flow reduction for the entire subcategory is not great. However, several plants grossly exceed the flow basis of PSES. Mass-based limits are needed to ensure that these plants reduce their water usage. We likewise are proposing mass-based PSNS in this subcategory because PSNS for secondary silver is based on 90 percent flow reduction of raw wastewater by recycle, and new plants would lack incentive to achieve these reductions without a mass-based standard.

In the secondary aluminum subcategory, however, flow reduction over current discharge rates is minimal (0.2 percent). PSES for this subcategory consequently contains alternative mass-based and concentration-based standards. We are not proposing alternative mass- and concentration-based PSNS subcategories, however, since PSNS includes significant flow reductions for each subcategory (90 percent flow reduction of direct chill casting wastewater).

C. *pH.* In those subcategories where we are first proposing BPT, and in the one subcategory where we are modifying existing BPT, we are proposing pH limitations of 7.5 to 10. These levels vary somewhat from the pH limitations of 6 to 9 in existing BPT

for other nonferrous metal subcategories. We are proposing the higher ranges to allow for proper performance of the lime precipitation and sedimentation technology. This technology generally requires a wastewater pH of 8.8 to 9.3 (depending on wastewater compositions) so as to achieve optimum precipitation of some metals.

We are not proposing to amend the pH standards in existing BPT regulations in the nonferrous metals category. We are, however, making this change for proposed BCT (in all cases where we are regulating pH), so that the next generation of permits should all contain the revised pH limitation. (Since no cost is associated with achieving pH levels of 7.5 to 10, this level is clearly appropriate to BCT.)

D. *Frequency of Sampling to Demonstrate Compliance With 30-Day Average Limitations.* The proposed regulation establishes monthly average limitations that are based on the average of 10 consecutive sampling days (not necessarily consecutive calendar days). The 10-day average value was selected as the minimum number of consective samples which need to be averaged to arrive at a stable slope on a statistically based curve relating one-day and 30-day average values and it approximates the most frequent monitoring requirements of direct discharge permits. The monthly average numbers shown in the regulation are to be used by plants with combined waste streams that use the "combined waste stream formula" set forth at 40 CFR 403.6(e) and by permit writers in writing direct discharge permits.

E. *Compliance Date for PSES.* It is our tentative intention that the date for compliance with PSES be three years from the regulation's final promulgation date. Few indirect dischargers in this category have installed and are properly operating the treatment technology for PSES. In addition, the readjustment of internal processing conditions to achieve reduced wastewater flows may require further time above installation of end-of-pipe treatment equipment. Many plants in this and other industries also will be installing the treatment equipment suggested as model technologies for this regulation which may result in delays in engineering, ordering, installing, and operating this equipment. Under these circumstances, we think that three years is the appropriate compliance date under Section 307(b)(1) of the Act. We invite comment on the appropriateness of the compliance date.

F. *Recycle of Wet Scrubber and Contact Cooling Wastewater.* We are proposing as BAT and PSES for most subcategories that 90 percent of the wet air pollution control and contact cooling wastewater be recycled (we have proposed a higher rate for certain subcategories where reported rates of recycle are even higher). Water is used in wet air pollution control systems to capture particulate matter or fumes evolved during manufacturing. Cooling water is used to remove excess heat from cast metal products.

We observed extensive recycle of these streams throughout the industry. Indeed, some plants reported 100 percent recycle of process water from these operations. The Agency believes, however, that most plants may have to discharge a portion of the recirculating flow to prevent the excessive buildup of dissolved solids. The Agency believes based on the data submitted in dcp's that through operation with a discharge of 10 percent of the recirculating flow, contact cooling water and scrubber water can be reused while controlling scale formation, equipment corrosion and maintaining product quality.

Existing practice supports our selection of a 90 percent recycle rate. Twenty-nine of 61 aluminum smelting and forming plants practice greater than 90 percent recycle of the direct chill casting contact cooling water. Two of the five aluminum smelters practicing continuous rod casting recycle 90 percent or more of their contact cooling water. Four of eight primary aluminum plants using wet air pollution control on anode bake ovens, five of 11 plants using wet scrubbers on potlines, and three of eight plants using wet scrubbers for potrooms recycle 90 percent or more of their scrubber water.

Five of 10 primary copper plants currently recycle 90 percent or more of their casting contact cooling water. Two of three primary zinc plants with leaching scrubbers recycle 90 percent or more. Two of five primary tungsten plants with scrubbers on reduction furnaces practice 90 percent or greater recycle. Six of seven secondary silver plants with furnace scrubbers currently recycle 90 percent or more of the scrubber water.

G. *Cost of Compliance at Integrated Facilities.* As discussed in Section VIII (Building Block Approach Applied to Intergrated Facilities), integrated facilities subject both to this proposed regulation and to regulations for other point source categories must install technology and modify processes so as to comply with mass limitations calculated using the building block approach. In estimating the cost of compliance with this proposed regulation, we did not include any specific costs associated with integrated facilities.

We believe this approach is justified for plants not currently providing BPT or BAT because we have included costs for separate treatment of wastewater in calculating costs associated with each regulation. Costs associated with segregation of the combined waste streams (i.e. additional piping) are not normally significant compared to the cost of the treatment equipment.

We have assumed that the co-treated wastewaters are compatible and that this proposed regulation will not require segregation and separate treatment of these wastewaters.

We solicit comment on these assumptions. We also request cost data from plants that have experienced costs or that have developed cost estimates that reflect specific costs associated with integrated facilities.

X. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the processes employed, non-water quality environmental impacts (including energy requirements), and other factors the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train*, 540 F. 2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g. *American Iron and Steel Institute* v. *EPA*, 526 F. 2d 1027 (3rd Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general

environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water quality bodies. Accordingly, water quality considerations were not the basis for selecting the proposed BPT. See *Weyerhaeuser Company* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978).

In developing the proposed BPT limitations, the Agency considered the amount of water used per unit production in each waste stream. These data were used to determine the average (mean) water discharge for each subcategory operation. Aberrant flows were excluded from mean calculations. Since the proposed BPT limitations were based on the average water discharge, plants with greater than average discharge flows may have to implement some method of flow reduction in order to achieve the effluent limits of BPT.

Next, we evaluated the appropriate treatment technology for BPT treatment. The proposed BPT level treatment for each subcategory was based on the average of the best existing performance currently demonstrated throughout that subcategory. As stated above, BPT was based on end-of-pipe treatment technologies except in those instances where a process change or internal control is common practice in the subcategory. As an example, of the nine plants in the secondary lead subcategory that use wet air pollution control on kettle refining operations, six discharge no process wastewater through complete recycle, two recycle greater than 90 percent of the water used and one completely reuses this water elsewhere in the plant. We are proposing zero discharge from this stream because complete recycle or reuse is so widely demonstrated for this waste stream.

The effluent concentrations resulting from the application of the proposed model BPT technology are identical for all wastewater streams; however, the mass limitations vary for each waste stream depending on the regulatory flow. The BPT limitation were calculated by multiplying the effluent concentrations achievable by the selected option technology by the regulatory flow established for each waste stream.

Where we already have promulgated BPT, we are (with one exception) not proposing to alter these existing limitations. We think this would be unnecessary since by the time any limitations were finalized, permits would be modified to reflect new BAT limitations, due to the imminence of the 1984 BAT compliance date. We therefore are leaving unaltered existing BPT limitations for the primary aluminum, secondary aluminum, primary copper smelting, primary electrolytic copper refining, secondary copper, primary zinc, and metallurgical acid plants subcategories. We are modifying existing BPT in the primary lead subcategory, as explained in more detail below, only because it appears that the existing zero discharge limitation fails to provide a needed allowance for certain process wastewater streams.

All of these existing BPT regulations (except primary copper smelting) are based on lime precipitation and sedimentation technology. However, the achievable concentration limits for this technology used in the regulations are not derived from the combined data base (see Section VIII above), and so differ from those proposed today as BPT in other subcategories. This difference disappears at BAT, where all limits for this technology reflect the combined metals data base. Thus, any seeming anamoly is very short-lived.

We also realize that our modification of the metallurgical acid plants subcategory to include primary zinc acid plants, without modifying BPT for the primary zinc subcategory to delete the acid plant allowance provided, will create the potential for double counting of the BPT acid plant allowance at primary zinc plants. This is not our intention. Instead, we believe that existing permits at these plants will be modified to reflect the BAT requirements where there is no such double counting. Therefore, this apparent inconsistency should not have any actual effect on existing permits.

To fulfill our statutory obligation, we are proposing BPT in those subcategories we have not addressed previously, namely primary columbium-tantalum, primary tungsten, secondary silver and secondary lead. We also are proposing that lead and zinc metallurgical acid plants be subject to existing limits already promulgated for copper metallurgical acid plants. Our basis for these decisions, and the basis for our proposed modification of BPT in the primary lead subcategory, are explained below.

Primary Lead

EPA promulgated BPT effluent limitations guidelines for the primary lead subcategory on February 27, 1975 under Subpart G of 40 CFR Part 421. The promulgated BPT is based on the complete recycle and reuse of slag granulation wastewater (or dry slag dumping), dry air scrubbing, and treatment and impoundment subject to allowances for net precipitation based on lime precipitation and sedimentation and catastrophic precipitation discharges without limitation of acid plant blowdown. Acid plant blowdown is now included in the metallurgical acid plants subcategory (see Section VIII—New Subcategorizations). The remaining operations were not provided discharge allowances, suggesting that BPT for those operations should be zero discharge.

However, new information has become available to the Agency that supports the need for discharge of wastewater from slag granulation, an operation previously considered and included in the promulgated zero discharge regulations. Our information in 1975 led us to believe that slag granulation is a net water consuming operating and, therefore, we found no justification for a discharge allowance. Our data show that one plant uses an ore with a lead content that makes it feasible to recycle blast furnace slag into the sintering machine to recover the remaining lead content. After studying this further, we found that there may be an accumulation of dissolved salts in recycled slag granulation wastewater. Accumulation of dissolved salts, particularly sodium salts, in the recycle water and ultimately in the recycled slag is detrimental to the sintering process chemistry. For this reason, we are modifying the promulgated BPT for this subcategory to allow a discharge to prevent the accumulation of solids in slag granulation water circuits.

Lead refineries not on-site with lead smelters were not included in the applicability of the promulgated BPT. At the time of promulgation, we noted that the single off-site lead refinery did not discharge any process wastewater off-site and was not subject to the interim final limitations. After studying the refining processes further, the Agency believes there is no technical reason that on-site and off-site refineries should be regulated differently. Consequently, we are modifying the applicability of the regulations proposed in today's notice so that it includes all refining operations. In doing so we are including the same limitations and standards for hard lead refining blast furnace slag granulation and wet air pollution control to be applied using the building block approach discussed above.

The technology basis of the limitations will be identical to that used in the promulgated BPT for the net precipitation allowance-lime

precipitation and sedimentation. Although the only direct discharging plant now has lime precipitation, sedimentation and filtration in place, we are reluctant to revise the technology basis of a regulation retroactively.

The data base used to establish concentrations for the limitations in the promulgated BPT was based solely on acid plant data. As stated above, we regard the combined metals data base as a superior measure of performance of lime precipitation and sedimentation on nonferrous metals wastewaters, and therefore we are using these limits in today's proposal. We also note that there are no costs associated with meeting these limitations because treatment already is in place.

The pollutants selected for specific limitation are lead, zinc, TSS and pH. These pollutants (except for pH) were selected because they were present in the largest quantities in the raw wastewater. We selected pH for limitation because of the potential for acidic discharges from this subcategory.

Metallurgical Acid Plants

As previously discussed in Section VIII, "Significant Changes to Prior Regulations," BPT for primary copper acid plants was promulgated on July 2, 1980 (45 FR 44926). This existing BPT regulation is being expanded to include primary zinc and primary lead acid plants. The BPT effluent mass limitations for primary zinc and primary lead acid plants are identical to those for primary copper acid plants. As noted above, this is because the Agency collected data on primary zinc and primary lead acid plants and found that the acid manufacturing process, wastewater discharge flow rates and pollutants present in the raw wastewater were essentially the same as those found at primary copper acid plants.

The existing BPT effluent mass limitations are based on lime precipitation and sedimentation treatment technology. The pollutants limited by the existing BPT are cadmium, copper, lead, zinc, TSS and pH. There is no cost associated with expanding the current BPT regulation to include primary zinc and primary lead acid plants because all of the direct discharging plants in the metallurgical acid plants subcategory currently have BPT technology in-place.

Primary Tungsten

We are proposing BPT requirements for the primary tungsten subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and ammonia steam stripping to remove ammonia. These technologies already are in place at both of the direct dischargers in the subcategory. The pollutants specifically proposed for regulation at BPT are lead, selenium, zinc, ammonia, TSS and pH.

Proposed limitations for ammonia steam stripping are based on data from a well-operated plant in the iron and steel manufacturing point source category. We believe that the iron and steel subcategory data provide the best basis for determination of ammonia steam stripping performance because the paired influent and effluent data were collected by EPA sampling personnel from a plant with well-operated technology. This technology should achieve similar removals in both primary tungsten and iron and steel because raw wastewater ammonia concentrations are in the same order of magnitude and no interfering agents are present in primary tungsten that would interfere with this solubility-limited process.

Implementation of the proposed BPT limitations will remove annually an estimated 12 kg of toxic metals, 12,700 kg of ammonia, and 7,100 kg of TSS over estimated current discharge (no toxic organics would be removed). Removals from raw wastewater are an estimated 3,560 kg of toxic metals, 741,470 kg of ammonia, and 2,658,600 kg of TSS. We project no capital or annual cost for achieving proposed BPT because the technology already is in place at both discharging facilities.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Primary Columbium-Tantalum

We are proposing BPT requirements for the primary columbium-tantalum subcategory, since BPT has not yet been promulgated. EPA is proposing BPT effluent mass limitations based on lime precipitation and sedimentation to control toxic metals, TSS, pH and fluoride, and preliminary treatment with steam stripping to reduce ammonia concentrations. These technologies are currently in place at all three of the direct dischargers in the primary columbium-tantalum subcategory. The pollutants specifically proposed for regulation at BPT are lead, zinc, ammonia, fluoride, TSS and pH.

The proposed limitations are based on concentrations for the lime precipitation and sedimentation technology taken from the combined data base discussed earlier. Proposed limitations for ammonia steam stripping are based on the same iron and steel sampling data described. We believe this technology will perform at the same level in the primary columbium-tantalum subcategory as in iron and steel because ammonia is present at the same order of magnitude in primary columbium-tantalum wastewater, and there are no interfering agents in the wastewater.

BPT will result in the removal of an estimated 850 kg of toxic pollutants and 263 kg of conventional pollutants per year from current discharge levels. There is no cost associated with compliance with the proposed BPT mass limitations because the technology is already in place at all three of the direct discharging plants in the primary columbium-tantalum subcategory.

More stringent technology options were not selected since they require in-process changes or end-of-pipe technologies which are less widely practiced by the industry and, therefore, are more appropriately considered under BAT.

Secondary Silver

EPA is proposing BPT requirements for the secondary silver subcategory because BPT requirements for this subcategory have not previously been promulgated. The proposed BPT effluent mass limitations are based on lime precipitation and sedimentation to remove toxic metals, pH, TSS, and pretreatment with steam stripping to reduce ammonia concentrations. This technology is currently in place at two of the four direct discharges in the secondary silver subcategory. 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 proposed limitations are based on concentrations for the lime precipitation and sedimentation technology taken from the combined data base discussed earlier. Proposed limitations for ammonia steam stripping are based on data from a well-operated plant in the iron and steel manufacturing point source category. We believe that the iron and steel subcategory data provide the best basis for determination of ammonia steam stripping performance because the paired influent and effluent data were collected by EPA sampling personnel from a plant with well-operated technology. This technology

should achieve similar removals in both secondary silver and iron and steel because raw wastewater ammonia concentrations are in the same order of magnitude and no interfering agents are present in secondary silver that would interfere with this solubility-limited process.

The proposed BPT will result in the removal of an estimated 230 kg of toxic pollutants and 578,350 kg of ammonia per year from estimated current discharge levels. The estimated capital investment cost of BPT is $124,000 and the estimated annual cost is $263,000. These costs represent wastewater treatment equipment not currently in place.

We do not project any plant closures or unemployment, and price impacts are expected to be less than 1 percent. The Agency has determined, therefore, that the reduction benefits associated with compliance justify the costs.

More stringent options were not selected for BPT because they involve in-process changes or end-of-pipe treatment technologies which are less widely practiced by the industry and, therefore, are more appropriately considered under BAT. However, we are considering a BPT limitation for cyanide based on cyanide precipitation. Although our plant sampling data do not show that cyanide is present in treatable concentrations, our analysis of the processes used to recover silver from spent plating solutions indicates that cyanide could be present at concentrations higher than we found in the sampled plants. Therefore, we are soliciting data from secondary silver plants to demonstrate whether our existing data base is representative of cyanide concentrations in raw wastewater in this subcategory. If the data received support a conclusion that cyanide is present at treatable concentrations, then we will consider including limitations for cyanide based on cyanide precipitation. These limitations are presented in the subcategory supplement to the Development Document (see Section II—Recommendations).

Secondary Lead

EPA is proposing BPT requirements for the secondary lead subcategory because BPT requirements for this subcategory have not previously been promulgated. The proposed BPT effluent mass limitations are based on lime precipitation and sedimentation to remove toxic metals and total suspended solids (TSS), and to control pH. This technology is currently in place at five of the seven direct discharging plants in the secondary lead subcategory. The pollutants and pollutant parameters controlled at BPT are antimony, arsenic, lead, zinc, TSS and pH. The proposed limitations are based on concentrations for the lime precipitation and sedimentation technology taken from the combined data base discussed earlier. We are proposing that there shall be no discharge of ammonia from secondary lead plants. The only source generating ammonia, kettle smelting, is not given a regulatory flow allowance because we are proposing dry scrubbing as BPT for this process (see general discussion at the beginning of this section).

BPT will result in the removal of an estimated 1,105 kg of toxic pollutants and 40,500 kg of conventional pollutants per year from current discharge levels. The estimated capital investment cost of BPT is $470,000 and the estimated annual cost is $228,000. These costs are in 1978 dollars and represent wastewater treatment equipment not currently in place.

We project no closures or unemployment as a result of compliance with these limitations, and price impacts are expected of less than $0.01 per lb. The Agency finds therefore, that the effluent reduction benefits associated with compliance justify these costs.

More stringent options were not selected for BPT because they involve in-process changes or end-of-pipe treatment technologies which are less widely practiced by the industry and, therefore, are more appropriately considered under BAT.

XI. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater quality environmental impacts (including energy requirements) and the costs of applying such technology (Section 304(b) (2)(B) of the Clean Water Act). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where the Agency has found the existing performance to be uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls, even when not in common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of cost. The Agency has considered the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is still effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution.

The Agency has evaluated six major sets of technology options, set out in Section VII, that might be considered BAT level technology. Each of these options would substantially reduce the discharge of toxic pollutants. These options are described in detail in Section X of the General Development Document.

We have considered reverse osmosis for the purpose of achieving zero discharge and activated alumina to reduce concentrations of arsenic and fluoride for BAT in this category. We ultimately rejected these technologies because they are not demonstrated in the nonferrous metals manufacturing category and are not clearly transferable. In addition, these technologies significantly increase the compliance costs, are difficult to operate and do not appear to result in significant pollutant removals.

We also considered dry scrubbing as an in-process modification in BAT. This technology, however, was not sufficiently demonstrated for nonferrous metals manufacturing. There were exceptions; dry scrubbing on kettle smelting, in secondary lead, for example, was so widely demonstrated that we are proposing dry scrubbing as BPT. The emissions from many of the manufacturing processes were found to contain hot particulate matter, acidic fumes. Emissions of this nature would tend to cause operational problems. The materials of construction would also be prohibitively expensive. Finally, we rejected dry scrubbing because the retrofit costs associated with implementation of this technology would also be prohibitively expensive.

As a means of evaluating the economic achievability of each of these options, the Agency developed estimates of the compliance costs. An estimate of capital and annual costs for the six BAT options was prepared for each subcategory as an aid in choosing the best BAT options. All costs are expressed in 1978 dollars.

The cost methodology has been described in detail in Section VIII. For most treatment technologies, standard cost literature sources were used for module capital and annual costs. Data from several sources were combined to yield average or typical costs as a function of flow or other characteristic design parameters. In a small number of modules, the technical literature was reviewed to identify the key design criteria, which were then used as a basis for vendor contacts. The resulting costs for individual pieces of equipment were combined to yield module costs. In either case, the cost data were coupled with flow data from each plant to established system costs for each facility.

Primary Aluminum

The BAT option proposed is flow reduction, lime precipitation, sedimentation, and filtration for control of toxic metals and fluoride; cyanide precipitation and filtration; and activated carbon absorption preliminary treatment for toxic organics removal. Flow reduction—based on recycle of scrubber wastewater and casting contact cooling water—is widely demonstrated within the subcategory, with 17 of 27 dischargers presently practicing some form of recycle. The proposed level of flow reduction from each unit operation is demonstrated within the subcategory. Lime precipitation and sedimentation, likewise, is widely practiced (this technology is in place at 13 plants) and is the technology basis for existing BPT. One primary aluminum plant presently uses filters. Activated carbon and cyanide precipitation technologies are not presently in use in the subcategory, but are transferable from other subcategories or from benchscale data.

The pollutants specifically proposed for regulation under BAT are benzo(a)pyrene, antimony, cyanide, nickel, aluminum and fluoride. These pollutants were selected because they were present in the largest quantities in the raw wastewater.

Implementation of the proposed BAT would remove annually an estimated 1,592,676 kg/yr of toxic pollutants: 471,908 kg/yr of toxic metals, 1,056,728 kg/yr of toxic organics, and 64,040 kg/yr of cyanide from raw wastewater. In addition, it would remove an estimated 8,841,865 kg/yr of nonconventional pollutants. This represents estimated removals of 1,213,584 kg/yr toxic pollutants (including all of the toxic organics removed) and 1,389,551 kg/yr nonconventional pollutants above BPT removal levels. It also represents significant estimated removals over the intermediate BAT option considered but not selected (the same technology but without filtration and activated carbon): 1,062,012 kg/yr of toxic polutants and 295,254 kg/yr of nonconventional pollutants. Filtration thus serves as an important polishing step in proposed BAT.

We believe this technology is economically achievable. The estimated capital cost of proposed BAT is $34.85 million (1978 dollars) and the annualized cost is $18.71 million (1978 dollars). We project no plant closures or unemployment, and reduction in margin of less than $0.25/ton as a result of compliance. The estimated capital cost for achieving the intermediate option is $24.96 million, and $15.63 million annual cost. We also project no significant impacts from achieving this option.

There are several issues regarding where the point of compliance and monitoring should be for this subcategory. Some commenters to a draft version of this proposal suggested that plants would have to reduce toxic pollutants below the detectable limit to meet the mass limitations at the end of pipe (because the same toxic pollutants are not present in every process wastestream and so some dilution occurs when wastestreams are commingled). We do not believe this to be true for any pollutants other than toxic organics. The standards for these other pollutants assume combined treatment of process wastewaters, and the mass limitation is the concentration basis of the technology (always above the analytical detection limit) times the allowable flow from every unit process actually operated at the plant, whether or not the pollutant is present in wastewater from each particular operation. Under this approach, it is not possible for a regulatory mass limitation at an end-of-pipe discharge point to be below the detection limit.

There is a distinct possibility, however, that plants may be able to meet the limits for toxic organics through dilution unless the compliance point is at-the-source, rather than end-of-pipe. Again this is because the organic pollutants are present in wastewater from only certain unit operations, and are present at concentrations that could be reduced below analytical detection levels after commingling with other process wastewaters.

We believe it important that this not occur. The strong policy of the Act is that pollutants be removed, not diluted. In addition, the Agency's Carcinogen Assessment Group has concluded that these pollutants possess substantial evidence of carcinogenicity, and their human health ambient water quality levels are extremely low.

We therefore are proposing to require that the limitations on toxic organics in this subcategory be imposed on the internal waste streams containing these pollutants prior to mixing with other process wastewaters ("at-the-source"). Compliance monitoring also would be applied to these internal waste streams. The Agency may impose such a limitation "where permit effluent limitations . . . imposed at the point of discharge are impractical or infeasible." 40 CFR 122.63(i). This is the case here, as explained above. Indeed, the Agency gave as an example of a situation justifying an upstream effluent limitation, the circumstance "where the wastes at the point of discharge are so diluted as to make monitoring impracticable. . . ." 44 FR at 32909 (June 7, 1979).

We believe this requirement is technically feasible. In fact, the model BAT treatment includes preliminary treatment with activated carbon to reduce concentrations of toxic organics. This technology is applied only to those wastestreams containing these pollutants. When assessing BAT compliance costs, we included the cost of segregating the organic-laden waste streams to allow preliminary treatment and compliance monitoring. A sampling point following the activated carbon pretreatment is the most logical choice to ensure compliance. Plants that do not have any of the five process waste streams (potline, potroom, anode bake plant, and anode paste plant scrubbing or cathode reprocessing) containing the toxic organics would not need to comply with this requirement; in fact, under the building block approach, their permits would not contain limitations for toxic organics unless discharged from another source within the plant. We solicit comments on this approach.

As an alternative, plants may segregate those waste streams containing toxic organics and treat and discharge them separately or choose to treat all wastewaters with carbon following central treatment for other pollutants. These alternatives are far more costly than upstream preliminary treatment and monitoring, however, and we do not expect that plants will pursue them.

Two of the technologies in the proposed BAT treatment train—carbon adsorption and cyanide precipitation—are being transferred to the primary aluminum subcategory because existing treatment does not effectively remove toxic organic pollutants and cyanide.

Carbon adsorption pretreatment is directed at better control of discharges from wet air emission scrubbing associated with anode paste plants, anode bake plants, potlines and potrooms, as well as from cathode reprocessing operations. (As an alternative method of controlling these discharges, a plant could install a dry alumina air scrubber of institute 100 percent recycle of wet scrubbing discharges.) The discharges contain large amounts of toxic organics (polynuclear aromatic hydrocarbons) that do not appear to be effectively removed by existing treatment in the subcategory. Activated carbon technology is a demonstrated control technology for polynuclear aromatic hydrocarbons in the iron and steel cokemaking subcategory. In addition, adsorption is demonstrated in bench-scale studies on POTW wastewater spiked with polynuclear aromatic hydrocarbons (Petrasck, A.C., Kugelman, I.J., Austern, B.M., Pressley, T.A., Winslow, L.A. and R.A. Wise, Fate of Toxic Organic Compounds in Wastewater Treatment Plants, Unpublished, December, 1981).

We are proposing an achievable concentration of 10 ug/1 of benzo(a)pyrene, the level from the bench-scale study. Although we promulgated a somewhat higher achieveable concentration (50 ug/1) in the iron and steel category, we believe the 10 yg/1 limitation is more appropriate for primary aluminum wastewaters because concentrations of phenols, and oil and grease in the iron and steel raw wastewaters are an order of magnitude higher than the primary aluminum raw matrix and these pollutants would interfere with organics removal. We solicit comment on the appropriate achievable concentration level.

We also solicit comment as to the possibility of incidental removal of polynuclear aromatic hydrocarbon by lime precipitation and sedimentation, with and without polishing filtration. These toxicants have low solubilities, suggesting the possibility of incidental removal. Our sampling data, however, fail to demonstrate that incidental removal is occurring.

The second transferred technology—cyanide precipitation—is directed at control of free and complexed cyanides in waste streams within the primary aluminum subcategory that result from use of coke and pitch in the electrolytic reduction process. These waste streams collectively discharge approximately 121,000 Kg/yr of cyanide. The achievable concentration level is transferred from three well-operated coil coating plants. The Agency believes this technology, and the achievable concentration limits, are transferable to the primary aluminum subcategory because raw wastwater cyanide concentrations (prior to dilution with waste streams without cyanide) are of the same order of magnitude in both categories. Further, no pollutants were identified in primary aluminum wastewater that would interfere with the operation or performance of this technology. (We also note that the limit for cyanide in the proposed regulation reflects further removals from filtration following cyanide precipitation preliminary treatment. For the derivations of these limitations, see Chapter VII of the General Development Document.)

Secondary Aluminum

We are proposing to amend existing effluent limitations guidelines for the secondary aluminum subcategory. The promulgated BAT prohibits the discharge of process wastewater. However, new information has become available to the Agency that supports the need for discharge of wastewater from chlorine demagging, an operation considered and included in the promulgated zero discharge regulation. Three dry processes existed at the time of promulgation: The Durham process, the Alcoa process, and the Teller process. The Agency believed that each of these processes were sufficiently well demonstrated to be installed and become operational by 1984, the compliance date for BAT. Consequently, we found no justification for a discharge allowance associated with this waste stream. Our new information shows that the technologies are not sufficiently demonstrated nor are they applicable to plants on a nationwide basis. For this reason, we are modifying the promulgated BAT. The proposed BAT is based on the use of wet scrubbing on chlorine demagging operations.

Information also has become available to the Agency that supports the need for discharge of wastewater from direct chill casting, an operation neither considered nor included in the promulgated BAT regulation. Direct chill casting is a relatively new process and companies have been installing this technology into their plants over the past five years. We have considered the process as a part of this rulemaking and are proposing effluent limitations that allow a discharge.

The technology basis for BAT is also modified. We are proposing lime precipitation, sedimentation and filtration, along with ammonia steam stripping preliminary treatment as the technological basis for BAT. Lime precipitation and sedimentation, and ammonia steam stripping are demonstrated technologies in this subcategory. The proposed limitations are based on achievable concentrations from two porcelain enameling plants and one nonferrous metals plant and variability factors from the combined data base (see Section IX above), and (for ammonia) achievable concentrations transferred from the iron and steel category.

The pollutants specifically proposed for regulation under BAT are lead, zinc, aluminum and ammonia. Estimated removals by the proposed BAT treatment technology are 903 kg/yr of toxic pollutants and 541 kg/yr of nonconventional pollutants from raw wastewater, and 17 kg/yr of toxic pollutants and 46 kg/yr of nonconventional pollutants over estimated BPT discharge. Our proposed BAT is economically achievable. The estimated capital cost of achieving BAT is $1.6 million and the estimated annualized cost is $1.35 million. We also project no plant closures or unemployment. Price changes are not expected to exceed 0.01 $/ton of aluminum product, as a result with this option. Since filtration removes additional toxic and nonconventional pollutants, and is economically achievable, we are including it as part of proposed BAT. Filtration also adds to the treatment system reliability by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

We also are modifying the technology basis for regulating ammonia in this subcategory, as well as the achievable concentrations for ammonia removal. The technology basis for the control of ammonia under existing BPT is pH adjustment of the intake water. We are modifying BAT to include steam stripping to reduce ammonia concentrations. Air stripping is an effective technology for reducing ammonia concentrations; however, the Agency is reluctant to retain limitations and standards based on the use of air stripping because we believe that this technology reduces ammonium concentrations by simply transferring pollutants from one media (water) to another (air). Steam stripping reduces ammonia concentrations by stripping the ammonia from the wastewater with steam. The ammonia is concentrated in the steam phase and may be condensed, collected, and sold as a by-product or disposed of offsite.

Primary Copper Smelting

We are proposing to amend promulgated BAT in this subcategory to conform BAT to promulgated BPT. As discussed in Section III above, promulgated BPT is zero discharge, subject to an unlimited discharge allowance for stormwater from a 10-year, 24-hour storm falling on a cooling impoundment. Promulgated BAT includes this 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 proposing to eliminated this later allowance, for the same reasons we eliminated it at BPT. See 45 Fed. Reg. 44926, July 2, 1980, and Section VIII above. There are no costs associated with this proposal since the discharge allowance already is eliminated at BPT.

Primary Electrolytic Copper Refining

EPA is proposing alternative BAT effluent mass limitations for the primary electrolytic copper refining subcategory. Alternative A is based on the existing BPT—lime precipitation and sedimentation—with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of spent electrolyte, anode rinse water and casting contact cooling water, and is demonstrated in the subcategory for each of these unit operations. One of the four direct discharging plants in the primary electrolytic copper refining subcategory currently practices filtration of wastewater.

The pollutants specifically limited under BAT are copper, lead and nickel; the three toxic metals present in the largest quantities in primary electrolytic copper refining raw wastewaters. Alternative A would remove an estimated 2,691 kg of toxic metals over the estimated BPT discharge. The estimated capital cost for achieving this option is $0.328 million, and the estimated annualized costs is $0.239 million.

Application of the proposed BAT Alternative B would remove annually an estimated 52,507 kg of toxic metals. This proposed alternative will result in the removal of an estimated 2,864 kg of toxic metals above the estimated BPT discharge level. The estimated capital investment cost of this proposed BAT is $0.487 million and the estimated annualized cost is $0.290 million. We project no plant closures or unemployment. Price changes of less than 0.05 percent are expected as a result of compliance.

As stated on more detail in Section XVIII, below, we are concerned that this subcategory is presently undergoing adverse structural economic changes that may affect its ability to achieve economically the limitations based upon filtration. At the same time, filtration is demonstrated in the subcategory, removes additional toxic pollutants, and appears economically achievable based on our existing economic impact analyses. Because these recent economic changes may not be fully reflected in our analyses, however, and in order to receive the most responsive type of public comment, we are proposing alternative BAT limitations for this subcategory.

Secondary Copper

We are proposing to amend promulgated BAT in this subcategory to eliminate the discharge allowance for net precipitation on impoundments. See Section VIII above. There is no significant cost associated with this amendment, since we considered costs of achieving this change—namely costs for cooling towers—when promulgating BPT in 1975. See 40 FR 8517 (February 27 1975). The installation of cooling towers eliminates the need for cooling ponds used by some plants in this subcategory, and, therefore, the need for an allowance for net precipitation on those ponds.

Primary Lead

We are proposing to amend existing BAT for this subcategory. The amended BAT is based on lime precipitation, sedimentation, and filtration, along with in-process flow reduction. As discussed in the section on BPT for this subcategory, we have included a flow allowance to prevent the accumulation of solids in slag granulation water circuits. Since the only direct discharger in the subcategory has this technology presently in place, the technology is clearly demonstrated and economically achievable. The pollutants specifically limited are lead and zinc. These were found in the greatest quantities in the raw wastewater.

Primary Zinc

We are proposing to amend the existing BAT regulation in this subcategory. Amended BAT would be based on BPT (lime precipitation and sedimentation) with additional reduction in pollutant discharge achieved through inprocess wastewater flow reduction and the use of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of casting scrubber water and casting contact cooling water. Filtration is currently in place at two of the five direct discharging plants in the primary zinc subcategory.

The pollutants specifically limited under BAT are cadmium, copper, lead, and zinc. These toxic metals are present in the largest quantities in raw wastewater.

Application of the proposed BAT effluent mass limitations will result in the removal of an estimated 5,390 kg/yr of toxic pollutants above the estimated BPT discharge rate. The estimated capital investment cost of the proposed BAT is $2.57 million and the estimated annualized cost is $1.63 million. The intermediate BAT option, lime precipitation and sedimentation and flow reduction, would remove 1,798 kg/yr of toxic pollutants above the estimated BPT removal rate. Costs of this intermediate option are $0.228 million (capital cost) and $0.047 million (annual cost).

Either option appears to be economically achievable. We project no plant closures or unemployment and reduction in margin of $1 to $1.38 million per year from the intermediate and proposed options.

We are proposing the filtration option because it is demonstrated in the subcategory and results in removal of 3,590 kg/yr of toxic pollutants above the intermediate option.

Metallurgical Acid Plants

The Agency is proposing BAT effluent mass limitations for metallurgical acid plants based on BPT 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 increased recycle of acid plant scrubber liquor and is demonstrated by existing acid plants associated with all three of the primary metal types. Filtration is currently demonstrated at three of the eight direct discharging plants in the metallurgical acid plants subcategory.

The pollutants specifically limited under BAT are arsenic, cadmium, copper, lead, and zinc, the toxic metals are present in the largest quantities in acid plant raw wastewaters.

Application of the proposed BAT mass limitations will result in the removal of 2,919 kg of toxic pollutants per year above estimated current discharge rates. The estimated capital investment cost of proposed BAT is

$3.55 million and the annualized cost is $2.18 million.

We considered as an intermediate option the proposed BAT option without filters. This option removes an estimated 1,168 kg/yr of toxic pollutants above estimated current discharge levels. The estimated capital cost of this option is $1.42 million and the annualized cost is $0.93 million.

We are proposing filtration as part of BAT because this technology is demonstrated in the subcategory, results in removal of an additional 1,751 kg/yr of toxic pollutants over the intermediate option, and is economically achievable. We project no plant closures or unemployment resulting from compliance with either the intermediate and proposed option. In addition, filtration adds reliablity to the treatment system by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

Primary Tungsten

Our proposed BAT limitations for this subcategory are based on the BPT technology (lime precipitation and sedimentation), in-process wastewater reduction, and filtration. Flow reductions are based on 90 percent recycle of scrubber effluent, a rate surpassed by three of the eight existing plants. Filters also are presently utilized by three plants in the subcategory.

The pollutants specifically limited under BAT are lead, selenium, zinc and ammonia. These pollutants were selected because they were present in the largest quantities in the raw wastewater.

Implementation of the proposed BAT limitations would remove annually an estimated 3,689 kg of toxic metals from raw wastewater which is 139 kg of toxic metals over the current discharge. Since both discharging plants have filtration in place, these removals are solely a result of the flow reduction measures proposed. No additional ammonia is removed at BAT, nor are any toxic organics removed. The proposed BAT represents a 22 percent incremental toxics removal over BPT, and 89 percent total toxics removal from raw waste. Estimated capital cost for achieving proposed BAT is $.447 million, and annualized cost is $.193 million.

We believe both the proposed BAT economically achievable. We project no plant closures or unemployment, and prices are expected to change by only 1.5 cents per pound of tungsten produced.

Primary Columbium-Tantalum

For BAT, EPA is proposing mass limitations based on BPT (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. Wastewater flow reduction is based on increased recycle of scrubber liquors associated with three sources: concentrate digestion scrubber, solvent extraction scrubber, and metal salt drying scrubber. Filtration is currently in place at one of the three direct discharging plants in the primary columbium-tantalum subcategory. These flow reductions are demonstrated in the subcategory for each of these unit operations.

The pollutants specifically limited under BAT are lead, zinc, ammonia and flouride. These pollutants were present in the largest quantities in columbium-tantalum raw wastewater.

Application of the proposed BAT would remove 145,735 kg of toxic metals and 1,286,679 kg of nonconventionals annually. The proposed BAT will result in the removal of 285 kg/yr of toxic pollutants and 2,424 kg/yr of nonconventionals over the estimated BPT discharge. The estimated capital investment cost of BAT is $797,000 and the estimated annual cost is $396,000.

We considered as an intermediate option, the proposed BAT option without filtration. This option removes 156 kg/yr of toxic pollutants, and 785 kg/yr of nonconventionals over estimated BPT discharge, at estimated capital cost of $0.086 million and annual cost of $0.013 million. We rejected this option because filtration removes additional pollutants (an estimated 129 kg/yr of toxic pollutants and 1,575 kg/yr of fluoride) and appears to be economically achievable. We project no closures or unemployment, and reduction in margin of less than $0.31/lb. Filtration is also demonstrated in the subcategory. In addition, filtration adds reliability to the treatment system by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

Secondary Silver

For BAT, EPA is proposing alternative effluent mass limitations for the secondary silver subcategory. Alternative A is based in BPT (lime precipitation and sedimentation and ammonia steam stripping) with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of leaching scrubber water, furnace scrubber water and casting contact cooling water. Flow reduction is demonstrated for each of these unit operations in the subcategory. Filtration is currently in place at one of the four direct discharging plants in the secondary silver subcategory, and all four of the plants practice some form of flow reduction.

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.

Alternative A would remove an estimated 54 kg of toxic metals over the estimated BPT discharge. The estimated capital cost for achieving this option is $0.184 million; the annualized cost is $0.278 million.

Application of the proposed BAT Alternative B would remove 27,163 kg of toxic metals and 578,429 kg of ammonia annually. This proposed alternative will result in the removal of 92 kg of toxic pollutants per year above the estimated BPT discharge. The estimated capital investment cost of the proposed BAT is $0.206 million and the annualized cost is $0.345 million.

As stated in moree detail in Section XVIII, below, we are concerned that this subcategory may be undergoing structural economic changes not anticipated in our analysis, and that our economic analysis does not adequately reflect ability of the tolling segment of the industry to achieve economically proposed limitations based upon filtration. Filtration is, however, demonstrated in the subcategory, removes additional toxic pollutants, and appears economically achievable based on our existing economic analysis. Because of our uncertainty, and in order to receive the most responsive type of public comment, we are proposing alternative BAT limitations for this subcategory.

As discussed in Section X, BPT, we are considering limitation of cyanide (under either of the alternatives) based on cyanide precipitation technology. Although our plant sampling data do not show that cyanide is present in treatable concentrations, our analysis of the processes used to recover silver from spent plating solutions indicates that cyanide could be present at concentrations higher than we found in the sampled plants. We are soliciting other raw wastewater data to

demonstrate whether our existing data base is representative. In the event that we do receive data showing that cyanide is present in treatable concentrations, the selection of end-of-pipe filtration takes on greater environmental significance. Our data show that filtration would result in an additional 33 percent reduction beyond that achieved by cyanide precipitation (see Section VII of the General Development Document).

Secondary Lead

For BAT, EPA is proposing alternative effluent mass limitations for the secondary lead subcategory. Alternative A is based on BPT (lime precipitation and sedimentation) with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction. Wastewater flow reduction is based on increased recycle of smelter scrubber water and cating contact cooling water, and reducing the amount of water used for battery cracking. These flow reductions are all demonstrated in the subcategory. Alternative B is based on Alternative A plus filtration. Filtration is currently in place at two of the seven direct discharging plants in the secondary lead subcategory,

As stated in more detail in Section XVIII below, we are concerned that this subcategory is presently undergoing adverse structural exconomic changes that may affect its ability to achieve economically the limitations based upon filtration. At the same time, filtration is widely demonstrated in the subcategory, removes additional toxic pollutants, and appears economically achievable based on our existing economic analyses. Because these recent economic changes may not be fully reflected in our analyses, however, and in order to receive the most responsive public comment, we are proposing alternative BAT limitations for this subcategory.

The pollutants specifically limited under BAT are antimony, arsenic, lead, and zinc. These pollutants were selected since they were present in the largest quantities in raw wastewater. These flow reductions are all demonstrated in the subcategory. We are proposing that there shall be no discharge of ammonia from secondary lead plants because the only source generating ammonia, kettle smelting, is not given a regulatory flow allowance (see Section X–BPT). Alternative A would remove an estimated 118 kg of toxic metals over the estimated BPT discharge. The estimated capital cost for this option is $0.470 million; the annualized cost is $0.228 million.

Implementation of Alternative B would remove 14,602 kg of toxic metals and 495 kg of ammonia annually from raw wastewaters. Alternative B effluent mass limitations will result in the removal of 250 kg of toxic pollutants above the estimated BPT discharge. The estimated capital investment cost of Alternative B is $2.12 million and the estimated annual cost is $1.36 million.

XII. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design and use the best and most efficient nonferrous metals manufacturing processes and wastewater treatment technologies, without facing the added costs and restrictions encountered in retrofitting an existing plant. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible.

The Agency has considered six major sets of technology options which might be applied at the BDT level discussed in Section XII. Each of these options would substantially reduce the discharge of toxic pollutnats. These options are described in detail in Section X of the General Development Document. The option selected for each subcategory and the underlying rationale are presented below.

Primary Aluminum

We are proposing NSPS that are based on BAT plus additional flow reduction. This flow reduction can be achieved by the use of dry air pollution scrubbing on potlines, anode bake plants, and anode paste plants and elimination of potroom and degassing scrubber discharges. Potroom scrubbing discharges are eliminated by design of efficient potline scrubbing (eliminating potroom scrubbing completely) or 100 percent recycle (with blowdown recycled to casting). Degassing scrubbers are limited by replacing chlorine degassing with inert gases.

These flow reductions are demonstrated at existing plants, but are not included in BAT because they might involve substantial retrofit costs at other existing plants. However, new plants can include these reductions in plant design at no significant additional cost. Dry scrubbing also prevents the contamination of scrubbing discharges with toxic organics, eliminating the need for activated carbon pretreatment included in the proposed BAT to control these toxic organics except for plants discharging wastewater from cathode reprocessing.

The Agency does not believe that the proposed NSPS will provide a barrier to entry for new facilities. In fact, installation of dry scrubbing instead of wet scrubbing in new facilities reduces the cost of end-or-pipe treatment by reducing the overall volume of wastewater discharged and eliminates the need for activated carbon pretreatment proposed for BAT except for process wastewater from cathode reprocessing.

Secondary Aluminum

EPA promulgated NSPS for the secondary aluminum subcategory on April 8, 1974 as part of Subpart C of 40 CFR Part 421. The promulgated NSPS prohibits the discharge of process wastewater except for an allowance, if determined to be necessary, which allows the discharge of process wastewater from chlorine demagging. In this respect, promulgated NSPS was less stringent than promulgated BAT. The Agency did this recognizing that NSPS became effective on the date of promulgation and we did not believe that the dry chlorine demagging processes were appropriate for BAT with its compliance date being 10 years later.

We now are proposing to modify the promulgated NSPS to allow for a discharge from chlorine demagging and direct chill casting. The discharge allowances are identical to those proposed for BAT. The technology basis is also identical to that of the proposed BAT: lime precipitation, sedimentation and filtration.

Reverse osmisis, as noted above, is not demonstrated and is not clearly transferable to nonferrous metals manufacturing wastewater. The Agency also does not believe that new plants could achieve and additional flow reduction for chlorine demagging and direct chill casting beyond that proposed for BAT.

Primary Copper Smelting

EPA is proposing that NSPS for the primary copper smelting subcategory be zero discharge. It is our view that new smelting facilities can be constructed using cooling towers to cool and recirculate casting contact cooling water and slag granulation wastewater instead of large volume cooling impoundments. This technology is also in place in this subcategory. Thus, this proposal eliminates the allowance for the catastrophic precipitation discharge allowed at BAT. The costs associated

with construction and operation of a cooling tower system are not significantly greater than those for cooling impoundments and as such, the Agency does not believe that the proposed NSPS will constitute a barrier for entry of new facilities.

Primary Electrolytic Copper Refining

EPA is proposing NSPS for this subcategory equal to BAT with filtration. Review of the industry indicates that no additional demonstrated technologies exist that improve on this BAT technology. Reverse osmosis, as noted above, is not demonstrated and is not clearly transferable to nonferrous metals manufacturing wastewater. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Secondary Copper

EPA is proposing that NSPS for the secondary copper subcategory be equal to zero discharge. We thus are eliminating the allowance for catastrophic stormwater discharge provided at BAT. It is our belief that new sources can be constructed with cooling towers exclusively, and that the cost of cooling towers instead of cooling impoundments, is minimal. Some existing plants use cooling towers rather than cooling impoundments. Therefore, we believe that NSPS, as defined, does not constitute a barrier to entry for new plants.

Primary Lead

We are proposing NSPS that prohibits the discharge of all process wastewater from primary lead smelting.
Zero discharge can be achieved by the complete recycle and reuse of slag granulation wastewater or through slag dumping. Elimination of discharge from slag granulation is demonstrated in six of the seven existing plants, but it is not included at BAT because it would involve substantial retrofit costs for the one existing discharger (installation of a modified sintering machine—see the discussion of BPT and BAT for this subcategory). New plants can include elimination of the discharge from the slag granulation process in the plant design at no significant additional cost. Therefore, we believe NSPS does not present any barrier to entry for new plants.

Primary Zinc

EPA is proposing that NSPS for the primary zinc subcategory be equal to BAT. Review of the industry indicates that no new demonstrated technologies exist that improve on BAT technology. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from zinc reduction furnaces, leaching and product casting. The nature of these emissions (acidic fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance from this source at NSPS equivalent to that proposed for BAT. We do not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Metallurgical Acid Plants

EPA is proposing that NSPS for the metallurgical acid plants subcategory be equal to BAT. Review of the industry indicates that no new demonstrated technologies exist that improve on BAT technology. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Primary Tungsten

We are proposing that NSPS be equal to BAT. Our review of the industry indicates that no new demonstrated technologies that improve on BAT technology exist. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from acid leaching, APT conversion to oxides and tungsten reduction furnaces. The nature of these emissions (acid fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance from this source at NSPS equivalent to that proposed for BAT. We also do not believe that new plants could achieve any additional flow reduction beyond the 90 percent scrubber effluent recycle proposed for BAT.

Primary Columbium-Tantalum

EPA is proposing that NSPS for the primary columbium-tantalum subcategory be equal to BAT. Review of the industry indicates that no new demonstrated technologies that improve on BAT technology exist. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from concentration digestion, metal salt drying and salt to metal reduction. The nature of these emissions (acidic fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance for these sources at NSPS equivalent to that proposed for BAT. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Secondary Silver

EPA is proposing that NSPS for the secondary silver subcategory be equal to BAT with filtration. Review of the industry that no new demonstrated technologies that improve on this BAT technology exist. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from film stripping, precipitation and filtration of film stripping solutions, precipitation and filtration of photographic solutions, reduction furnaces, leaching and precipitation and filtration. The nature of these emissions (acidic fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance for these sources at NSPS equivalent to that proposed for BAT. The Agency does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Secondary Lead

EPA is proposing that NSPS for the secondary lead subcategory be equal to BAT with filtration. Review of the industry indicates that no new demonstrated technologies that improve on this BAT technology exist. Reverse osmosis as noted above is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is demonstrated for controlling emissions from Kettle smelting. In fact, it is applied so widely throughout this subcategory that we selected dry scrubbing as the best practicable control technology currently available for kettle smelting. Dry scrubbing, however, is not demonstrated for controlling emissions from blast and reverberatory furnaces, and the nature of these emissions (hot particulate matter) precluded the use of dry

scrubbing. Therefore, we are including an allowance for these sources at NSPS equivalent to that proposed for BAT. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

XIII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES) to prevent the discharge to pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTW. These standards must be achieved within three years of promulgation. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology based, generally analogous to BAT for direct dischargers. (Conference Report 95–830 at 87; *Reprinted in* Comm. on Environmental and Public Works, 95th Cong. 2d Sess., *A Legislative History of the Clean Water Act of 1977*, Vol. 3 at 272.)

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through the POTW or interfere with the POTW operation or its chosen sludge disposal practices. In determining whether pollutants pass through, the Agency compares the percentage of a pollutant removed by a well-operated POTW achieving secondary treatment with the percentage removed by 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).)

This definition of pass through satisfies two competing objectives set by Congress: (1) That standards for indirect dischargers be equivalent to standards for direct dischargers, while at the same time, (2) that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers.

The Agency compares percentage removal rather than the mass or concentration of pollutants discharged because the latter would not take into account the mass of pollutants discharged to the POTW from non-industrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations due to the addition of large amounts of non-industrial wastewater.

There were no data concerning POTW removals for arsenic, antimony and selenium to compare with our estimates of in-plant treatment. We have assumed that these toxic metals pass through a POTW because they are soluble in water and are not degradable in this proposed regulation; however, we formally solicit comments and data on whether these pollutants do pass through POTW and on actual POTW removal performance.

As explained in Section IX previously, EPA is proposing mass-based PSES for five of seven subcategories to ensure that the effluent reduction achieved by the flow reduction is realized. An explanation of our decision to include alternative concentration standards is described below for each subcategory.

We have considered and rejected reverse osmosis and activated alumina technology for PSES in this subcategory. Reverse osmosis and activated alumina are not demonstrated in the nonferrous metals manufacturing category and are not clearly transferable. In addition, these technologies significantly increase the costs, are difficult to operate and do not appear to result in significant pollutant removals.

Primary Aluminum Smelting

We are not proposing pretreatment standards for existing sources for the primary aluminum smelting subcategory since there are no existing indirect dischargers.

Secondary Aluminum

We are proposing PSES equal to BAT for this subcategory. (In doing so, we are proposing to amend existing PSES.) It is necessary to propose PSES to prevent pass through of lead, zinc and ammonia. These toxic pollutants are removed by well-operated POTW on an average of 53 percent (lead—40 percent and zinc—65 percent), while BAT technology removes approximately 95 percent. 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. Depending on the size of the POTW and the volume of and pretreatment provided for these wastewaters, operating problems may not be experienced at the POTW because of dilution. Nonetheless, the ammonia discharged to the POTW will pass through untreated.

The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in our discussion of BAT. Flow reduction is based on the same zero discharge of scrubber effluent for scrap drying wet air pollution control which is equivalent to the flow basis of BAT. Only one indirect discharger uses a wet system to control air emissions from scrap drying, and it does not practice any recycle for this system. Ammonia steam stripping and lime precipitation and sedimentation, and filter technologies are presently demonstrated in the subcategory.

Existing PSES is based on oil skimming, ammonia air stripping, and pH control. We previously selected oil and grease for control under PSES since it was detected in casting contact cooling water at concentrations in excess of 100 mg/l. Oil and grease concentrations of 100 mg/l are known to cause interference to the POTW operation. However, we are not controlling either oil and grease or pH because these conventional pollutants are normally compatible with POTW operation. Individual POTW's may control these pollutants under authority of 40 CFR Part 403 when necessary to prevent site-specific problems.

We are proposing ammonia steam stripping instead of ammonia air stripping (see Section XI under Secondary Aluminum). As we stated above, we regard steam stripping as the superior type of technology because it does not transfer a pollutant from one media to another.

Implementation of the proposed PSES limitations would remove annually an estimated 1,214 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 1,214 kg of toxic pollutants. Capital cost for achieving proposed PSES is $2.4 million, and an annual cost of $1.6 million. No closures or unemployment are projected as a result of compliance, and price impacts are projected to be less than $.01/ton. The proposed PSES consequently appears to be economically achievable.

The intermediate option we considered for PSES is BAT equivalent technology without filters. This option removes an estimated 1,185.9 kg of toxic pollutants over estimated current discharge. We estimate that the capital cost of this technology is $2.2 million, and an annual cost of $1.5 million.

The Agency is proposing alternative concentration-based standards in this subcategory for the reasons discussed in Section IX B above.

Primary Copper Smelting

We are not proposing 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 proposing pretreatment standards for existing sources for the primary electrolytic copper refining subcategory since there are no existing indirect dischargers.

Secondary Copper

EPA promulgated PSES for the secondary copper subcategory on December 15, 1976 (41 FR 48650). The promulgated PSES allows a continuous discharge of process wastewater subject to specific limitations based on treatment with lime precipitation and sedimentation. Proposed BAT (and promulgated BPT) for this subcategory is also based on lime precipitation and sedimentation, with cooling towers and holding tanks to achieve no discharge of process wastewater. The proposed PSES will prevent pass through of copper, chromium, lead, nickel and zinc. We therefore are proposing to modify PSES to make it equivalent to BAT. Implementation of the proposed PSES would remove annually an estimated 4,837 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 4,837 kg of toxic pollutants.

It is our belief that the costs associated with installaton and operation of cooling towers and holding tanks for indirect dischargers will be insignificant. In addition, costs for cooling towers and holding tanks were considered during the 1976 PSES rulemaking. At that time we concluded that the additional cost was not significant.

Primary Lead

We are not proposing pretreatment standards for existing sources for the primary lead subcategory since there are no existing indirect dischargers.

Primary Zinc

We are not proposing pretreatment standards for existing sources for the primary zinc subcategory since there are no existing indirect dischargers.

Metallurgical Acid Plants

We are not proposing PSES for metallurgical acid plants. There is only one existing indirect discharger, and its estimated current mass discharge is less than the level that would be achieved by indirect dischargers with BAT-equivalent technology (lime precipitation and sedimentation, flow reduction, and filtration). Consequently, we believe that the amount of pollutants discharged by this plant are too insignificant to justify developing PSES, within the meaning of paragraph 8(b)(ii) of the Settlement Agreement.

Primary Tungsten

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of lead, selenium, zinc and ammonia. These toxic pollutants are removed by a well-operated POTW at an average of 40 percent (lead—40 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 98 percent.

The technology basis for PSES thus is lime precipition and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in the discussion of BPT and BAT for this subcategory. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT. This flow rate is achieved by one of the three indirect dischargers in the subcategory, and filters are demonstrated at one indirect discharger.

Implementation of the proposed PSES limitations would remove annually an estimated 130 kg of toxic pollutants over estimated current discharge, and an estimated 79,500 kg of ammonia. Removals over estimated raw discharge are approximately 4,075 kg of toxic pollutants and 79,530 kg of ammonia. Capital cost for achieving proposed PSES is $.333 million, and annual cost of $.329 million. We project no closures, unemployment or price impacts as a result of complying with this standard.

The intermediate option we considered for PSES is BAT equivalent technology without filters. This option removes an estimated 77 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $.572 million, and annual cost $.222 million.

We are proposing filtration and recycle as part of PSES in order to avoid pass-through. In addition, filtration is demonstrated in the subcategory (including one of three indirect dischargers), and will not result in adverse economic impacts.

Primary Columbium-Tantalum

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of lead, zinc and ammonia. These toxic pollutants are removed by well operated POTW at an average of 52 percent (fluoride—100 percent, lead—40 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 99 percent.

The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in our discussion of BPT and BAT for this subcategory. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT. This flow rate is achieved by both indirect dischargers in the subcategory, and filters are demonstrated at direct dischargers in this subcategory.

Implementation of the proposed PSES limitations would remove annually an estimated 1,601 kg of toxic pollutants over estimated current discharge, and an estimated 185,600 kg of ammonia. Removals over estimated raw discharge are approximately 64,890 kg of toxic pollutants and 8,808 kg of ammonia. Capital cost for achieving proposed PSES is $2.47 million, and annual cost of $1.41 million. We project no closures or unemployment and price increases of less than $0.20/lb resulting from compliance.

The intermediate option we considered for PSES is BAT equivalent technology without filters. This option removes an estimated 1,513 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $2.19 million, and annual cost $1.35 million.

Secondary Silver

We are proposing alternative PSES equal to proposed BAT with and without polishing filtration for this subcategory for the reasons explained in our discussion of BAT for this subcategory. PSES prevents pass-through of copper, zinc and ammonia. These toxic pollutants are removed in a well-operated POTW on an average of 49 percent (copper—58 percent, and zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 99 percent.

The technology basis for PSES Alternative A is ammonia steam stripping lime precipitation and sedimentation, preceded by wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of end-of-pipe polishing filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data. Flow reduction is based on 99 percent recycle of scrubber effluent and 90 percent recycle of contact cooling water that is used as the flow basis of BAT. These flow rates are achieved by 11 of the 17 indirect dischargers in the subcategory, and filters are demonstrated at two indirect dischargers.

Alternative A removes an estimated 1,500 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $1.03 million, and annual cost $.958 million.

Implementation of the proposed PSES Alternative B would remove annually an estimated 1,561 kg of toxic pollutants over estimated current discharge, and an estimated 149,300 kg of ammonia. Removals over estimated raw discharge are approximately 9,792 kg of toxic pollutants and 149,300 kg of ammonia. Capital cost for achieving proposed PSES Alternative B is $1.14 million, with an annual cost of $1.07 million.

We project two closures as a result of complying with Alternative A and an additional closure with Alternative B. We have considered and rejected the idea of tailoring the regulation to modify pretreatment standards for plants this size and smaller. Our reasons are given in Section XVIII below, in our detailed discussion of economic achievability.

Secondary Lead

We are proposing alternative PSES equal to proposed BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of antimony, arsenic, lead, and zinc. These toxic pollutants are removed by well-operated POTW at an average of 48 percent (lead—40 percent, and zinc—65 percent), while BAT technology removes approximately 99 percent.

The technology basis for PSES Alternative A is lime precipitation and sedimentation preceded by wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of end-of-pipe polishing filtration. Flow reduction is based on 90 percent recycle of scrubber effluent and casting contact cooling water that is the flow basis of BAT. This flow rate is achieved by two of the 16 indirect dischargers in the subcategory, and filters are demonstrated at five dischargers.

PSES Alternative A, is BAT equivalent technology without filters and this option removes an estimated 2,470 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $1.49 million, with annual cost $0.56 million.

Implementation of the proposed Alternative B PSES would remove annually an estimated 2,625 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 17,290 kg of toxic pollutants. Capital cost for achieving proposed PSES Alternative B is $3.04 million, with an annual cost of $1.94 million.

XIV. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers will produce wastes having the same pass through problems as described for existing dischargers. In selecting the technology basis for PSNS, the Agency compares the toxic pollutant removal achieved by a well-operated POTW to that achieved by a direct discharger meeting NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

We are proposing only mass-based PSNS for all subcategories to assure that the identified flow reduction technologies are considered in new plant designs. (See discussion in Section IX).

Primary Aluminum

The technology basis for proposed PSNS is identical to NSPS. We are proposing limitations for antimony, cyanide and nickel 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. The removal of antimony has not been established. Since the pollutant is not degraded and is soluble in water, we are assuming pass-through. We solicit comment on the pass-through of antimony in POTW's.

Aluminum is not limited because in its hydroxide form is used by POTW as a flocculant aid in the settling and removal of suspended solids. As such, aluminum in limited quantities does not pass through or interfere with POTW; rather it is a necessary aid to its operation. Reverse osmosis, the only techology available to further reduce flow, is neither demonstrated nor clearly transferable to nonferrous metal manufacturing wastewaters. Because PSNS does not increase costs compared to PSES or BAT, we do not believe that PSNS will prevent entry of new plants.

Secondary Aluminum

The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass-through as at PSES, for the same reasons. We 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. (See Section XIII of the Secondary Aluminum Supplement.)

Primary Copper Smelting

The technology basis for proposed PSNS is identical to NSPS (and BAT), which is zero discharge of all process wastewater pollutants, with no allowance for catastrophic stormwater discharge. New indirect dischargers will be constructed with cooling towers, not cooling impoundments, since they will be located near POTWs, suggesting that they will be near heavily populated areas where land is scarce making the cost of acquiring land to install an impoundment relatively high. Thus, 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.

Primary Copper Electrolytic Refining

The technology basis for proposed PSNS is identical to 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. This discharge is minimized through the use of 90 percent recycle in a cooling tower circuit. No additional flow reduction for new sources is feasible in our view, because the only other available flow reduction technology, reverse osmosis, is not demonstrated or clearly transferable for this subcategory. (See Section XII of the Primary Copper Electrolytic Refining Supplement.) PSNS prevents the pass-through of copper, lead, nickel, and zinc, which are the regulated pollutants. A well operated POTW will only remove

these pollutants at an average of 57 percent (copper—58 percent, lead—48 percent, and zinc—65 percent). Because PSNS does not increase costs compared to NSPS, we do not believe PSNS will prevent the entry of new plants.

Secondary Copper

The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT, which is zero discharge of all process wastewater (including no allowance for catastrophic stormwater discharges). 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 proposed PSNS is identical to NSPS. We know of no demonstrated technology that provides better pollutant removal than BAT technology, because all process wastewater discharge is eliminated at PSNS. (See Section XII of the Primary Lead Supplement.) PSNS prevents the pass-through of lead and zinc. As explained in NSPS, the elimination of all wastewater discharges 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 proposed PSNS is identical to NSPS and BAT. 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. The discharges are based on 90 percent recycle (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory. (See Section XII of the Primary Zinc Supplement.) PSNS prevents the pass-through of cadmium, copper, lead and zinc. Since PSNS does not include any cost above BAT or PSES, we do not believe it will prevent the entry of new plants.

Metallurgical Acid Plants

The technology basis for proposed PSNS is identical to NSPS and BAT. PSNS prevents the pass-through of arsenic, cadmium, copper, lead and zinc, which are the regulated pollutants. A well operated POTW will provide only an average of 52 percent removal (cadmium—38 percent, copper—58 percent, lead—48 percent, and zinc—65 percent). The removal of arsenic by a well-operated POTW has not been established. Since the pollutant is not degraded and is soluble in water, we are assuming pass-through of arsenic in POTW. We solicit comment on this assumption. We know of no demonstrated technology that provides better pollutant removal than BAT and NSPS technology. The acid plant blowdown allowance at BAT and NSPS is based on 90 percent recycle. The Agency believes that no additional flow reduction is feasible for new sources because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). (See also Section XII of the Metallurgical Acid Plants Supplement.) 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 proposed 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 cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of these waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory. (See Section XII of the Primary Tungsten Supplement.) The only other end-of-pipe technology, activated carbon, does not significantly reduce toxic pollutant discharges while increasing costs ten-fold. 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 proposed 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 cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of these waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory. (See Section XII of the Primary Columbium-tantalum Supplement.) 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 proposed 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 PSES technology. The PSES 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. The discharges are based on 90 percent recycle of those waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable to this subcategory. (See Section XII of the Secondary Silver Supplement.) Because PSNS does not include any additional costs compared to NSPS, we do not believe it will prevent the entry of new plants.

Secondary Lead

The technology basis for proposed PSNS is identical to NSPS. The same pollutants pass-through as at PSES, for the same reasons. We know of no 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 cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of these

waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated for this subcategory. (See Section XII of the Secondary Lead Supplement.) Because PSNS does not include any additional costs compared to NSPS, we do not believe it will prevent the entry of new plants.

XV. 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. Biochemical oxygen demand, coliform, oil and grease (O&G), and pH have been designated as conventional pollutants (see 44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. In addition to the other factors specified in Section 304(b)(4)(B), the Act requires that limitations for conventional pollutants be assessed in light of a two-part cost-reasonableness test. On October 29, 1982, the Agency proposed a revised methodology for carrying out BCT analyses (47 FR 49176). The purpose of the proposal was to correct errors in the BCT methodology originally established in 1977.

Part 1 of the proposed BCT test requires that the cost and level of reduction of conventional pollutants by industrial dischargers be compared with the cost and level of reduction to remove the same type of pollutants by publicly-owned treatment works (POTW). The POTW comparison figure has been calculated by evaluating the change in costs and removals between secondary treatment (30 mg/l BOD and 30 mg/l TSS) and advanced secondary treatment (10 mg/l BOD and 10 mg/l TSS). The difference in cost is divided by the difference in pounds of conventional pollutants removed, resulting in an estimate of the "dollar per pound" of pollutant removed, that is used as a benchmark value. The proposed POTW test benchmark is $0.27 per pound (1976 dollars).

Part 2 of the BCT test requires that the cost and level of reduction of conventional pollutants by industrial dischargers be evaluated internally to the industry. In order to develop a benchmark that assesses a reasonable relationship between cost and removal, EPA has developed an industry cost ratio which compares the dollars per pound of conventional pollutant removed in going from primary to secondary treatment levels with that of going from secondary to more advanced treatment levels. The basis of costs for the calculation of this ratio are the costs incurred by a POTW. EPA used these costs because: they reflect the treatment technologies most commonly used to remove conventional pollutants from wastewater; the treatment levels associated with them compare readily to the levels considered for industrial dischargers; and the costs are the most reliable for the treatment levels under consideration. The proposed industry subcategory benchmark is 1.42. If the industry figure for a subcategory is less than or equal to 1.43, the subcategory passes the BCT test.

The Agency usually considers two conventional pollutants in the cost test, TSS and an oxygen-demanding pollutant. Although both substances by EPA (see 44 FR 50733), only the one accounting for the greatest removal was selected in the cost analysis to conform to procedures used POTW costs. Oil and grease is used rather than BOD5 in cost analysis performed for nonferrous metals manufacturing waste streams in this category.

BPT is the base for evaluating limitations on conventional pollutants i.e., it is assumed that BPT is already in place). The test evaluates the cost and removals associated with treatment and controls in addition to that specified as BPT.

If the conventional pollutant removal cost of the candidate BCT is less than the POTW cost, Part 1 of the cost-reasonableness test is passed and Part 2 (the internal industry test) of the cost-reasonableness test must be performed. If the internal, industry test is passed, then a BCT limitation is promulgated equivalent to the candidate BCT level. If all candidate BCT technologies fail both parts of the cost-reasonableness test, the BCT requirements for conventional pollutants are equal to BPT.

The BCT test was performed on the 10 subcategories with direct dischargers. The results are summarized in Appendix B. All of the 10 subcategories failed Part 1 of the test for both the proposed BAT and intermediate options, eliminating the need for testing in Part 2. Consequently, BCT is equivalent to BPT in all subcategories.

XVI. Regulated Pollutants

The basis upon which the controlled pollutants were selected as well as the general nature and environmental effects of these pollutants, is set out in Sections V, VI, IX and X of the General Development Document and each of the subcategories supplements. Some of these pollutants are designed as toxic under Section 307(a) of the Act. Three pollutants have been deleted from the list of 129. These are dichlorodifluoromethane, trichlorofluoromethane 46 FR 2266 (January 8, 1981) and bis(chloromethyl) ether 46 FR 10723 (February 4, 1981).

The pollutants selected for regulation are listed by subcategory in Appendix C.

XVII. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories.

A. Exclusion of Pollutants

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) - analytical methods or other state-of-the-art methods. The toxic pollutants not detected and, therefore, excluded from regulation are listed in Appendix D of this notice by subcategory.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix E to this notice lists the toxic pollutants in each subcategory which were detected in the effluent in amounts at or below the nominal limit of analytical quantification. Appendix F to this notice lists the toxic pollutants in each subcategory present in amounts which are too small to be effectively reduced by technologies and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix G to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only one plant, are uniquely related to that plant, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, or pretreatment standards. Appendix H lists those toxic pollutants which will be

effectively controlled by the BAT limitations and pretreatment standards, even though they are not specifically regulated. Appendix H lists those toxic organic pollutants which are not regulated at BAT because they are effectively controlled by BPT limitations.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected but only in trace amounts and which are neither causing nor likely to cause toxic effects. Appendix I lists those pollutants excluded under this provision.

Paragraph 8(a)(i) also allows the Administrator to exclude from regulation toxic pollutants detected but solely as a result of their presence in the intake waters. Appendix J lists those pollutants excluded under this provision.

B. Exclusion of Subcategories

As explained in Section II-C, above, EPA executed an affidavit on May 10, 1979, excluding six primary and five secondary metal subcategories from regulation under Paragraph 8(a)(iv) of the Settlement Agreement. The subcategories were:

Primary Arsenic
Primary Antimony
Primary Barium
Primary Bismuth
Primary Calcium
Primary Tin
Secondary Beryllium
Secondary Cadmium
Secondary Molybdenum
Secondary Tantalum
Secondary Babbitt

The Agency is excluding the following subcategories from pretreatment standards for existing sources under provisions of Paragraph 8(a)(iv) because there are no facilities discharging wastewater to POTW. They are:

Primary Aluminum
Primary Copper Smelting
Primary Copper Electrolytic Refining
Primary Lead

The Agency is excluding metallurgical acid plants from pretreatment for existing sources under provisions of Paragraph 8(b)(ii) because the single indirect discharger discharges pollutants in amounts that are not significant enough to warrant a national pretreatment standard.

XVIII. Cost and Economic Impacts

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major rules. Major rules impose an annual cost to the economy of $100 million or more, cause major price increases to the consumer or cause significant adverse effects on competition, employment, investment, productivity or the balance of trade. Our analysis indicates that the proposed regulation for the nonferrous smelting and refining industry is not a major rule since it has none of these impacts, and therefore does not require a formal regulatory impact analysis.

The ecomomic assessment for this proposed regulation is presented in the *Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Nonferrous Smelting and Refining Industry,* EPA 440/2-82-002. This report details the investment and annual costs for the industry and for each metal type covered by the proposed regulation. Compliance costs are based on engineering estimates of incremental capital requirements above the water pollution control equipment already in-place. The report assesses the impact of effluent control costs associated with each regulatory option in terms of price changes, production changes, plant closures, employment effects, and balance of trade effects.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology-based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), divided by the water quality criterion for the pollutant being evaluated. the use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent removed would be lower when a highly toxic pollutant is removed then if a less toxic pollutant is removed. This analysis, entitled "Cost Effectiveness Analysis for the Nonferrous Metals Manufacturing Industry," is included in the record of this rulemaking. EPA invites comments on the methodology used in this analysis.

The Agency predicts that in 1984 there will be 147 nonferrous smelting or refining "wet plants" (49 percent of all plants) producing a process wastewater, of which 82 will discharge into navigable waters, and 65 plants will discharge into publicly owned treatment works (POTWs). One hundred and fifty-three plants will have eliminated their discharge of process wastewater.

The economic analysis projects total capital and annual costs for both scenarios proposed by this regulation. The total capital cost for existing plants to comply with the more stringent scenario will be $73.4 million, with annual costs of $43.3 million including interest and depreciation. These costs are expressed in 1982 dollars. These costs expressed in 1978 dollars would be $54.75 million for total investment costs and $32.32 million for annual costs, including interest and depreciation. Total capital costs for exisitng plants under the less stringent scenerio will be $69.09 million with annual cost of $39.68 million including interest and depreciation expressed in 1982 dollars. These same costs expressed in 1978 dollars would be $51.55 for total investment and $29.61 million for annual costs including interest and depreciation. All costs presented in Section XVIII of this proposed regulation are expressed in 1982 dollars, while the other sections of this notice use 1978 dollars.

As a result of compliance with this regulation, three plant closures (all indirect dischargers) with total unemployment of approximately 45 workers may result. These figures for closures and unemployment represent less than one half of 1 percent of the total population of plants and employment anticipated to be in the nonferrous smelting and refining industry in 1985. These closures are expected to occur from PSES. No additional closures are expected as a result of compliance with recommended BAT technologies. Price increases in either scenario are not expected to exceed 0.5 percent with production decreases of less than 0.5 percent. No balance of trade effects are expected.

To further measure the economic impacts, we subcategorized the nonferrous metals industry by metal type, and assessed possible economic impacts on a plant-by-plant basis in each subcategory. Ten separate metal subcategories were used, six in the primary and four in the secondary subcategories. (For purposes of our economic analysis, we treated primary copper smelters, refiners, and acid plants located at the same site as one economic subcategory, since they are a single economic entity. Similarly, primary lead and zinc smelters and associated acid plants are one economic subcategory.) In view of the number of subcategories and their differing sizes, we developed varying methodological approaches for different subcategories on the basis of perceived impact, significance of the subcategory to the economy and data availability. We note that in assessing economic impacts under these methodologies, we used higher compliance costs reflecting more

costly and stringent options than those we are proposing today.

For the primary aluminum subcategory, the analytical approach utilized publicly available production and financial data to develop four separate "models" representing different segments of the aluminum smelting industry: old prebake smelters, new prebake smelters, old Sodereberg smelters and new Soderberg smelters. These four models were developed by the Agency in conjunction with the Aluminum Association in the fall of 1978. These models represent mediun sized plants with a capacity of 160,000 tons per year. The impact analysis was conducted on two levels: an industry-wide screening analysis and a more detailed plant-specific cash flow analysis for any plant that appeared, after screening, to incur high impacts. The screening analysis compared plant-specific compliance costs to the projected 1985 baseline population of plants to their anticipated 1985 revenue. If compliance costs for any plant exceeded 5 percent of revenue the plant was considered to be seriously impacted and was evaluated accordingly.

The 5 percent point was chosen because the average operating margin to aluminum companies over the 1972 to 1977 period was 14.6 percent of sales, including all production levels. Production costs for smelting are estimated to account for 30 percent of total production costs. Based on industry financial behavior over the 1972 to 1977 period we believe this compliance cost for just the smelting portion of a plant, if greater than 5 percent, would begin to impact the existing financial structure of the plant and thus warrant further analysis.

For the primary copper, lead and zinc subcategories a plant-by-plant screening analysis was also conducted on the projected 1985 baseline comparing the cost of compliance with their expected revenues. If the cost of compliance exceeded 5 percent of expected revenues the plant was considered to be seriously impacted and was the subject of a plant-specific cash flow analysis. The 5 percent point was chosen because the Agency found that for the primary copper, lead and zinc companies over the 1970 to 1977 period the average operating margin on sales ranged between 13 percent and 20 percent, while production costs ranged between 25 percent and 37 percent of total cost. Based on industry financial behavior over this period, the Agency believes that if compliance costs exceed 5 percent of revenues for the smelting and refining segments, impacts would occur on the current financial structure of the plant and thus warrant further analysis. In addition to this screening analysis, we determined relevant economic impacts for the primary copper, lead and zinc subcategories by developing econometric models to assess the industry, market structure and pricing behavior to determine prices, production, consumption and balance of trade effects for the 1985 baseline year.

For the secondary metal subcategories, we used a three-step plant-by-plant approach to determine economic impacts. A screening analysis was conducted on the baseline population comparing plant-specific total net revenues before and after compliance to the industry-wide average gross (before tax) profitability rate for secondary producers. If the results of the screening indicated a wide variation in impact on the average gross throughout the subcategory, plants with compliance costs exceeding the median value for the subcategory were considered to be impacted and subject to a plant specific analysis. To calculate the adjustments in price production, employment and balance of trade effects, an econometric model using a comparative statistics analysis technique was used. The model used the price quantity relationships observed in the base year, 1978, and assumed they represented the conditions expected to exist in 1985. Using these assumptions and long run supply and demand elasticities for each metal subcategory, the model was able to show the results on specific market indicators after implementation of pollution control requirements.

Because of the small number of plants in the columbium-tantalum and tungsten subcategories, we conducted a plant-by-plant impact analysis. The first step determined the probable response by the industries to the costs imposed by the new limitations and standards. The second step determined the relevant economic impacts. After examining the metal trade, product demand and historical pricing behavior of both columbium-tantalum and tungsten processors, the Agency concluded that the most feasible option available to both columbium-tantalum and tungsten was to increase prices by an amount equal to the total environmental costs divided by total production. The Agency found that price increases of less than 1 percent for columbium-tantalum and price increases of between 1 and 2 percent for tungsten would occur. The Agency believes that domestic demand is likely to be totally price inelastic over this small change and, therefore, believes that an additional closure analysis was unnecessary.

The Agency recognizes that it is unlikely that the projected 1985 sales and revenue figures for industries in each category will reach the levels oiriginally predicted in the current Economic Impact Analysis. Therefore, the Agency has conducted a sensitivity analysis using lower prices, production, and revenue figures which reflect a revised expectation of future economic conditions in the market by 1985. The sensitivity analysis assumed that real prices would remain constant at the 1981 level over the 1983 to 1985 period. Production was assumed to decrease 3 percent between 1981 and 1982 and grow 1 percent in 1983 and 4 percent between 1984 and 1985. These projections assume that these subcategories of the nonferrous metals industry will not attain at the same level of growth predicted by the Administration for the entire economy. These revised economic figures were then compared to the compliance costs of the options we are proposing today. However, under this analysis, the projected economic impacts are not expected to be appreciably different than those originally predicted. Thus, revenue and price changes are still expected to remain less than 1 percent for all subcategories except secondary silver, which is expected to have revenue changes of approximately 2.5 percent. This reduction in revenue is not expected to cause significant alterations in the structure of the industry or reduce overall plant revenues to the point of forcing closure. (This sensitivity analysis is included in the Economic Impact Analysis for these proposed regulations.)

During the period between proposal and promulgation of this regulation the Agency will be collecting new data from public and industry sources so as to revise its projected baseline economic conditions in light of the persistence and severity of the current economic recession.

Work Plan for Analytical Update

Using the same methodological approach outlined in the Economic Impact Analysis, the Agency intends to reevaluate the impacts of the proposed requirements on the projected baseline, in a manner that more fully incorporates this current recession and its effect on future gowth, production, prices and profitability. The Agency is outlining below the steps its intends to take regarding its methodology and data collection.

I. Basecase Projection

The current base case assessment predicted conditions for 1985 from the year 1978. The current regulations are not expected to be promulgated until January 1984. The first objective is to project economic conditions for 1985 and beyond, incorporating the present recession and reduced expectations for growth in the next two to three years. This will be accomplished by conducting a microeconomic analysis on each sector of the nonferrous industry evaluating and collecting new data on:

—Structural changes in the industry
—Current and future production
—Pricing policy and prices
—Closures of plants between 1978–1982 and expectations for new openings and closures beyond 1982
—Demand elasticities
—Profitability projections
—Imort/export market
—Capital structural projections:
(a) Industry depreciation averages
(b) Level of debt payments
(c) Capital structure
(d) Lending markets

II. Screening

Currently each industry subcategory has a screening trigger point based on financial criteria developed using historical financial data from 1970–1977. When this point is breeched by the plant screening analysis, the affected plant is then subject to an individual discounted cash flow analysis. The incorporation of 1978–1982 data will increase the data base and more accurately define an appropriate trigger point. Where there is significant unspecificity about certain economic factors, a sensitivity analysis around these factors will be performed.

III. Financial Analysis

The current individual plant analysis consists of a discounted cash flow analysis and a liquidity/capital availability analysis to determine whether it will close due to implementation of proposed requirements. The main source of data for this analysis are the firm's 308 surveys presently available to the Agency. We are requesting that those plants who have not returned their 308 surveys do so at this time so that they can be incorporated in the new analysis. The plant specific information obtained from the 308 surveys will be updated based on our microeconomic projections. The discounted cash flow and liquidity/capital availability analysis will be rerun using the updated 308 results to determine closures.

IV. Individual Case Analysis

Three industry subcategories have been selected for more detailed economic analysis. Plants representing various levels of financial health in the secondary lead, secondary silver, and primary cooper electrolytic refining industry subcategories will be identified and studied in detail. Each plant's 308 survey will be updated based on new data obtained in the assessment of the baseline, and individual plant visits will be conducted to discuss each's expections for future growth, production, prices and profits. These studies will be used to verify the projections being made regarding the baseline and to support the assessment conducted on each industry sector.

V. Data Collection

Each area of the methodology outlined above will require current data from each industry subcategory. The Agency is seeking the cooperation of all trade groups and associations representing manufacturers in each nonferrous subcategory. We are in constant contact with trade associations representing the primary producers, but contact with trade groups representing smaller producers in the secondary subcategories has been more difficult. The Agency intends to contact these groups and work closely with them to strengthen our data base and financial profiles. Information obtained from these groups will be combined with other public data sources to conduct the new analyses of each subcategory, the case studies and finally any plant-by-plant analysis that is necessary. These adjustments will form the basis for the new 1985 baseline conditions upon which the economic impacts of the present compliance costs will be assessed. More detailed conclusions of our present analysis are presented below.

BPT

New BPT limitations are proposed for four new subcategories: primary columbium-tantalum, tungsten, secondary lead, and secondary silver. We are amending existing BPT limitations for the primary lead and metallurgical acid plants (applicability only) subcategories. Investment costs for these proposed limitations are $13.94 million with total annual costs of $7.97 million including interest and depreciation. No plant closures or unemployment were expected while price changes are expected to be less than 1 percent with production changing by less than 1 percent. No balance of payment effects are expected.

BAT

New BAT regulations are proposed for primary columbium-tantalum, and tungsten; secondary silver and lead; and metallurgical acid plants. Modifications to existing BAT are proposed for primary aluminum, copper smelting, copper electrolytic refining, lead and zinc; and secondary aluminum and copper. The costs for these regulations are expected to be $60.25 million for investment and $34.37 million for annual costs including interest and depreciation. Compliance with the less stringent option proposed for the primary copper electrolitic refining, secondary lead refining and secondary silver subcategories will result in total costs for this regulation to be $58.20 million in investment costs and $32.73 million in annual costs including interest and depreciation. No closures or unemployment are expected as a result of compliance with either these regulations. Price changes from each option are expected to increase by no more than 0.25 percent in any metal category with overall production changes to decrease by less than 1 percent.

PSES

New PSES are being proposed for six new subcategories, secondary lead, primary tungsten, primary columbium-tantalum, secondary silver, and metallurgical acid plants with modification of PSES for secondary aluminum and secondary copper. The costs for this regulation are expected to be $13.11 million in investment and $8.94 million in annual costs including interest and depreciation. As a result of compliance with this regulation, three plant closures and the loss of employment for approximately 45 workers in the secondary silver subcategory may result. Compliance with the less stringent option proposed for the secondary lead refining and secondary silver subcategories will result in total costs for this regulation to be $58.20 million in investment costs and $32.73 million in annual costs including interest and depreciation. As a result of compliance with this scenario three plant closures and 45 job losses will also occur. Prices for both scenarios are expected to increase by no more than 1 percent in any metal category with overall production changes to decrease by less than 1 percent.

NSPS/PSNS

New NSPS and PSNS are being proposed for 10 subcategories and modifications of promulgated NSPS and PSNS for primary and secondary

aluminum. The technology basis for both NSPS and PSNS is BAT except in three subcategories that include additional flow reductions. The additional flow reductions are based on dry air pollution scrubbing and 100 percent recycle of all other wastewater discharges (except for casting cooling) in primary aluminum, dry air pollution scrubbing and installation of dry slag conditioning for primary lead and dry air pollution scrubbing for secondary lead. There is no expected incremental cost for this regulation above BAT and therefore the Agency expects that no economic impacts will occur as a result of implementation of these standard in any new source.

The Agency believes that these regulations as proposed are economically achievable and pose no significant economic effects on any subcategory within the nonferrous metals manufacturing category. The Agency is, however, concerned that in three subcategories present economic conditions are changing the structure and composition of the market to the point where previously-held assumptions regarding business behavior and profitability must be reevaluated. These subcategories are: Secondary silver, secondary lead and primary copper electrolytic refining.

The Agency is concerned that significant changes in the secondary silver subcategory have occurred due to the tremendous fluctuation of silver prices over the past few years. The major assumption in the present economic analysis assumes that all processing plants assume ownership of the metal. Toll processors were assumed to operate in the same manner as the processors who owned the silver. The Agency believes that this assumption may not fully characterize the possible economic distinctions between these two segments of the market. Recent data analysis indicate that, in fact, many tollers are becoming more active in the silver market through speculation, obtaining ownership of scrap for processing and selling the silver on the open market. We are also aware that changes have occurred with regard to the traditional tolling fee structure. Firms appear to be moving away from flat rate fees per troy oz. refined to a percentage fee based on the current price of the metal. With the occurrence of these types of changes and the relative ease of entry into this sector, the Agency is seeking ways to more accurately characterize this changing subcategory. The Agency is considering the formation of a separate subcategory for toll operations and seeks comments, both technical and economic, on the viability of this approach.

With regard to the projected closures in the secondary silver subcategory, the Agency has also considered proposing less stringent requirements applicable to small plants than to large plants, including an exemption for small plants affected by this regulation. We are not proposing different requirements for small facilities, because small secondary silver facilities, as a class, will not incur significant or disproportionate economic impacts as a result of complying with the regulation. Thus, plants of the same or smaller size as the three potential closure candidates would not incur significant impacts. In addition, the three plants that are potential closures use disproportionate amounts of wastewater (in one case, 10 times the PSES regulatory flow) and account for 70 percent of the toxic pollutants discharged to POTWs by this subcategory. Therefore, we do not believe that a size cutoff is justified. The Agency, however, solicits specific comments together with technical and financial supporting documentation to support or reject differing regulations for large and small secondary silver plants.

Although the current impact analysis of the secondary lead subcategory does not predict any closures, the Agency is concerned about the long run market shifts which are affecting the structure and composition of this subcategory. The major changes affecting the secondary lead market are an overall stagnant demand, and a major shift by battery manufacturers to low-antimony maintenance free (MF) batteries. The change to MF batteries reduces profits, and also places the secondary producers in direct competition with primary producers in the marketing of pure lead. Because a majority of the secondary lead subcategory is involved in some aspect of battery manufacture, through the production of antimonial lead, the long run effects of this shift to low antimonial lead batteries is significant. In addition, this change will eliminate the traditional cost advantage secondary lead producers have had over primary lead operations in the production of antimonial lead. This cost advantage is due to the fact that secondary producers have purchased antimonial lead scrap for only the price of contained lead. Their resale price includes the value of the antimony. This incremental profit is reduced as the use of antimony decreases. These shifts in the market are of serious concern to the Agency and we are soliciting comments on changes in this market and its effect on production prices, profitability and capacity.

The world market for refined copper has traditionally been subject to cyclical charges in demand ranging from ±10 percent to high as 20 percent. Several trends in the world market have caused the Agency to focus its concern on where the U.S. refining industry is headed over the next 3–5 years. Throughout this recessionary period the production of refined copper in the U.S. has decreased to approximately 55% of capacity in 1982, according to a Standard and Poors Industry Survey (February 1982). However, due to slack demand for copper produced even at this level, inventories are building which have placed a downward pressure on prices. These conditions are further exacerbated by developing countries with high grade ores, who are maintaining output at levels exceeding demand. This behavior has also contributed to the downward pressure on prices. Over the long run, the cost of production provides a rising floor on copper prices and the long run price of copper tends to be equal to the price that is sufficient to reduce continued investment. Because of the rising costs of production in the U.S. aggravated by slack demand, world wide surpluses and depressed prices, the Agency believes that profit margins are being reduced to the point where investment in future production of copper is in serious question. These shifts in the market and continued pressures on prices are of serious concern to the Agency and we are soliciting comments on production costs, prices, operating margins, profitability and projected increases or decreases in capacity.

Regulatory Flexibility: Public Law 96–354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations that have a significant impact on a substantial number of small entities. We do not believe these proposed regulations have such an impact. In the course of developing the impact analysis for this regulation the industry was divided into two major subcategories, primary and secondary producers. (Primary producers use virgin ore as a raw material; secondary producers use scrap as their major raw material.) For each metal group under the primary and secondary subcategory the definition of small varied according to capacity, production and number of employees. No "small" plants exist in the primary subcategory. Within each metal group in the secondary subcategory a wide range of plant sizes exist. However, each plant in the secondary subcategory data base was

subjected to a plant-by-plant screening analysis which compared compliance costs to projected 1985 annual revenues. The only substantial impacts shown by this analysis are in the secondary silver subcategory, where three small (150,000 troy oz./yr.) processing plants may close due to this regulation. This impact, we believe, is not "significant" within the meaning of the Regulatory Flexibility Act.

SBA Loans: The Agency is continuing to encourage small nonferrous smelting and refining operations to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan programs are only open to businesses that have: (a) net assets less than $6 million, (b) an average annual aftertax income of less than $2 million, and (c) fewer than 250 employees.

The guaranteed pollution control bond is a full faith and credit instrument with a tax free feature, making it the most favorable of the programs. Although, all 1981 funds have already been committed, the SBA is trying to get additional funding for this program. The program applies to projects that cost from $150,000 to $2,000,000.

The Section 503 Program, as amended in July 1981, allows long-term loans to small and medium-sized businesses. These loans are made by SBA approved local development companies. For the first time, 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 Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee 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) 426-7874. For further information and specifics on the Guaranteed 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.

XIX. Non-water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulations:

A. Air Pollution

Imposition of BPT will not create any substantial air pollution problems. BAT, BCT, NSPS, PSES, and PSNS will result in a slight increase in air pollution. Water vapor containing some particulate matter will be released in the drift from the cooling tower systems which are used as the technology basis for flow reduction which is a part of BAT, NSPS, PSES, and PSNS in many subcategories. In those plants using lubricants for casting, there may be organics present in the drift from cooling towers used to cool and recycle casting contact cooling water. The Agency does not consider any of these impacts to be significant.

B. Solid Waste

EPA estimates that nonferrous metals manufacturing facilities generated 164 kkg of solid wastes (wet basis) in 1978 as a result of wastewater treatment in place. These wastes were comprised of treatment system sludges containing toxic metals, including arsenic, antimony, cadmium, chromium, copper, lead, nickel, selenium, and zinc.

EPA estimates that the proposed BPT will contribute an additional 65 kkg per year of solid wastes. Proposed BAT and PSES will increase these wastes by approximately 20 kkg per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants.

Wastes generated by primary smelters an refiners are currently exempt from regulation by Act of Congress (Resource Conservation and Recovery Act (RCRA)), Section 3001(b). Consequently, sludges generated from treating primary industries' wastewater are not presently subject to regulation as hazardous wastes.

Wastes generated by secondary metal industries can be regulated as hazardous. However, the agency examined the solid wastes that would be generated at secondary nonferrous metals manufacturing plants by the suggested treatment technologies and believes they are not hazardous wastes under the Agency's regulations implementing Section 3001 of the Resource Conservation and Recovery Act. None of these wastes is listed specifically as hazardous. Nor are they likely to exhibit a characteristic of hazardous waste. This judgment is made based on the recommended technology of lime precipitation, sedimentation and filtration. By the addition of excess lime during treatment, similar sludges, specifically toxic metal bearing sludges, generated by other industries such as the iron and steel industry passed the Extraction Procedure (EP) toxicity test. See 40 CFR 261.24. Thus, the Agency believes that the wastewater sludges will similarly not be EP toxic if the recommended technology is applied.

Although it is the Agency's view that solid wastes generated as a result of these guidelines are not expected to be hazardous, generators of these wastes must test the waste to determine if the wastes meet any of the characteristics of hazardous waste (see 40 CFR 262.11).

If these wastes should be identified or are listed as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to point of final disposition. EPA's generator standards would require generators of hazardous nonferrous metals manufacturing wastes to meet containerization, labeling, recordkeeping, and reporting requirements; if plants dispose of hazardous wastes off-site, they would have to prepare a manifest which would track the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. See 40 CFR 262.20 45 FR 33142 (May 19, 1980), as amended at 45 FR 86973 (December 31, 1980). The transporter regulations require transporters of hazardous wastes to comply with the manifest system to assure that the wastes are delivered to a permitted facility. See 40 CFR 263.20 45 FR 33151 (May 19, 1980), as amended at 45 FR 86973 (December 31, 1980). Finally, RCRA regulations establish standards for hazardous waste treatment, storage, and disposal facilities allowed to receive such wastes. See 40 CFR Part 464, 46 FR 2802 (January 12, 1981), 47 FR 32274 (July 26, 1982).

Even if these wastes are not identified as hazardous, they still must be disposed of in compliance with the

Subtitle D open dumping standards, implementing 4004 of RCRA. See 44 FR 53438 (September 13, 1979). The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of these wastes. For more details, see Section VIII of the General Development Document.

C. Energy Requirements

EPA estimates that achieving proposed BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 77.2 million kilowatt-hours per year. The BAT and PSES technology should not substantially increase the energy requirements of BPT because the additional pumping requirements for filtration should be offset by the reduced pumping requirements, the agitation requirements for mixing wastewater and other volume related energy requirements, as a result of reducing process wastewater discharge to treatment. To achieve the proposed BPT and BAT effluent limitations, a typical direct discharger will increase total energy consumption by less than 1 percent of the energy consumed for production purposes.

The Agency estimates that the NSPS and PSNS technology will, in general, require as much energy as the existing source limitations.

XX. Best Management Practices (BMP)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP) described under Legal Authority and Background. EPA is not proposing specific BMP for nonferrous metals manufacturing at this time.

XXI. Upset and Bypass Provisions

A recurring issue is whether industry limitations and standards should include provisions that authorize noncompliance during "upsets" or "bypasses." An upset, sometimes called an "excursion," is unintentional noncompliance beyond the reasonable control of the permittee. EPA believes that upset provisions are necessary because upsets will inevitably occur, even if the control equipment is properly operated. Because technology-based limitations can require only what technology can achieve, many claim that liability for upsets is improper. When confronted with this issue, courts have been divided on the questions of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.23 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costel, supra* and *Corn Refiners Association, et. al.* v. *Costle*, No. 78-1069 (8th Cir. April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); and *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

Unlike an upset—which is an unintentional episode—a bypass is an intentional noncompliance to circumvent waste treatment facilities during an emergency.

EPA has both upset and bypass provisions in NPDES permits, and the NPDES portions of the Consolidated Permit regulations include upset and bypass permit provisions. See 40 CFR Part 11.60, 44 FR 32854, 32862-3 (June 7, 1979). 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. Since permittees in the nonferrous metals manufacturing category are entitled to the upset and bypass provisions in NPDES permits, this proposed regulation does not repeat these provisions. Upset provisions are also contained in the General Pretreatment regulation.

XXII. Variances and Modifications

Upon the promulgation of the final regulation, the numerical effluent limitations for the appropriate subcategory must be applied to all Federal and State NPDES permits thereafter issued to aluminum forming directed dischargers. In addition, on promulgation, the pretreatment standards are directly applicable to indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger which 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). This variance clause was originally set forth in EPA's 1973-1976 industry regulations. It is now included in the general NPDES regulations and will not be included in the aluminum forming or other specific industry regulations. See the NPDES regulations at 40 CFR Part 122 Subparts A and D, 45 FR 33290 et seq. (May 19, 1980) for the text and explanation of the "fundamentally different factors" variance.

The BAT limitations in this regulation are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 43 FR 40859 (September 13, 1978). Under Section 201(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance. See 40 CFR 403.13; 46 FR 9404 (January 28, 1981); 46 FR 50502 (October 13, 1981); 47 FR 4518 (February 1, 1982). In addition, pretreatment standards for existing and new sources are subject to a provision allowing relaxation of a pretreatment standard upon demonstration by a POTW of consistent removal of the regulated pollutants. 40 CFR 403.7; 43 FR 27736 (June 26, 1978); 40 CFR 403.13; 46 FR 9404 (January 28, 1981).

New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory of regulatory modifications. See *duPont* v. *Train, supra*.

XXIII. Relation to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. Under the proposed regulation for the nonferrous metals manufacturing category, all limitations are mass based.

The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except when variances and modifications are expressly authorized. The following adds more detail on the relation between this regulation and NPDES permits.

One subject that has received different judicial rulings is the scope of NPDES permit proceedings when effluent limitations and standards do not exist. Under current EPA regulations, States and EPA regions that issue NPDES permits before regulations are promulgated must do so on a case-by-case basis. This regulation provides a technical and legal base for new permits.

Another issue is how the regulation affects the authority of those that issue NPDES permits. EPA has developed the

limitations and standards in this regulation to cover the typical facility for this point source category. In specific cases, the NPDES permitting authority may have to establish permit limits on toxic pollutants that are not covered by this regulation. This regulation does not restrict the power of any permit-issuing authority to comply with law or any EPA regulation, guideline, or policy. For example, if this regulation does not control a particular pollutant, the permit issuer may still limit the pollutant on a case-by-case basis, when such action conforms with the purposes of the Act. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permit-issuing authority must apply those limitations.

A final topic of concern is the operation of EPA's NPDES enforcement program, which was an important consideration in developing this regulation. The Agency emphasizes that although the Clean Water Act is a strict liability statute, EPA can initiate enforcement proceedings at its discretion (*Sierra Club* v. *Train*, 557 F.2d 485 (5th Cir. 1977)). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance and conserves enforcement resources for those who fail to make these good-faith efforts.

XXIV. Solicitation of Comments

EPA invites public participation in this rulemaking. We ask that any perceived deficiencies in the record be addressed specifically. We also ask that any suggested revisions or corrections be supported by data.

In addition to issues already addressed in the preamble, EPA is particularly interested in receiving additional comments and information on the following issues:

1. In our discussion of choices for BAT, PSES, NSPS, and PSNS for each subcategory, we described the range of options we considered. We formally solicit comment on whether we should adopt less or more stringent options in each subcategory, and if so, why.

2. The Agency is continuing to seek additional data to support these proposed limitations. The treatment effectiveness data for lime precipitation and sedimentation and lime precipitation, sedimentation and filtration technology. This regulation are based on the results of Agency sampling of the raw wastewaters and treated effluents from a broad range of plants generating similar wastewaters and (for filtration) on long-term self-monitoring. The Agency invites comments on the treatment effectiveness results, and the statistical analysis and underlying assumptions discussed in Section VII of the Development Document as they pertain to the nonferrous metals manufacturing plants. The Agency specifically requests long-term sampling data (especially paired raw wastewater—treated effluent data) from nonferrous metals manufacturing plants having well-operated treatment systems using the treatment technologies relied upon for this regulation, and also other equally effective treatment technologies.

3. The Agency requests long-term sampling data (especially paired raw wastewater—treated effluent data) from any plants treating cadmium that use chemical precipitation and settling technology (with and without a polishing filter).

4. In its cost estimates the Agency has not considered cost savings associated with water flow reduction, such as reduced charges for water use and sewerage savings.

The Agency invites comments and requests that cost data be submitted to the Agency.

5. Nonferrous plants in roughly half the subcategories (secondary aluminum, primary copper electrolytic refining, secondary lead, primary zinc, primary tungsten, primary columbium-tantalum, secondary silver, and metallurgical acid plants) discharge to POTWs. Because their wastewaters contain substantial amounts of toxic metals, the Agency invites comments and any supporting data concerning incompatibility of these wastewaters with the POTW treatment systems or sludge disposition.

6. We request comment as to whether nonferrous plants could incur disproportionate costs as a result of treating both nonferrous wastewaters and wastewaters from a different point source category.

7. We request that commenters identify any process wastewater streams not identified by EPA which they believe should receive a discharge allowance. For any such streams, commenters should identify flow (in relation to production normalized parameter) and pollutant concentrations.

8. In the primary aluminum subcategory, we are proposing that NSPS be based on dry (or 100 percent recycle) emission scrubbing, because we know of primary aluminum plants that do not discharge scrubber wastewater. Recently EPA has received information that certain types of primary aluminum production require wet scrubber systems that cannot achieve 100 percent recycle. The Agency solicits comments as to the accuracy of this information, and generally as to whether NSPS (and PSNS) should include an allowance for scrubber blowdown.

9. For the primary lead subcategory, we solicit comment as to whether it is necessary to have a BAT discharge allowance for slag granulation wastewater. Our information is that a discharge allowance is necessary to allow slag recycling. On the other hand, we know of other plants with this waste stream that do not discharge, although we do not know if they practice slag recycling. We solicit comment as to whether slag recycling necessarily requires wastewater discharge.

10. For the primary tungsten subcategory, we solicit additional data as to organic pollutant concentrations in APT purification wastewaters using organics in ion-exchange extraction.

11. For the primary columbium-tantalum subcategory, we solicit additional data on organic pollutant concentrations in process wastewaters.

12. In the primary aluminum subcategory, we are proposing that BAT, NSPS and PSNS include activated carbon adsorption pretreatment to reduce the concentrations of benzo(a)pyrene and other polynuclear aromatic compounds. We solicit comment on the reduction of benzo-(a)pyrene and other polynuclear aromatic compounds through the use of lime precipitation and sedimentation, lime precipitation and sedimentation followed by polishing filtration and activated carbon pretreatment. Specifically, the Agency requests data (preferably paired raw wastewater treated effluent data) from plants having well-operated treatment systems using these technologies or from plants who have performed bench- or pilot-scale studies using these technologies on primary aluminum wastewater.

13. The methodology used to estimate the economic effects of these regulations is discussed in Section XVIII of this preamble and in the Economic Development Document. We solicit comments on the methodology and criteria used to screen for economic impacts and on the methodology presented for financial analyses of individual plants. The Agency plans to reassess a number of the estimates used in its economic analysis incorporating the current economic recession and the Administrations forecasts of expected recovery. We solicit information on current production levels for the industry, prices, returns on investment, and changes in industry capacity. We solicit historical information on these

same factors so we can evaluate how they change with the general economic conditions. We solicit information on structural changes in the industry that have occurred and changes in the competitive position of the domestic market vis-a-vis in the international markets.

14. A number of firms have not responded to the economic survey mailed to them under the authority of Section 308 of the Clean Water Act. The Agency requests that each facility that has failed to respond to submit its response. If the questionnaire has been misplaced there is a blank copy of a survey in the Appendix of the Economic Impact Analysis that can be used or a duplicate of the survey will be sent directly upon request.

15. The Agency is concerned that fundamental changes in the economic conditions of the secondary lead industry may affect the ability of certain firms to install the technology necessary to meet the proposed limitations and standards. Restrictions on the use of lead in gasoline and changes in the material used in automotive batteries are affecting the overall demand for lead and the supply of scrap batteries used by secondary lead smelters. The Agency solicits comments on these and any other structural changes that have affected production levels, prices, profitability, and changes in existing capacity.

16. The Agency is considering forming a separate subcategory for toll processors in the secondary silver subcategory due to the special market position of toll processors. The Agency solicits comments on the economic conditions in the industry and the financial conditions of toll processors in the industry. We especially are interested in information on the pricing policies of toll processors.

17. The current and future conditions of the primary copper refining industry are of concern to the Agency. We are soliciting comments and data on world supplies of copper and their influence on U.S. producer prices and revenues. We are also requesting data on this level of substitution affecting the industry, its chief competitors and their effects on copper demand. The Agency also requests comments on the overall health and direction of the industry and what structural changes may be taking place over the next 3–5 years.

List of Subjects in 40 CFR Part 421

Metals, Water pollution control, Waste treatment and disposal.

Dated: January 31, 1983.

Anne M. Gorsuch,

Administrator.

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology under Section 304(b)(4) of the Act.

BMP—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available 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 (Public Law 95–217).

Direct Discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES Permits—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of direct dischargers under Sections 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Public Law 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Summary of BCT Test in the Nonferrous Metals Manufacturing Category

Subcategory	Comparable POTW benchmark	Incremental cost proposed BAT (part 1)	Proposed BAT option part 1 (pass or fail)	Incremental cost intermediate option (part 1)	Proposed intermediate option part 1 (pass or fail)
Primary Aluminum	$0.27	$3.07	Fail	$2.20	Fail.
Secondary Aluminum	0.27	15.68	Fail		Fail.
Primary Electrolytic Copper Refining	0.27	5.07	Fail	22.06	Fail.
Primary Lead	0.27	13.26	Fail	0.0	Fail.
Primary Zinc	0.27	8.20	Fail	4.30	Fail.
Metallurgical Acid Plants	0.27	19.60	Fail	23.77	Fail.
Primary Tungsten	0.27	15.04	Fail	19.73	Fail.
Primary Columbium-Tantalum	0.27	76.16	Fail	8.73	Fail.
Secondary Silver	0.27	4.09	Fail	1,700.00	Fail.
Secondary Lead	0.27	179.94	Fail	15.34	Fail.

Appendix C—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), TSS pH

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

120. copper
122. lead
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
125. selenium

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, TSS, pH

Appendix D—Toxic Pollutants Not Detected

(a) Subpart B—Primary Aluminum Smelting Subcategory.

2. acrolein
3. acrylonitrile
6. carbon tetrachloride (tetrachloromenthane)
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-chloromethyl) 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
30. 1, 2-trans-dichloroethylene
31. 2, 4-dichlorophenol
32. 1, 2-dichloropropane
33. 1, 2-dichloropropylene (1, 3-dichloropropene)
38. ethylbenzene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
43. bis (2-choroethoxy) methane
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
49. trichlorofluoromethane
50. dichlorodifluoromethane
51. chlorodibromethane
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
88. vinyl chloride (chloroethylene)
94. 4, 4'-DDD (p,p' TDE)
95. a-endosulfan-Alpha
97. endosulfan sulfate
98. endrin
129. 2, 3, 7, 8–tetrachlorodibenzo-p-dioxin (TCDD)

(b) Subpart C—Secondary Aluminum Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1, 2, 4-trichlorobenzene
9. hexachlorobenzene
11. 1, 1, 1-trichlorethane
12. hexachlorethane
13. 1, 1-dichloroethane
14. 1, 1, 2-trichloroethane
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
31. 2, 4-dichlorophenol
32. 1, 2-ichloropropane
33. 1, 2-dichloropropylene (1, 3-dichloropropene)
34. 2, 4-dimethylphenol
37. 1, 2-diphenylhydrazine
38. ethylbenzene
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)
47. bromoform (tribromomethane)
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
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
70. diethyl phthalate
72. benzo (a) anthracene (1, 2-benzanthracene)
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
94. 4, 4'-DDD (p, P' TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. enosulfan sulfate
105. g-BHC-Delta
117. asbestos
129. 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin (TCDD)

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

2. acrolein
3. acrylonitrile
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-chloronaphalene
21. 2, 4, 6–trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1, 2-dichlorobenzene
26. 1, 3-diclorobenzene
27. 1, 4-dichorobenzene
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-choroethoxy) 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. flourene
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
94. 4,4'-DDD(p,p'TDE)
105. g-BHC-Delta
106. PCB–1242 (Arochlor 1242)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
113. toxaphene
116. asbestos
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-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
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. ethyl 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. flourene
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

1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1.2-dichloroethane
11. 1,1,1-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
23. chloroform (trichloromethane)
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-choroethoxy) 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
114. antimony
117. beryllium
121. cyanide (Total)
127. thallium
129. 2,3,7,8-B-tetrachlorodibenzo-p-dioxin (TCDD)

(a), (b), (c) Reported together.

(f) Subpart I—Metallurgical Acid Plants Subcategory.

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
11. 1,1,1-trichlorethane
12. hexachlorethane
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
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
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)
47. bromoform (tribromomethane)
50. Deleted
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
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
102. a-BHC-Alpha
105. g-BHC-Delta
113. toxaphene
129. 2,3,7,8-tetrachlorodinbenzo-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
11. 1,1,1-trichlorethane
12. hexachlorethane
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
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
44. methylene chloride (dichloromethane)
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
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
67. butyl benzyl 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)
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
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
114. antimony
116. asbestos
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
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) methone
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
49. Deleted
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
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)

94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
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-demethylphenol
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. hezachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-notrophenol
59. 2,4-dinitrophenol
60. 4, 6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-notrosodi-n-propylamine
64. pentachlorophenol
65. phenol
71. dimethyl phthalate
72. benzo (a)anthracene (1,2-benzanthracene)
73. benzo (a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo (k)fluoranthane (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-endousulfan-Beta
97. endosulfan sulfate
101. heptachlor epoxide
106. PCB-1242 (Arochlor 1242)
116. asbestos
117, beryllium
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(j) Subpart M—Secondary Lead Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
11. 1,1,1-trichlorethane
12. hexachlorethane
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
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
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. mehtyl bromide (bromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
51. chlorodibromomethane
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
67. butyl benzyl phthalate
79. benzo(ghi)perylene (1,11-benzoperylene)
88. vinyl chloride (chloroethylene)
89. aldrin
95. a-endosulfan-Alpha
97. endosulfan sulfate
105. g-BHC-Delta
116. asbestos
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix E—Toxic Pollutants Detected Below the Analytical Quantification Limit

(a) Subpart B—Primary Aluminum Smelting Subcategory.

5. benzidene
15. 1,1,2,2-tetranchloroethane
29. 1,1-dichloroethylene
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
45. methyl chloride (chloromethane)
48. dichlorobromomethane
70. diethyl phthalate
71. dimethyl phthalate
85. tetrachlorcethylene
86. toluene
87. trichloroethylene
89 aldrin
90. dieldrin
91. chlordane (technical mixture and metabolities)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
96. b-endosulfan-Beta
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma g-BHC-Delta
113. toxaphene

(b) Subpart C—Secondary Aluminum Subcategory.

6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
28. 3,3'-dichlorobenzidine
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
54. isophorone
55. naphthalene 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
78. anthracene (a)
80. fluorene
81. phenanthrene (a)
86. toluene
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
121. cyanide (Total)

(a) Reported together.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

1. acenaphthene
4. benzene
5. benzidene
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
107. PCB-1254 (Arochlor 1254)

(a) Reported together.

(d) Subpart G—Primary Lead Subcategory.

4. benzene
6. carbon tetrachloride (tetrachloromethane)
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
116. asbestos

(e) Subpart I—Metallurgical Acid Plants Subcategory.

4. benzene
10. 1.2-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
39. fluoranthene
49. DELETED
51. chlorodibromomethane
54. isophorone
55. naphthalene
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
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
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)
116. asbestos
117. beryllium
121. cyanide (Total)

(a), (b) Reported together.

(f) Subpart J—Primary Tungsten Subcategory.

4. benzene
10. 1.2-dichloroethane
15. 1,1,2,2-tetrachloroethane
39. fluoranthene
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)

(a), (b), (c) Reported together.

(g) Subpart K—Primary Columbium-tantalum Subcategory.

20. 2-chloronaphthalene
39. fluoranthene
55. naphthalene
69. di-n-octyl phthalate
70. diethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
76. chrysene
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
84. pyrene
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)
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
121. cyanide (Total)

(h) 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

(a) Reported together.

(i) Subpart M—Secondary Lead.

1. acenaphthene
4. benzene
7. chlorobenzene
10. 1.2-dichloroethane
13. 1,1-dichloroethane
15. 1,1,2,2-tetrachloroethane
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
54. isophorone
55. naphthalene
70. diethyl 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)
80. fluorene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
85. tetrachloroethylene
86. toluene
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. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
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
121. cyanide (Total)
125. selenium

(a), (b) Reported together.

Appendix F—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
37. 1,2-diphenylhydrazine
42. bis(2-chloroisopropyl) ether
54. isophorone
123. mercury
127. thallium

(b) Subpart C—Secondary Aluminum Subcategory.

29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
48. dichlorobromomethane
113. toxaphene
117. beryllium
123. mercury
126. silver

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

114. antimony
119. chromium (Total)

(d) Subpart G—Primary Lead Subcategory.

115. arsenic
117. beryllium
118. cadmium
119. chromium (Total)

123. mercury
124. nickel
126. silver

(e) Subpart H—Primary Zinc Subcategory.

44. methylene chloride
116. asbestos (Fibrous)
123. mercury

(f) Subpart I—Metallurgical Acid Plants Subcategory.

23. chloroform (trichloromethane)
48. dichlorobromomethane
85. tetrachloroethylene

(g) Subpart J—Primary Tungsten Subcategory.

1. acenaphthene
23. chloroform (trichloromethane)
29. 1,1-dichloroethylene
38. ethylbenzene
51. chlorodibromomethane
55. naphthalene
77. acenaphthylene
80. fluorene
85. tetrachloroethylene
86. toluene
117. beryllium
121. cyanide (Total)
123. mercury

(h) Subpart K—Primary Columbium-tantalum Subcategory.

4. benzene
14. 1,1,2-trichloroethane
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
47. bromoform (tribromomethane)
48. dichlorobromomethane
54. isophorone
126. silver

(i) Subpart L—Secondary Silver Subcategory.

1. acenaphthene
4. benzene
6. carbon tetrachloride (tetrachloromethane)
10. 1.2-dichloroethane
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
38. ethylbenzene
87. trichloroethylene
114. antimony
125. selenium
126. silver
127. thallium
115. arsenic
121. cyanide (Total)
125. selenium
127. thallium

(j) Subpart M—Secondary Lead Subcategory.

23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
47. bromoform (tribromomethane)
56. nitrobenzene
71. dimethyl phthalate
117. beryllium
126. silver
127. thallium

Appendix G—Toxic Pollutants Detected in the Effluent From Only A Small Number of Sources

(a) Subpart B—Primary Aluminum Smelting Subcategory.

20. 2-chloronaphthalene
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
44. methylene chloride (dichloromethane)
55. naphthalene
62. N-nitrosodiphenylamine
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
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
116. asbestos (Fibrous)
117. beryllium
126. silver
128. zinc

(a), (b) 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)

Appendix G—Toxic Pollutants Detected in the Effluent From Only A Small Number of Sources

(a) Subpart B—Primary Aluminum Smelting Subcategory.

20. 2-chloronaphthalene
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
44. methylene chloride (dichloromethane)
55. naphthalene
62. N-nitrosodiphenylamine
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
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
116. asbestos
117. beryllium
126. silver
128. zinc

(a), (b) 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
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
114. antimony
115. arsenic
119. chromium (Total)
120. copper
124. nickel
125. selenium
127. thallium

(a), (b) Reported together.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

23. chloroform
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
112. PCB-1016

(d) Subpart G—Primary Lead Subcategory.

114. antimony
120. copper

(e) Subpart H—Primary Zinc Subcategory.

116. asbestos

(f) Subpart I—Metallurgical Acid Plants Subcategory.

6. carbon tetrachloride
13. 1,1-dichloroethane
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
78. anthracene (a)
81. phenanthrene (a)
86. toluene
127. thallium

(a) Reported together.

(g) 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
124. nickel
126. silver

(h) Subpart K—Primary Columbium-tantalum Subcategory.

6. carbon tetrachloride (tetrachloromethane)
10. 1.2-dichlorethane
11. 1,1,1-trichloroethane
12. hexachlorethane
15. 1,1, 2,2-tetrachloroethane
23. chloroform (trichloromethane)
29. 1,1-dichloroethylene
38. ethylbenzene
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n/butyl phthalate

71. demethyl phthalate
78. anthracene (a)
81. phenanthrene (a)
86. toluene
113. toxaphene
116. asbestos
117. beryllium
123. mercury
127. thallium

(a) Reported together.

(i) 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.

(j) Subpart M—Secondary Lead Subcategory.

66. bis(2-ethylhexyl) Phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
76. chrysene
77. acenaphthylene
78. anthracene (a)
81. Phenanthrene (a)
84. pyrene
87. trichloroethylene
123. mercury

(a) Reported together.

Appendix H—Toxic Pollutants Effectively Controlled By Technologies Which Other Effluent Limitations and Guidelines Are Based Upon

(a) Subpart B—Primary Aluminum Smelting Subcategory.

1. acenaphthene
39. fluoranthene
72. benzo (a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k) fluoranthane (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
84. pyrene
115. arsenic
118. cadmium
119. chromium (Total)
120. copper
122. lead
125. selenium
128. zinc

(b) Subpart C—Secondary Aluminum Subcategory.

118. cadmium

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

115. arsenic
125. selenium
126. silver
128. zinc

(d) Subpart H—Primary Zinc Subcategory.

115. arsenic
119. chromium (Total)
124. nickel
125. selenium
126. silver

(e) Subpart I—Metallurgical Acid Plants Subcategory.

114. antimony
119. chromium (Total)
123. mercury
124. nickel
125. selenium
126. silver

(f) Subpart J—Primary Tungsten Subcategory.

118. cadmium
119. chromium (Total)

(g) Subpart K—Primary Columbium-tantalum Subcategory

114. antimony
115. arsenic
118. cadmium
119. chromium (Total)
120. copper
124. nickel

(h) Subpart L—Secondary Silver Subcategory.

118. cadmium
119. chromium (Total)
121. cyanide
122. lead
124. nickel

(i) Subpart M—Secondary Lead Subcategory.

118. cadmium
119. chromium (Total)
120. copper
124. nickel

Appendix I—Toxic Pollutants Detected but Only in Trace Amounts And Are Neither Causing nor Likely To Cause Toxic Effects

(f) Subpart J—Primary Tungsten Subcategory.

1. acenapthene
55. naphthalene
77. acenaphthylene
80. fluorene

(g) Subpart K—Primary Columbium-tantalum Subcategory.

1. acenaphthene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
30. 1,2-trans-dichloroethylene
56. nitrobenzene
85. tetrachloroethylene
87. trichloroethylene

(h) Subpart L—Secondary Silver Subcategory.

4. benzene
6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
29. 1,1-dichloroethylene
87. trichloroethylene

For the reasons discussed above, EPA proposes to add an undesignated subpart titled "General Provisions", revise portions of Subparts B–I and to add Subparts J–M of 40 CFR Part 421, to read as follows: (For the purpose of clarity, promulgated BPT effluent limitations guidelines and provisions relating to applicability and to 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 review. These provisions are indicated by an asterisk (*).)

PART 421—NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.

421.01 Applicability.
421.02 [Reserved].
421.03 Monitoring and reporting requirements.
421.04 Compliance date for PSES.

Subpart A—Bauxite Refining Subcategory

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Subpart B—Primary Aluminum Smelting Subcategory

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 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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.*

Sec.
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 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 [Reserved].
421.76 Pretreatment standards for new sources.
421.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 [Reserved].
421.86 Pretreatment standards for new sources.
421.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 [Reserved].
421.96 Pretreatment standards for new sources.
421.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

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 Effluent limitations guidelines representing the degree of effluent reduction attainably by the application of the best conventional pollutant control technology.

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307(c), 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

§ 421.01 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.

§ 421.02 [Reserved].

§ 421.03 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.

§ 421.04 Compliance date for PSES.

The compliance date for pretreatment standards for existing sources will be three years after promulgation of this regulation.

Subpart A—Bauxite Refining Subcategory

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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) "At-the-source" means at or before the commingling of wastewaters from potroom wet air pollution control, potline wet air pollution control, anode bake plant wet air pollution control, anode paste plant wet air pollution control, and cathode reprocessing (or any combination of these) with other process or non-process wastewaters.

(c) 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.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that date which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information; the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) 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 after application of the best practicable control technology currently available:

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of product English units—lbs/million lbs 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of paste produced English units—lbs/billion lbs of paste produced	
Benzo(a)pyrene[1]	1.03	
Antimony	14.42	6.18
Cyanide	20.60	8.24
Nickel	56.65	38.11
Aluminum	312.09	127.72
Fluoride	3,996.40	1,627.40

[1] At the source.

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of anodes baked English units—lbs/billion lbs of anodes baked	
Benzo (a)pyrene [1]	0.49	
Antimony	6.92	2.96
Cyanide	9.88	3.95
Nickel	27.17	18.28
Aluminum	149.68	61.26
Fluoride	1,916.72	760.52

[1] At the source.

(c) *Subpart B—Cathode Manufacturing.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathodes produced English units—lbs/billion lbs of cathodes produced	
Antimony	10.84	4.64
Cyanide	15.48	6.19
Nickel	42.57	28.64
Aluminum	234.52	95.98
Fluoride	3,003.12	1,222.96

(d) *Subpart B—Cathode Reprocessing.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene [1]	9.52	
Antimony	133.28	57.12
Cyanide	190.40	76.16
Nickel	523.60	352.24
Aluminum	2,884.56	1,180.48
Fluoride	36,937.60	15,041.60

[1] At the source.

(e) *Subpart B—Anode Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of anode cast English units—lbs/billion lbs of anode cast	
Antimony	86.95	37.27
Cyanide	124.22	49.69
Nickel	341.61	229.81
Aluminum	1,881.93	770.16
Fluoride	24,098.68	9,813.38

(f) *Subpart B—Potline Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a) pyrene[1]	8.38	
Antimony	117.32	50.28
Cyanide	167.60	67.04
Nickel	460.90	310.06
Aluminum	2,539.14	1,039.12
Flouride	32,514.40	13,240.40

[1] At the source.

(g) *Subpart B—Potroom Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene[1]	13.05	
Antimony	182.70	78.30
Cyanide	261.0	104.40
Nickel	717.75	482.85
Aluminum	3,954.15	1,618.20
Fluoride	50,634.0	20,619.0

[1] At the source.

(h) *Subpart B—Degassing Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum degassed English Units—lbs/billion lbs of aluminum degassed	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0

(i) *Subpart B—Direct Chill Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from direct chill casting English Units—lbs/billion lbs of aluminum product from direct chill casting	
Antimony	279.86	119.94
Cyanide	399.80	159.92
Nickel	1,099.45	739.63
Aluminum	6,056.97	2,478.76
Fluoride	77,561.20	31,584.20

(j) *Subpart B—Continuous Rod Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from continuous rod casting English Units—lbs/billion lbs of aluminum product from continuous rod casting	
Antimony	14.60	6.26
Cyanide	20.86	8.34
Nickel	57.37	38.59
Aluminum	316.03	129.33
Fluoride	4,046.84	1,647.94

(k) *Subpart B—Stationary Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from stationary casting English units—lbs/billion lbs of aluminum product from stationary casting	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0

§ 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 Paste Plant Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of paste produced English units—lbs/billion lbs of paste produced	
Benzo(a)pyrene [2]	0	0
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.
[2] At the source.

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of anode baked English units—lbs/billion lbs of anode baked	
Benzo(a)pyrene [1]	0	0
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(2)	(2)

[1] At the source.
[2] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart B—Cathode Manufacturing NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kkg of cathode produced English Units—lbs/billion lbs of cathode produced	
Antimony	10.84	4.64
Cyanide	15.48	6.19
Nickel	42.57	28.64
Aluminum	234.52	95.98
Fluoride	3,003.12	1,222.92
Oil and Grease	774.0	774.0
TSS	1,161.0	928.80
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart B—Cathode Reprocessing NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene [1]	9.52	
Antimony	133.28	57.12
Cyanide	190.40	76.16
Nickel	*523.60	352.24
Aluminum	2,884.56	1,180.48
Fluoride	36,937.60	15,041.60
Oil and Grease	9,520.0	9,520.0
TSS	14,280.0	11,424.0
pH	(2)	(2)

[1] At the source.
[2] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart B—Anode Contract Cooling NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of anodes cast English units—lbs/billion lbs of anodes cast	
Antimony	86.95	37.27
Cyanide	124.22	49.69
Nickel	341.61	229.81
Aluminum	1,881.93	770.16
Fluoride	24,098.68	9,813.38
Oil and Grease	6,211.0	6,211.0
TSS	9,316.50	7,453.20
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart B—Potline Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene [1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(2)	(2)

[1] At the source.
[2] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart B—Potroom Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene [1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(2)	(2)

[1] At the source.
[2] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart B—Degassing Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum degassed English units—lbs/billion lbs of aluminum degassed	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart B—Direct Chill Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from direct chill casting English units—lbs/billion lbs of aluminum product from direct chill casting	
Antimony	279.86	119.94
Cyanide	399.80	159.92
Nickel	1,099.45	739.63
Aluminum	6,056.97	2,478.76
Fluoride	77,561.20	31,584.20
Oil and Grease	19,990.0	19,990.0
TSS	29,985.0	23,988.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart B—Continuous Rod Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from continuous rod casting English units—lbs/billion lbs of aluminum product from continuous rod casting	
Antimony	14.60	6.26
Cyanide	20.86	8.34
Nickel	57.37	38.59
Aluminum	316.03	129.33
Fluoride	4,046.84	1,647.94
Oil and Grease	1,043.0	1,043.0
TSS	1,564.50	1,251.60
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart B—Stationary Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from stationary casting	
	English units—lbs/billion lbs of aluminum product from stationary casting	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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 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 aluminum process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of paste produced	
	English Units—lbs/billion lbs of paste produced	
Benzo(a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Fluoride	0	0

[1] At the source.

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of anode baked	
	English Units—lbs/billion lbs of anode baked	
Benzo(a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Fluoride	0	0

[1] At the source.

(c) *Subpart B—Cathode Manufacturing Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of cathode produced	
	English Units—lbs/billion lbs of cathode produced	
Antimony	10.84	4.64
Cyanide	15.48	6.19
Nickel	42.57	28.64
Fluoride	3,003.12	1,222.92

(d) *Subpart B—Chathode Reprocessing PSNS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene[1]	9.52	
Antimony	133.28	57.12
Cyanide	190.40	76.16
Nickel	523.60	352.24
Fluoride	36,937.60	15,041.60

[1] At the source.

(e) *Subpart B—Anode Contact Cooling PSNS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of anode cast	
	English Units—lbs/billion lbs of anode cast	
Antimony	86.95	37.27
Cyanide	124.22	49.69
Nickel	341.61	229.81
Flouride	24,098.68	9,813.38

(f) *Subpart B—Potline Wet Air Pollution Control PSNS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Fluoride	0	0

[1] At the source.

(g) *Subpart B—Potroom Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	0
Nickle	0	0
Fluoride	0	0

[1] At the source.

(h) *Subpart B—Degassing Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of alluminum degassed	
	English Units—lbs/billion lbs of aluminum degassed	
Antimony	0	0
Cyanide	0	0
Nickle	0	0
Fluoride	0	0

(i) *Subpart B—Direct Chill Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from direct chill casting	
	English Untis—lbs/billion lbs of aluminum product from direct chill casting	
Antimony	279.86	119.94
Cyanide	399.80	159.92
Nickle	1,099.45	739.63
Fluoride	77,561.20	31,584.20

(j) *Subpart B—Continuous Rod Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from continuous rod casting	
	English Units—lbs/billion lbs of aluminum product from continuous rod casting	
Antimony	14.60	6.26
Cyanide	20.86	8.34
Nickel	57.37	38.59
Fluoride	4,046.84	1,647.94

(k) *Subpart B—Stationary Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from stationary casting	
	English Units—lbs/billion lbs of aluminum product from stationary casting	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Fluoride	0	0

§ 421.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in §§ 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of paste produced	
	English Units—lbs/billion lbs of paste produced	
Oil and grease	20,560.0	12,336.0
Total Suspended Solids	42,148.0	20,560.0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of anode baked	
	English units—lbs/billion lbs of anode baked	
Oil and grease	12,340.0	7,404.0
Total Suspended Solids	25,297.0	12,340.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart B—Cathode Manufacturing.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode produced	
	English units—lbs/billion lbs of cathode produced	
Oil and grease	1,550.0	930.0
Total Suspended Solids	3,177.5	1,550.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart B—Cathode Reprocessing.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	19,040.0	11,424.0
Total Suspended Solids	39,032.0	19,040.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart B—Anode Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of anode cast	
	English units—lbs/billion lbs of anode cast	
Oil and grease	29,800.0	17,880.0
Total Suspended Solids	61,090.0	29,800.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart B—Potline Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	16,760.0	10,056.0
Total Suspended Solids	34,358.0	16,760.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart B—Potroom Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	26,100.0	15,660.0
Total Suspended Solids	53,505.0	26,100.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart B—Degassing Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum degassed	
	English Units—lbs/billion lbs of aluminum degassed	
Oil and grease	52,320.0	31,392.0
Total Suspended Solids	107,256.0	52,320.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart B—Direct Chill Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from direct chill casting	
	English Units—lbs/billion lbs of aluminum product from direct chill casting	
Oil and grease	39,980.0	23,988.0
Total Suspended Solids	81,959.09	39,980.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart B—Continuous Rod Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from continuous rod casting	
	English Units—lbs/billion lbs of aluminum product from continuous rod casting	
Oil and grease	20,840.0	12,504.0
Total Suspended Solids	42,722.0	20,840.0
pH	([1])	([1])

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart B—Stationary Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from stationary casting	
	English Units—lbs/billion lbs of aluminum product from stationary casting	
Oil and grease	0	0
Total Suspended Solids	0	0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

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.

§ 421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart C—Scrap Drying Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried	
	English units—pounds per billion pounds of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

(b) *Subpart C—Scrap Screening and Milling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled English units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

(c) *Subpart C—Dross Washing.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of dross washed English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Aluminum	32,930.04	13,476.32
Ammonia (as N)	1,445,444.0	636,864.80

(d) *Subpart C—Demagging Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged English units—pounds/billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Aluminum	2,424.0	992.0
Ammonia (as N)	106,400.0	46,880.0

(e) *Subpart C—Direct Chill Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from direct chill casting English units—pounds/billion pounds of aluminum product from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	382.04
Aluminum	2,611.86	1,068.88
Ammonia (as N)	114,646.0	50,513.20

(f) *Subpart C—Stationary Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting English units—pounds/billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

(g) *Subpart C—Shot Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum produced from shot casting English Units—lbs/billion lbs of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

§ 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
	Metric Units—mg/kkg of aluminum scrap dried English Units—lbs/billion lbs of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range 7.5 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
	Metric units—mg/kkg of aluminum scrap screened and milled English units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of dross washed English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Aluminum	32,930.04	13,476.32
Ammonia (as N)	1,445,444.0	636,864.80
Oil and grease	106,680.0	108,680.0
TSS	163,020.0	130,416.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart C—Demagging Wet Air Pollution Control NSPS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged English units—pounds per billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Aluminum	2,424.0	992.0
Ammonia (as N)	106,400.0	46,880.0
Oil and grease	8,000.00	8,000.00
TSS	12,000.0	9,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart C—Direct Chill Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any One day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from direct chill casting English units—pounds per billion pounds of aluminum produced from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	382.04
Aluminum	2,611.86	1,068.88

Pollutant or pollutant property	Maximum for any One day	Maximum for monthly average
Ammonia (as N)	114,646.0	50,513.20
Oil and grease	8,620.0	8,620.0
TSS	12,930.0	10,344.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart C—Stationary Casting Contract Colling NSPS.*

Pollutant or pollutant property	Maximum for any One day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting	
	English units—pounds per billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart C—Short Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of Aluminum produced from shot casting	
	English units—pounds per billion pounds of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	[1]	[1]

[1] Within the range of 7.5 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 Pollutaion Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried	
	English Units—pounds per billion pounds of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(b) *Subpart C—Scrap Screening and Milling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum scrap screened and milled	
	English Units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(c) *Subpart C—Dross Washing PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of dross washed	
	English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Ammonia (as N)	1,445,444.0	636,864.80

(d) *Subpart C—Demagging Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum demagged	
	English units—pounds per billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Ammonia (as N)	106,400.0	46,880.0

(e) *Subpart C—Direct Chill Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum produced from direct chill casting	
	English units—pounds per billion pounds of aluminum produced from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	362.04
Ammonia (as N)	114,646.0	50,513.20

(f) *Subpart C—Stationary Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum produced from stationary casting	
	English units—pounds per billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart C—Shot Casting Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from shot casting	
	English Units—pounds per billion pounds of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

Alternatively, a POTW electing to use concentration-based standards may apply the concentrations (shown below) to all process wastewater streams for which allowances were given under the mass-based standards proposed above.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/l	
	English units—ppm	
Lead	0.10	0.09
Zinc	1.02	0.42
Ammonia (as N)	133	56.6

§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
	Metric units—mg/kkg of aluminum scrap dried English units—pounds per billion pounds of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(b) *Subpart C—Scrap Screening and Milling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled English units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(c) *Subpart C—Dross Washing PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of dross washed English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Ammonia (as N)	1,445,444.0	636,864.80

(d) *Subpart C—Demagging Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged English units—pounds per billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Ammonia (as N)	106,400.0	46,880.0

(e) *Subpart C—Direct Chill Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from direct chill casting English units—pounds per billion pounds of aluminum produced from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	362.04
Ammonia (as N)	114,646.0	50,513.20

(f) *Subpart C—Stationary Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting English units—pounds per billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart C—Shot Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from shot casting English units—pounds per billion pounds of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

§ 421.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

Except as provided in § 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart C—Scrap Drying Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried English units—pounds per billion pounds of aluminum scrap dried	
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times.

(b) *Subpart C—Scrap Screening and Milling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled English units—pounds per billion pounds of aluminum scrap screened and milled	
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times.

(c) *Subpart C—Dross Washing.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of dross washed English units—pounds per billion pounds of dross washed	
Oil and grease	217,360.0	130,416.0
TSS	445,588.0	217,360.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times.

(d) *Subpart C—Demagging Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged English units—pounds per billion pounds of aluminum demagged	
Oil and grease	16,000.0	9,600.0
TSS	32,800.0	16,000.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times.

(e) *Subpart C—Direct chill casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from direct chill casting English units—pounds per billion pounds of aluminum produced from direct chill casting	
Oil and grease	17,240.0	10,344.0
TSS	35,342.0	17,240.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

(f) *Subpart C—Stationary Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting casting English units—pounds per billion pounds of aluminum produced from stationary casting	
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

(g) *Subpart C—Shot Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from shot casting English units—pounds per billion pounds of aluminum produced from shot casting	
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

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 Subpart 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 (40 FR 8513), 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 through 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 wasterwater 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) 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 widthin 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 source performance standards: There shall be no 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 introduced in primary copper smelting process wastewater 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 through 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	Average of daily values for 30 consecutive days shall not exceed-
	(Metric units, kg/kkg of product; English units, lbs/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] Within the range of 6.0 to 9.0.

§ 421.53 Effluent limitations guidelines representing the degree or effluent reduction attainable by the application of the best available technology economically achievable.

Alternative A:

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart E—Anode and Cathode Rinsing.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode coper produced	
	English units—pounds per/billion pounds of cathode copper produced	
Cooper	0	0
Lead	0	0
Nickel	0	0

(b) *Subpart E—Spent Electrolyte.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per/billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(c) *Subpart E—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds per/billion pounds of copper cast	
Copper	946.20	498.0
Lead	74.70	64.74
Nickel	702.18	498.0

(d) *Subpart E—Casting Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds per/billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0

(e) *Subpart E—By-Product Recovery.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per/billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0

Alternative B

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart E—Anode and Cathode Rinsing.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of cathode copper produced	
	English Units—pounds/billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(b) *Subpart E—Spent Electrolyte.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of cathode copper produced	
	English Units—pounds/billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0

BAT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Nickel	0	0

(c) *Subpart E—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds/billion pounds of copper cast	
Copper	637.44	303.78
Lead	49.80	44.82
Nickel	273.90	184.26

(d) *Subpart E—Casting Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds/billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0

(e) *Subpart E—By-Product Recovery.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0

§ 412.54 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart E—Anode and Cathode Rinsing NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart E—Spent Electrolyte NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart E—Casting Contact Coolling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	637.44	303.78
Lead	49.80	44.82
Nickel	273.90	184.26
TSS	7,470.0	5,976.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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 of 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—Anode and Cathode Rinsing PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(b) *Subpart E—Spent Electrolyte PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(c) *Subpart E—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	637.44	303.78
Lead	49.80	44.82
Nickel	273.90	184.26

(d) *Subpart E—Casting Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0

(e) *Subpart E—By-Product recovery PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0

§ 421.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 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 conventional pollutant control technology:

(a) *Subpart E—Anode and Cathode Rinsing.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
TSS	4,920.0	2,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart E—Spent Electrolyte.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
TSS	11,480.0	5,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart E—Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
TSS	41,000.0	20,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart E—Casting Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart E—By-Product Recovery.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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.

§ 421.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general difinitions, abbreviations and methods of analysis set forth in 40 CFR Part 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.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations established 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 after application of the best practicable control technology currently available:

(a) Subject to the provisions of paragraphs (b), (c), and (d) of this section, three 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 established 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—
	Mertic units mg/1) Engligh 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representating 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) of this section.

(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 part 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) *Subpart G—Blast Furnace Slag Granulation.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace lead bullion produced	
	English Units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	559.5	484.9
Zinc	4,960.9	2,088.8
TSS	152,930.0	74,600.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of blast furnace	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart G—Zinc Fuming Furnace Wet Air Pollution Control.*

BPT EFFULENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	63.9	55.38
Zinc	566.58	238.56
TSS	17,466.0	8,520.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *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
	Metric units—mg/kkg of dross reverberatory furnace production	
	English units—pounds per billion pounds of dross reverberatory furnace production	
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart G—Dross Reverberatory Furnace Granulation.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of slag, matte, and speis granulated	
	English units—pounds per billion pounds of slag, matte, and speis granulated	
Lead	470.10	407.42
Zinc	4,168.22	1,755.04
TSS	128,494.0	62,680.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart G—Hard Lead Refining Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
Lead	2,975.40	2,578.68
Zinc	26,381.88	11,108.16
TSS	813,276.0	396,720.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric Units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart G—Blast Furnace Slag Granulation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced English units—pounds per/billion pounds of blast furnace lead bullion produced	
Lead	373.0	335.7
Zinc	3,804.6	1,566.6

(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
	Metric units—mg/kkg of blast furnace lead bullion produced English units—pounds per/billion pounds of blast furnace lead bullion produced	
Lead	0	0
Zinc	0	0

(c) *Subpart G—Zinc Fuming Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced English units—pounds per/billion pounds of blast furnace lead bullion produced	
Lead	0	0
Zinc	0	0

(d) *Subpart G—Dross Reverberatory Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of dross reverberatory furnace production English Units—pounds per billion pounds of dross reverberatory furnace production	
Lead	0	0
Zinc	0	0

(e) *Subpart G—Dross Reverbertory Furnace Granulation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of slag, mate, and speis granulated English Units—pounds per billion pounds of slag, matte, and speis granulated	
Lead	0	0
Zinc	0	0

(f) *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
	Metric Units—mg/kkg of hard lead produced English Units—pounds per billion pounds of hard lead produced	
Lead	0	0
Zinc	0	0

(g) *Subpart G—Hard Lead Refining Slag Granulation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of hard lead produced English Units—pounds per billion pounds of hard lead produced	
Lead	0	0
Zinc	0	0

§ 421.74 Standards of performance for new sources.

Any new source subject to this subpart must achieve the following performance standards: There shall be no discharge of process pollutants to navigable waters.

§ 421.75 [Reserved]

§ 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: There shall be no discharge of process pollutants into a publicly owned treatment works.

§ 421.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart G—Blast Furnace Slag Granulation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace lead bullion produced English Units—Pounts per billion pounds of blast furnace lead bullion produced	
TSS	152,930.0	74,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart G—Blast Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace English Units—pounds per billion pounds of blast furnace lead bullion produced	
TSS		
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart G—Zinc Fuming Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace lead bullion produced English Units—pounds per billion pounds of blast furnace lead bullion produced	
TSS	17,466.0	8,520.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of dross reverberatory furnace production	
	English Units—pounds per billion pounds of dross reverberatory furnace production	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart G—Dross Reverberatory Furnace Granulation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of slag, matte, and speis granulated	
	English units—pounds per billion pounds of slag, matte, and speis granulated	
TSS	128,494.0	62,680.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart G—Hard Lead Refining Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
TSS	813,276.0	396,720.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart G—Hard Lead Refining Slag Granulation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. 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 after application of the best practicable control technology currently available:

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)	
TSS	0.42	0.21
As	1.6×10^{-3}	8×10^{-4}
Cd	0.008	0.004
Se	0.08	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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *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
	Metric units—mg/kkg of zinc reduced	
	English units—pounds per billion pounds of zinc reduced	
Cadmium	333.66	133.46
Copper	2,135.42	1,017.66
Lead	166.83	150.15
Zinc	1,701.67	700.69

(b) *Subpart H—Leaching.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	262.0	104.80
Copper	1,676.80	799.10
Lead	131.0	117.90
Zinc	1,336.20	550.20

(c) *Subpart H—Leaching Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	0	0
Copper	0	0
Lead	0	0
Zinc	0	0

(d) *Subpart H—Cathode and Anode Washing.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
Cadmium	3,970.0	1,588.0
Copper	25,408.0	12,108.50
Lead	1,985.0	1,786.50
Zinc	20,247.0	8,337.0

(e) *Subpart H—Casting Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	51.40	20.56
Copper	328.96	156.77
Lead	25.70	23.13
Zinc	262.14	107.94

(f) *Subpart H—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per/billion pounds of zinc cast	
Cadmium	36.20	14.48
Copper	231.68	110.41
Lead	18.10	16.29
Zinc	184.62	76.02

(g) *Subpart H—Cadmium Plant.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per/billion pounds of cadmium produced	
Cadmium	1,234.20	493.68
Copper	7,898.88	3,764.31
Lead	617.10	555.39
Zinc	6,294.42	2,591.82

§ 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
	Metric Units—mg/kkg of zinc reduces	
	English units—pounds per/billion pounds of zinc reduced	
Cadmium	333.66	133.46
Copper	2,135.42	1,017.66
Lead	166.83	150.15
Zinc	1,701.67	700.69
TSS	25,024.50	20,019.60
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(b) *Subpart H—Leaching NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	262.0	104.80
Copper	1,676.80	799.10
Lead	131.0	117.90
Zinc	1,336.20	550.20
TSS	19,650.01,	15,720.0
pH	(1)	(1)

(1) Within the range of 7.5 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
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	0	0
Copper	0	0
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(d) *Subpart H—Cathode and Anode Washing NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
Cadmium	3,970.0	1,588.0
Copper	25,408.0	12,108.50
Lead	1,985.0	1,786.50
Zinc	20,247.0	8,337.0
TSS	297,750.0	238,200.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(e) *Subpart H—Casting Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per/billion pounds of zinc cast	
Cadmium	51.40	20.56
Copper	328.96	156.77
Lead	25.70	23.13
Zinc	262.14	107.94
TSS	3,855.0	3,084.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(f) *Subpart H—Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	36.20	14.38
Copper	231.68	110.41
Lead	18.10	16.29
Zinc	184.62	76.02
TSS	2,715.0	2,172.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart H—Cadmium Plant NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per billion pounds of cadmium produced	
Cadmium	1,234.20	493.68
Copper	7,898.88	3,764.31
Lead	617.10	555.39
Zinc	6,294.42	2,591.82
TSS	92,565.0	74,052.0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.85 [Reserved]

§ 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
	Metric units—mg/kkg of zinc reduced	
	English units—pounds per billion pounds of zinc reduced	
Cadmium	333.66	133.46
Copper	2,135.42	1,017.66
Lead	166.83	150.15
Zinc	1,701.67	700.69

(b) *Subpart H—Leaching PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	262.0	104.80
Copper	1,676.80	799.10
Lead	131.0	117.90
Zinc	1,336.20	550.20

(c) *Subpart H—Leaching Wet Air Pollution Control PSNS*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	0	0
Copper	0	0
Lead	0	0
Zinc	0	0

(d) *Subpart H—Cathode and Anode Washing PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
Cadmium	3,970.0	1,588.0
Copper	25,408.0	12,108.50
Lead	1,985.0	1,786.50
Zinc	20,247.0	8,337.0

(e) *Subpart H—Casting Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	51.40	20.56
Copper	328.96	156.77
Lead	25.70	23.13
Zinc	262.14	107.94

(f) *Subpart H—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	36.20	14.48
Copper	231.68	110.41
Lead	18.10	16.29
Zinc	184.62	76.02

(g) *Subpart H—Cadmium Plant PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per billion pounds of cadmium produced	
Cadmium	1,234.20	493.68
Copper	7,898.88	3,764.31
Lead	617.10	555.39
Zinc	6,294.42	2,591.82

§ 421.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in §§ 125.30 through 125.32 any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc reduced	
	English units—pounds per billion pounds of zinc reduced	
TSS	68,400.30	33,366.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart H—Leaching.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching English units—pounds per billion pounds of zinc processed through leaching	
TSS	53,710.0	26,200.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart H—Leaching Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching English units—pounds per billion pounds of zinc processed through leaching	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart H—Cathode and Anode Washing.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced English units—pounds per billion pounds of cathode zinc produced	
TSS	813,850.0	397,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart H—Casting Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast English units—pounds per billion pounds of zinc cast	
TSS	105,370.0	51,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart H—Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast English units—pounds per billion pounds of zinc cast	
TSS	79,827.0	38,940.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart H—Cadmium Plant.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced English units—pounds per billion pounds of cadmium produced	
TSS	253,011.0	123,420.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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 byproduct 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 through 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	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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart I—Acid Plant Blowdown.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of 100 pct sulfuric acid capacity English units—pounds per billion pounds of 100 pct. sulfuric acid capacity	
Arsenic	3,550.06	1,455.78
Cadmium	510.80	204.32
Copper	3,269.12	1,557.94
Lead	255.40	229.86
Zinc	2,605.08	1,072.68

§ 421.94 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart I—Acid Plant Blowdown NSPS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of 100 pct sulfuric acid capacity English units—pounds per billion pounds of 100 pct sulfuric acid capacity	
Arsenic	3,550.06	1,455.78
Cadmium	510.80	204.32
Copper	3,269.12	1,557.94
Lead	255.40	229.86

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	2,605.08	1,072.68
TSS	38,310.0	30,648.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§421.95 [Reserved]

§ 421.96 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutions 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:

(a) *Subpart I—Acid Plant Blowdown PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of 100 pt sulfuric acid capacity	
	English units—pounds per billion pounds of 100 pt sulfuric acid capacity	
Arsenic	3,550.06	1,455.78
Cadmium	510.80	204.32
Copper	3,269.12	1,557.94
Lead	255.40	229.86
Zinc	2,605.08	1,072.68

§ 421.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in § 125.30 through 125.32 any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product	
	English units—pounds per billion pounds of product	
TTS	249,239.0	121,580.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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 purposes 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Subpart J—Tungsten Acid Rinse.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric unit—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	7,140.0	6,188.0
Selenium	58,548.0	26,180.0
Zinc	63,308.0	26,656.0
Ammonia (as N)	6,330,800.0	789,360.0
TSS	1,951,600.0	952,000.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric unit—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	5,655.0	4,901.0
Selenium	46,371.0	2,735.0
Zinc	50,141.0	21,112.0
Ammonia (as N)	5,014,100.0	2,209,220.0
TSS	1,545,700.0	754,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart J—Alkali Leach Wash.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of sodium tungstate produced	
	English Units—pounds per billion pounds of sodium tungstate produced	
Lead	7,005.0	6,071.0
Selenium	57,441.0	25,685.0
Zinc	62,111.0	26,152.0
Ammonia (as N)	6,211,100.0	2,736,620.0
TSS	1,914,700.0	934,000.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric Units—mg/kkg of ammonium tungstate produced	
	English Units—pounds per billion pounds of ammounium tungstate produced	
Lead	7,680.0	6,656.0
Selenium	62,976.0	28,160.0
Zinc	68,096.0	28,672.0
Ammonia (as N)	6,809,600.0	3,000,320.0
TSS	2,099,200.0	1,024,000.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of calcium tungstate produced	
	English Units—pounds per billion pounds of calcium tungstate produced	
Lead	5,580.0	4,836.0
Selenium	45,756.0	20,460.0
Zinc	49,476.0	20,832.0
Ammonia (as N)	4,947,600.0	2,179,920.0
TSS	1,525,200.0	744,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of ammonium paratungstate produced	
	English Units—pounds per/billion pounds of ammonium paratungstate produced	
Lead	0	0

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric Units—mg/kkg of "blue" oxide (WO_3) produced	
	English Units—pounds per billion pounds of "blue" oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0
TSS	856,900.0	418,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *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
	Metric Units—mg/kkg of tungsten produced	
	English Units—pounds per billion pounds of tungsten produced	
Lead	10,980.0	9,516.0
Selenium	90,036.0	40,260.09
Zinc	97,356.0	40,992.0
Ammonia (as N)	9,735,600.0	4,289,520.0
TSS	3,001,200.0	1,464,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart J—Reduction to Tungsten Water of Formation.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungsten reduced	
	English Units—pounds per billion pounds of tungsten reduced	
Lead	2,910.0	2,522.0
Selenium	23,862.0	10,670.0
Zinc	25,802.0	10,864.0
Ammonia (as N)	2,580,200.0	1,136,840.0
TSS	795,400.0	388,000.0
pH	(1)	(1)

[1] Within the range of 7.5 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart J—Tungsten Acid Rinse.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungstic acid produced	
	English Units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0

(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
	Metric Units—mg/kkg of tungstic acid produced	
	English Units—pounds per billion pounds of tungstic acid produced	
Lead	337.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0

(c) *Subpart J—Alkali Leach Wash.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of sodium tungstate produced	
	English Units—pounds per billion pounds of sodium tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	19,614.0
Ammonia (as N)	6,211,100.0	2,736,620.0

(d) *Subpart J—Ion-Exchange Raffinate.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of ammonium tungstate produced	
	English Units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia (as N)	6,809,600.0	3,000,320.0

(e) *Subpart J—Calcium Tungstate Precipitate Wash.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0

(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
	Metric Units—mg/kkg of ammonium paratungstate produced	
	English Units—Pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0

(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
	Metric Units—mg/kkg of "blue" oxide (WO_3) produced	
	English Units—Pound per billion pounds of "blue Oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0

(h) *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
	Metric Units—mg/kkg of tungsten produced	
	English Units—Pounds per/billion pounds per of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0

(i) *Subpart J—Reduction to Tungsten Water of Formation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0

§ 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—Tungsten Acid Rinse NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0
TSS	174,000.0	571,200.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	377.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0
TSS	56,550.0	45,240.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of sodiuim tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	10,614.0
Ammonia (as N)	6,211,100.00	2,736,620.0
TSS	700,500.0	560,400.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia (as N)	6,809,600.0	3,000,320.0
TSS	768,000.0	614,400.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0
TSS	558,000.0	446,400.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0
TSS	856,900.0	418,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0
TSS	109,800.0	87,840.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart J—Reduction to Tungsten Water of Formation NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0
TSS	291,000.0	232,800.0
pH	(1)	(1)

[1] Within the range of 7.5 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—Tungsten Acid Rinse PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0

(b) *Subpart J—Acid Leach Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	377.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0

(c) *Subpart J—Alkali Leach Wash PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of sodium tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	19,614.0
Ammonia (as N)	6,211,100.0	2,736,620.0

(d) *Subpart J—Ion-Exchange Raffinate PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia (as N)	6,809,600.0	3,000,320.0

(e) *Subpart J—Calcium Tungstate Precipitate Wash PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0

(f) *Subpart J—Crystallization and Drying of Ammonium paratungstate PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart J—Ammonium Paratungstate Convention to Oxides Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0

(i) *Subpart J—Reduction to Tungsten Water of Formation PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten produced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0

§ 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—Tungsten Acid Rinse PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0

(b) *Subpart J—Acid Leach Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	377.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0

(c) *Subpart J—Alkali Leach Wash PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	19,614.0
Ammonia (as N)	6,211,100.0	2,736,620.0

(d) *Subpart J—Ion-Exchange Raffinate PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
Lead	8,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia	6,809,600.0	3,000,320.0

(e) *Subpart J—Calcium Tungstate Precipitate Wash PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0

(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
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO^{T23}) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0

(i) *Subpart J—Reduction to Tungsten Water of Formation PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0

§ 421.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32 any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart J—Tungsten Acid Rinse.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid reduced	
	English units—pounds per billion pounds of tungstic acid produced	
TSS	1,951,600.0	952,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart J—Acid Leach Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
TSS	1,545,700.0	754,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart J—Alkali Leach Wash.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of sodium tungstate produced	
TSS	1,914,700.0	934,000.0

BCT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart J—Ion-Exchange Raffinate.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
TSS	2,099,200.0	1,024,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart J—Calcium Tungstate Precipitate Wash.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of Calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
TSS	1,525,200.0	744,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate.*

BCT EFFLUENT LIMITATION

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO_3) produced	
TSS	856,900.0	418,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
TSS	3,001,200.0	1,464,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart J—Reduction to Tungsten Water of Formation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
TSS	795,400.0	388,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium-tantalum salt produced from digestion	
	English units—pounds per billion pounds of columbium-tantalum salt produced from digestion	
Lead	1,637.25	1,418.95
Zinc	14,516.95	6,112.40
Ammonia (as N)	1,451,695.0	639,619.0
Fluoride	649,442.50	288,156.0
Total Suspended Solids	447,515.0	218,300.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	4,037.40	3,499.08
Zinc	35,798.28	15,072.96
Ammonia (as N)	3,579,828.0	1,577,277.60
Fluoride	1,601,502.0	710,582.40
Total Suspended Solids	1,103,556.0	538,320.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	645.21	559.18
Zinc	5,720.86	2,408.78
Ammonia (as N)	572,086.20	252,062.04
Fluoride	255,933.30	113,556.96
Total Suspended Solids	176,357.40	86,028.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart K—Precipitation and Filtration of Metal Salts.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	37,083.45	32,138.99
Zinc	328,806.59	138,444.88
Ammonia (as N)	32,880,659.0	14,487,267.80
Fluoride	14,709,768.50	6,526,687.20
Total Suspended Solids	10,136,143.0	4,944,460.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	12,546.45	10,873.59
Zinc	111,245.19	46,840.08
Ammonia (as N)	11,124,519.0	4,901,479.80
Fluoride	4,976,758.50	2,208,175.20
Total Suspended Solids	3,429,363.0	1,872,86.00
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart K—Reduction of Salt to Metal.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	52,899.45	45,846.19
Zinc	469,041.79	197,491.28
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	20,983,448.50	9,310,303.20
Total Suspended Solids	14,459,183.0	7,053,260.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	3,228.15	2,797.73

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	28,622.93	12,051.76
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	1,280,499.50	568,154.40
Total Suspended Solids	882,361.0	430,420.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart K—Consolidation and Casting Contact Cooling.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt produced from digestion English units—pounds per billion pounds of columbium or tantalum salt produced from digestion	
Lead	515.63	464.07
Zinc	5,259.43	2,165.65
Ammonia (as N)	685,787.90	302,159.18
Fluoride	200,064.44	81,469.54

(b) *Subpart K—Solvent Extraction Raffinate.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691.60	2,422.44
Zinc	27,454.32	11,304.72
Ammonia (as N)	3,579,828.0	1,577,277.60
Fluoride	1,044,340.80	425,272.80

(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
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43.01	38.71
Zinc	438.70	180.64
Ammonia (as N)	57,203.30	25,203.86
Fluoride	16,687.88	6,795.58

(d) *Subpart K—Precipitation and Filtration of Metal Salts.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1day	Maximum for monthly average
	Metric units—mg/kkg of colubium or tantalum salt precipitated English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	24,722.30	22,250.07
Zinc	252,167.46	103,833.66
Ammonia (as N)	32,880,659.0	14,487,267.80
Fluoride	9,592,252.40	3,906,123.40

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647.90	1,483.11
Zinc	16,808.58	6,921.18
Ammonia (as N)	2,191,707.0	965,669.40
Fluoride	639,385.20	260,368.20

(f) *Subpart K—Reduction of Salt to Metal.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266.30	31,739.67
Zinc	359,716.26	148,118.46
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	13,683,324.40	5,572,075.40

(g) *Subpart K—Reduction of salt to Metal Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152.10	1,936 89
Zinc	21,951.42	9,038 82
Ammonia (as N)	2,862,293.0	1,261,130 60
Fluoride	835,014.80	340,031.80

(h) *Subpart K—Consolidation and Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0

§ 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 coverage
	Metric units—mg/kkg of columbium or tantalum salt produced from digestion	
	English units—pounds per billion pounds of columbium or tantalum salt produced from digestion	
Lead	515.63	464.07
Zinc	5,259.43	2,165.65
Ammonia (as N)	685,787.90	302,159.18
Fluoride	200,064.44	81,469.54
Total Suspended Solids	77,344.50	61,875.60
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691.60	2,422.44
Zinc	27,454.32	11,304.72
Ammonia (as N)	3,579,828.0	1,577,277.60
Fluoride	1,044,340.80	425,272.80
Total Suspended Solids	403,740.0	322,992.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43.01	38.71
Zinc	438.70	180.64
Ammonia (as N)	57,203.30	25,203.86
Fluoride	16,687.88	6,795.58
Total Suspended Solids	6,451.50	5,161.20
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart K—Precipitation and Filtration of Metal Salts NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	24,722.30	22,250.07
Zinc	252,167.46	103,833.66
Ammonia (as N)	32,880,659.0	14,487,267.80
Fluoride	9,592,252.40	3,906,123.40
Total Suspended Solids	3,708,345.0	2,966,676.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647.90	1,483.11
Zinc	16,808.58	6,921.18
Ammonia (as N)	2,191,707.0	965,669.40
Fluoride	639,385.20	260,368.20
Total suspended solids	247,185.0	197,748.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart K—Reduction of Salt to Metal NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266.30	31,739.67
Zinc	359,716.26	148,118.46
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	13,683,324.40	5,572,075.40
Total suspended solids	5,289,345.0	4,231,956.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152.10	1,936.89
Zinc	21,951.42	9,038.82
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	835,014.80	340,031.80
Total suspended solids	322,815.0	258,252.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart K—Consolidation and Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum, cast or consolidated	
	English units—Pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of columbium-tantalum salt produced from digestion	
	English units—Pounds per billion pounds of columbium-tantalum salt produced from digestion	
Lead	515 63	464 07
Zinc	5,259 43	2,165 65
Ammonia (as N)	685,787 90	302,159 18
Fluoride	200,064 44	81,469.54

(b) *Subpart K—Solvent Extraction Raffinate PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691 60	2,422.44
Zinc	27,454.32	11,304.72
Ammonia (as N)	3,579,828.00	1,577,277.60
Fluoride	1,044,340.80	425,272.80

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43.01	38.71
Zinc	438.70	180.64
Ammonia (as N)	57,203.30	25,203.86
Fluoride	16,687.88	6,795.58

(d) *Subpart K—Precipitation and Filtration of Metal Salts PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	24,722.30	22,250.07
Zinc	252,167 46	103,833.66
Ammonia (as N)	32,880,659 00	14,487,267 80
Fluoride	9,592,252.40	3,906,123.40

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647 90	1,483 11
Zinc	16,808 58	6,921 18
Ammonia (as N)	2,191.707 0	965,669 40
Fluoride	639,385.20	260,368.20

(f) *Subpart K—Reduction of Salt to Metal PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266.30	31,739.67
Zinc	359,716.26	148,118.48
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	13,683,324.40	5,572,075.40

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152.10	1,936.89
Zinc	21,951.42	9,038.82
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	835,014.80	340,031.80

(h) *Subpart K—Consolidation and Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per/billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0

§ 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
	Metric Units—mg/kkg of columbium or tantalum salt produced from digestion	
	English Units—pounds per/billion pounds of columbium or tantalum salt produced from digestion	
Lead	515.63	464.07
Zinc	5,259 43	2,165.65
Ammonia (as N)	685,787 90	302,159.18
Fluoride	200,064.44	81,469.54

(b) *Subpart K—Solvent Extraction Raffinate PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691.60	2,422.44
Zinc	27,454.32	11,304.72
Ammonia (as N)	3,579,828.0	1,577,277.60
Fluoride	1,044,340.80	425,272.80

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43.01	38.71
Zinc	438.70	180.64
Ammonia (as N)	57,203.30	25,203.86
Fluoride	16,687.88	6,795.58

(d) *Subpart K—Precipitation and Filtration of Metal Salts PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	24,722.30	22,250.07
Zinc	252,167.46	103,833.66
Ammonia (as N)	32,880,659.0	14,487,267.80
Fluoride	9,592,252.40	3,906,123.40

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647.90	1,483.11
Zinc	16,808.58	6,921.18
Ammonia (as N)	2,191,707.0	965,669.40
Fluoride	639,385.20	260,368.20

(f) *Subpart K—Reduction of Salt to Metal PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266.30	31,739.67
Zinc	359,716.26	148,118.46
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	13,683,324.40	5,572,075.40

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152.10	1,936.89
Zinc	21,951.42	9,038.82
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	835,014.80	340,031.80

(h) *Subpart K—Consolidation and Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0

§ 421.117 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium-tantalum salt produced from digestion English units—pounds per billion pounds of columbium-tantalum salt produced from digestion	
Total Suspended Solids	447,515.0	218,300.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(b) *Subpart K—Solvent Extraction Raffinate.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Total Suspended Solids	1,103,556.0	538,320.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted English units—pounds per billion pounds of columbium or tantalum salt extracted	
Total Suspended Solids	176,357.40	86,028.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(d) *Subpart K—Precipitation and Filtration of Metal Salts.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Total Suspended Solids	10,136,143.0	4,944,460.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Total Suspended Solids	3,429,363.0	1,672,860.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart K—Reduction of Salt to Metal.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Total Suspended Solids	14,459,183.0	7,053,260.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Total Suspended Solids	882,361.0	430,420.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart K—Consolidation and Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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 photographic 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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application fo 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
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	3,076,100.0	1,619,000.0
Zinc	2,153,270.0	906,640.0
Ammonia (as N)	215,327,000.0	94,873,400.0
Total Suspended Solids	66,379,000.0	32,380,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart L—Film Stripping Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	29,602.0	15,580.0
Zinc	20,721.40	8,724.80
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	638,780.0	311,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions.*

BPT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	3,516,900.0	1,851,000.0
Zinc	2,461,830.0	1,036,560.0
Ammonia (as N)	246,183,000.0	108,468,600.0
Total Suspended Solids	75,891,000.0	37,020,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.*

BPT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	29,602.0	15,580.0
Zinc	20,721.40	8,724.80
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	638,780.0	311,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions*

BPT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,622,600.0	854,000.0
Zinc	1,135,620.0	478,240.0
Ammonia (as N)	113,582,000.0	50,044,400.0
Total Suspended Solids	35,014,000.0	17,080,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	741,570.0	390,300.0
Zinc	519,099.0	218,568.0
Ammonia (as N)	51,909,900.0	22,871,580.0
Total Suspended Solids	16,002,300.0	7,806,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart L—Electrolytic Refining.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metrtic units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	46,200.40	24,316.0
Zinc	32,340.28	13,616.96
Ammonia (as N)	3,234,028.0	1,424,917.60
Total Suspended Solids	996,956.0	486,320.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metrtic units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted, or dried	
Copper	40,886.10	21,519.0
Zinc	28,620.27	12,050.64
Ammonia (as N)	2,862,027.0	1,261,013.40
Total Suspended Solids	882,279.0	430,380.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart L—Casting Contact Cooling.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	22,866.50	12,035.0
Zinc	16,006.55	6,739.60
Ammonia (as N)	1,600,655.0	705,251.0
Total suspended solids	493,435.0	240,700.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart L—Casting Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	9,007.90	4,741.0
Zinc	6,305.53	2,654.96
Ammonia (as N)	630,553.0	277,822.60
Total suspended solids	194,381.0	94,820.0

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart L— Leaching.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	5,282.0	2,780.0
Zinc	3,697.4	1,556.8
Ammonia (as N)	369,740.0	162,908.0
Total suspended solids	113,980.0	55,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	270,539.10	142,389.0
Zinc	189,377.37	79,737.84
Ammonia (as N)	18,937,737.0	8,343,995.40
Total suspended solids	5,837,949.0	2,847,780.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	187,296.30	98,577.0
Zinc	131,107.41	55,203.12
Ammonia (as N)	13,110,741.0	5,776,612.20
Total suspended solids	4,041,657.0	1,971,540.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	151,868.90	79,931.0
Zinc	106,308.23	44,761.36
Ammonia (as N)	10,630,823.0	4,683,956.60
Total suspended solids	3,277,171.0	1,598,620.0
pH	(1)	(1)

[1] Within the range of 7.5 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.

Alternative A

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart L—Film Stripping.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	3,076,100.0	1,619,000.0
Zinc	2,153,270.0	906,640.0
Ammonia (as N)	215,327,000.0	

(b) *Supart L—Film Stripping Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	3,516,900.0	1,851,000.0
Zinc	2,461,830.0	1,036,560.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metrtic units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,622,600.0	854,000.0
Zinc	1,135,820.0	478,240.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *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
	Metrtic units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	741,570.0	390,300.0
Zinc	519,099.0	218,568.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per/billion pounds of silver refined	
Copper	46,200.4	24,316.0
Zinc	32,340.28	13,616.96
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dryed	
	English units—pounds per/billion pounds of silver roasted, smelted, or dryed	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per/billion pounds of silver cast	
Copper	2,287.6	1,204.0
Zinc	1,601.32	674.24
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per/billion pounds of silver cast	
Copper	9,007.8	4,741.0
Zinc	6,305.53	2,654.96
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	5,282.0	2,780.0
Zinc	3,697.4	1,556.8
Ammonia (as N)	369,740.0	165,662.20

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	270,539.1	142,389.0
Zinc	189,377.37	79,737.84
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	187,296.30	98,577.0
Zinc	131,107.41	55,203.12
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	151,868.9	79,931.0
Zinc	106,308.23	44,761.36
Ammonia (as N)	10,630,823.0	4,683,956.60

Alternative B

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application

of the best available technology economically achievable:

(a) *Subpart L—Film Stripping.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted, or dried	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.4	1,695.8
Zinc	2,835.6	1,167.6
Ammonia (as N)	369,740.0	162,908.0

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.00	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.00	5,776,612.20

(n) *Subpart L—Precipitation of Nonphotographic Solutions Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60

§ 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
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0
Total Suspended Solids	24,265,000.0	19,428,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart L—Film Stripping Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	233,700.0	186,960.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0
Total Suspended Solids	27,765,000.0	22,212,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart L—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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	233,700.0	186,960.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0
Total Suspended Solids	12,810,000.0	10,248,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0
Total Suspended Solids	5,854,500.0	4,683,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart L—Electrolytic Refining NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.0	1,424,917.60
Total Suspended Solids	364,740.0	291,792.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart L—Furnace Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart L—Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40
Total Suspended Solids	18,060.0	14,448.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart L—Casting Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60
Total Suspended Solids	71,115.0	56,892.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart L—Leaching NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.4	1,695.8
Zinc	2,835.6	1,167.6
Ammonia (as N)	369,740.0	162,908.0
Total Suspended Solids	41,700.0	33,360.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) *Subpart L—Leaching Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.0	8,343,995.40
Total Suspended Solids	2,135,835.0	1,708,668.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.0	5,776,612.20
Total Suspended Solids	1,478,655.0	1,182,924.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60
Total Suspended Solids	1,198,965.0	959,172.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.125 Pretreatment standards for existing sources.

Alternative A

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the 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
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	3,076,100.0	1,619,000.0
Zinc	2,153,270.0	906,640.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maimum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	3,516,900.0	1,851,000.0
Zinc	2,461,830.0	1,036,560.0
Ammonia (as N)	246,183,000.0	108,468,6000.0

(d) *Subpart L—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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,622,600.0	854,000.0
Zinc	1,135,820.0	478,240.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	741,570.0	390,300.0
Zinc	519,099.0	218,568.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	46,200.4	24,316.0
Zinc	32,304.28	13,616.96
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dryed	
	English units—pounds per billion pounds of silver roasted, smelted, or dryed	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	2,287.6	1,204.0
Zinc	1,601.32	674.24
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	9,007.8	4,741.0
Zinc	6,305.53	2,654.96
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	5,282.0	2,780.0
Zinc	3,697.4	1,556.8
Ammonia (as N)	369,740.0	165,662.20

(l) *Subpart L—Leaching Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	270,539.1	142,389.0
Zinc	189,377.37	79,737.84
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	187,296.30	98,577.0
Zinc	131,107.41	55,203.12
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	151,868.9	79,931.0
Zinc	106,308.23	44,761.36
Ammonia (as N)	10,630,823.0	4,683,956.60

Alternative B

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
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	356,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted or dried	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.40	1,695.80
Zinc	2,835.60	1,167.60
Ammonia (as N)	369,740.0	162,908.0

(l) *Subpart L—Leaching Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60

§ 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
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.00	912,988.00

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *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
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.00	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted, or dried	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.40	1,695.80
Zinc	2,835.60	1,167.60
Ammonia (as N)	369,740.0	162,908.0

(l) *Subpart L—Leaching Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60

§ 421.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollution control technology:

(a) *Subpart L—Film Stripping.*

BCT EFFLUENT LIMITATIONS

Pollutants or pollutants property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Total suspended solids	66,379,000.0	32,380,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart L—Film Stripping Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutants or pollutants property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Total suspended solids	638,780.0	311,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions.*

BCT EFFLUENT LIMITATIONS

Pollutants or pollutants property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total suspended solids	75,891,000.0	37,020,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total suspended solids	638,780.0	311,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds silver precipitated	
Total suspended solids	35,014,000.0	17,080,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total suspended solids	16,002,300.0	7,806,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart L—Electrolytic Refining.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Total Suspended Solids	996,956.0	466,320.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted or dried	
Total Suspended Solids	882,279.0	430,380.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart L—Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Total Suspended Solids	493,435.0	240,700.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart L—Casting Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Total Suspended Solids	194,381.0	94,820.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart L—Leaching.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Total Suspended Solids	113,980.0	55,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Total Suspended Solids	5,837,949.0	2,847,780.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total Suspended Solids	4,041,657.0	1,971,540.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total Suspended Solids	3,277,171.0	1,598,620.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Subpart M—Battery Cracking.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	2,697.80	1,193.80
Arsenic	1,964.60	808.40
Lead	141.0	122.20
Zinc	1,250.20	526.40
Ammonia (as N)	0.0	0.0
Total Suspended Solids	38,540.0	18,800.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	9,700.60	4,292.60
Arsenic	7,064.20	2,906.80
Lead	507.0	439.40
Zinc	4,495.40	1,892.80
Ammonia (as N)	0.0	0.0
Total Suspended Solids	138,580.0	67,600.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart M—Casting Contact Cooling.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	634.84	280.92
Arsenic	462.31	190.23
Lead	33.18	28.76
Zinc	294.20	123.87
Ammonia (as N)	0.0	0.0
Total Suspended Solids	9,069.20	4,424.0
pH	(1)	(1)

[1] Within the range of 7.5 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.

Alternate A

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart M—Battery Cracking.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	1,931.51	854.71
Arsenic	1,406.57	578.78
Lead	100.95	87.49
Zinc	895.09	376.88
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	7,490.7	3,314.7
Arsenic	5,454.9	2,244.6
Lead	391.5	339.3
Zinc	3,471.30	1,461.6
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	63.43	28.07
Arsenic	46.19	19.01
Lead	3.32	2.87
Zinc	29.39	12.38
Ammonia (as N)	0.0	0.0

Alternative B

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart M—Battery Cracking.*

BAT EFFLUENT LIMITATION

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATION

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.40	156.60
Arsenic	3,627.90	1,487.70
Lead	261.0	234.90
Zinc	2,662.20	1,096.20
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BAT EFFLUENT LIMITATION

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0

§ 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.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0
Total Suspended Solids	10,095.0	8,076.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.40	156.60
Arsenic	3,627.90	1,487.70
Lead	261.0	234.90
Zinc	2,662.0	1,096.20
Ammonia (as N)	0	0
Total Suspended Solids	39,150.0	31,320.0
pH	(1)	(1)

[1] Within the range of 7.5 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
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart M—Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0
Total Suspended Solids	331.50	265.20
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.135 Pretreatment standards for existing sources.

Alternative A.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the 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
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	1,931.51	854.71
Arsenic	1,406.57	578.78
Lead	100.95	87.49
Zinc	895.09	376.88
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnance Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	7,490.7	3,314.7
Arsenic	5,454.9	2,244.6
Lead	391.5	339.3
Zinc	3,471.30	1,461.6
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	63.43	28.07
Arsenic	46.19	19.01
Lead	3.32	2.87
Zinc	29.39	12.38
Ammonia (as N)	0.0	0.0

Alternative B

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
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.40	156.60
Arsenic	3,627.90	1,487.70
Lead	261.0	234.90
Zinc	2,662.20	1,096.20
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0

§ 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
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.4	156.6
Arsenic	3,627.9	1,487.7
Lead	261.0	234.9
Zinc	2,662.2	1,096.2
Ammonia (as N)	0	0

(c) *Subpart M—Kettle Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0

§ 421.137 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollution control technology:

(a) *Subpart M—Battery Cracking.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Total Suspended Solids	38,540.0	18,800.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all time.

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metrtic units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Total Suspended Solids	138,580.0	67,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart M—Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Total Suspended Solids	9,069.20	4,424.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

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federal register

Thursday
February 17, 1983

Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources: Four Categories of Sources in the Phosphate Fertilizer Industry

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2244-7]

Standards of Performance for New Stationary Sources; Phosphate Fertilizer Industry; Wet Process Phosphoric Acid Plants; Superphosphoric Acid Plants; Diammonium Phosphate Plants; Triple Superphosphate Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revised standards of performance for fluoride emissions from four categories of sources in the phosphate fertilizer industry were proposed in the **Federal Register** on June 21, 1982. This action, which promulgates these revised standards, is based on comments received from the Tennessee Valley Authority (TVA) that small research facilities have been unable to achieve the existing standards. After investigating the problem, EPA concluded that research facilities should be excluded from the standard. These revisions limit the applicability of standards to plants with a capacity of more than 15 tons of equivalent phosphorus pentoxide (P_2O_5) feed per day. The effect of these revisions is to exempt from the standard small plants used for research and development of production processes.

EFFECTIVE DATE: February 17, 1983.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: The docket, number A-81-33, containing supporting information used by EPA in development of the promulgated amendments to the standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, U.S. Environmental Protection Agency, Standards Development Branch, Emission Standards and Engineering Division (MD-13), Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION: On August 6, 1975 (40 FR 33152), the Administrator promulgated standards of performance for fluoride emissions for five new affected facilities within the phosphate fertilizer industry: wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities. The Clean Air Act Amendments of 1977 require that the Administrator of EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years (Section 111(b)(1)(B)). During 1980 EPA undertook a review of the phosphate fertilizer industry and the associated NSPS. On the basis of this review, the Agency concluded that NSPS revision was not warranted. The findings and conclusions of this review were published for comment in the **Federal Register** on November 21, 1980 (45 FR 77075).

In December 1980, EPA received a comment from the Tennessee Valley Authority (TVA) that small research plants in the phosphate fertilizer industry have been unable to achieve the existing standards for fluorides. TVA provides about 75 percent of the Nation's research in phosphate fertilizers. Although at present TVA's only phosphate fertilizer research facility is a small wet-process phosphoric acid plant, TVA anticipates other phosphate fertilizer research facilities in the future and foresees similar control problems with the three other standards pertaining to phosphate fertilizer.

After investigating the problem, the Administrator has concluded that research facilities should be exempted from the standards. Therefore, the Administrator proposed to amend the NSPS for wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, and triple superphosphate plants to cover only those facilities with a design capacity greater than 15 tons of equivalent P_2O_5 feed per day. This processing rate is less than that of any known existing commercial production facility and no production units of this size are expected to be built in the future.

Comments on the proposed rule change were received from three organizations: The Fertilizer Institute, the United States Department of the Interior, and the Tennessee Valley Authority. Each commenter fully supported the proposed revisions. The Fertilizer Institute did, however, suggest that expresing the production cutoff in terms of "calendar" day would make the definition clearer. EPA agrees with this suggestion. No objections to the proposed revision were received. Therefore, the revision is being promulgated, as proposed, except that the cutoff is expressed on a calendar-day basis.

Docket: The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of these amendments. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review, except for interagency review materials [section 307(d)(7)(A)].

Miscellaneous: The effective date of this regulation is February 17, 1983. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal, October 22, 1974. Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment of any revision to a new source standard of performance "which the Administrator determines to be (a) substantial revision * * *". (section 317(a)). These amendments are not substantial revisions. The revisions will only reduce the economic impacts of the standards. Therefore, no economic impact assessment of the amendment has been prepared * * *.

Executive Order 12291 requires that EPA determine whether a regulation is "major" and therefore subject to the requirements of a regulatory impact analysis (RIA). These amendments to the standards are not major because they would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The only economic change is to lessen the economic impact on research facilities. These research facilities will no longer be required to incur unreasonable costs in order to achieve the NSPS. Because there are no adverse economic impacts associated with these revisions, no RIA has been prepared.

The provisions of 5 U.S.C. 605(b) require the Administrator to prepare a

regulatory flexibility analysis (RFA) or to certify that a rule will not have a significant economic impact on a substantial number of small entities. These amendments will not create additional impacts since the only change will be to lessen the economic burdens on research facilities. Therefore, the Administrator certifies that the promulgated rules will have no adverse economic impact on small entities.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before a rulemaking can be promulgated. There are no reporting/recordkeeping requirements associated with these revisions. A statement to that effect has been submitted to OMB.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement plants, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, and Zinc.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

1. For the reasons set out in the preamble, it is proposed to amend 40 CFR Part 60, paragraph (a) of §§ 60.200, 60.210, 60.220, and 60.230 (to read as follows).

§ 60.200 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each wet-process phosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: reactors, filters, evaporators, and hot wells.

* * * * *

§ 60.210 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each superphosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: evaporators, hot wells, acid sumps, and cooling tanks.

* * * * *

§ 60.220 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each granular diammonium phosphate plant having a design capacity of more than 1 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: reactors, granulators, dryers, coolers, screens, and mills.

* * * * *

§ 60.230 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each triple superphosphate plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate.

* * * * *

[FR Doc. 83–4007 Filed 2–16–83; 8:45 am]

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federal register

Thursday
February 17, 1983

Part IV

Department of Transportation

Federal Aviation Administration

Water Survival Regulations: Denial of Air Line Pilots Association Petition for Rulemaking; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 25, 121, and 139

[Docket No. 21222]

Water Survival Regulations; Denial of Air Line Pilots Association Petition for Rulemaking

AGENCY: Federal Aviation Administration, DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice publishes verbatim the denial of the petition for rulemaking submitted to the Federal Aviation Administration by the Air Line Pilots Association. The denial discusses in detail the FAA's ongoing research and development program on water survival and extends an open invitation to the public to participate in the program.

FOR FURTHER INFORMATION CONTACT:

Concerning the denial of petition for rulemaking: Henri Branting, Aircraft Engineering Division (AWS-120), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-8382

or

Concerning the research and development program: William T. Shepherd, Ph.D., Biomedical and Behavioral Sciences Division (AAM-550), Office of Aviation Medicine, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone (202) 426-3434.

SUPPLEMENTARY INFORMATION:

Background

In December 1980, the Air Line Pilots Association (ALPA) petitioned to amend various parts of the Federal Aviation Regulations to improve survivability in aircraft accidents involving water contact. As a result of the summary of the petition published in the **Federal Register** on March 30, 1981 (46 FR 19245), numerous comments on the petition were received from the general public, including a wide cross-section of the aviation community. On November 30, 1982, the FAA Administrator issued a denial of the petition (published verbatim herewith) which summarizes the public comments and addresses all issues and recommendations made by the petitioner. The denial discusses in detail the current FAA research and development program on water survival and establishes an open invitation for any party in the general public to participate in the program by submitting or lending new and improved water survival equipment for testing and evaluation by the FAA.

Participation Invited

Interested persons are invited to participate in this research and development program by submitting to the FAA, on a voluntary or loan basis, any new or improved water survival equipment. This equipment will be tested and evaluated by the FAA and considered for use in water-contact situations. Favorable results obtained during the test and evaluation program may, at some future date, lead to a notice proposing the use of such devices. Inquiries regarding the test and evaluation program may be made to the individual listed under the caption **"FOR FURTHER INFORMATION CONTACT."**

The Denial

Accordingly, the Federal Aviation Administration publishes verbatim the following denial of petition issued to the Air Line Pilots Association on November 30, 1982.

Issued in Washington, D.C. on February 10, 1983.

M. C. Beard,

Director of Airworthiness.

United States of America, Department of Transportation, Federal Aviation Administration, Washington D.C. 20591

In the matter of the petition of Air Line Pilots Association for rulemaking to amend Parts 1, 25, 121, and 139 of the Federal Aviation Regulations, Regulatory Docket No. 21222.

Denial of Petition

By letter dated December 17, 1980, Mr. John E. O'Brien, Manager, Engineering and Operations, Engineering and Air Safety Department, Air Line Pilots Association (ALPA), 1625 Massachusetts Avenue, NW., Washington, D.C. 20036, petitioned to amend various sections of Parts 1, 25, 121, and 139 of the Federal Aviation Regulations (FAR) to improve the survivability of aircraft in accidents resulting from intentional or unintentional water contact. The supporting information in the petition was supplemented by a letter dated June 3, 1981, from Mr. Joseph M. Schwind, Deputy Manager—Engineering, ALPA.

Sections of the FAR affected:

FAR Part 1—

The petitioner proposes to redefine the term "extended over-water operation," with respect to aircraft other than helicopters, as an operation over water outside coverage of air traffic control (ATC) radar or over water in areas where search-and-rescue efforts could not ensure removal of accident survivors from the water in less than 1 hour. Part 1 currently defines this term as an operation over water at a horizontal distance of more than 50 nautical miles from the nearest shoreline. The petitioner also proposes to establish in Part 1 the new term, "restricted over-water operation," defined as an operation over water within ATC radar coverage or operation from airports bounded by significant bodies of water.

FAR Section 25.801—

The petitioner proposes to change the title of § 25.801 from "Ditching" to "Controlled water contact". The petitioner also proposes to revise § 25.801(b) to read: "Each practical design measure, compatible with the general characteristics of the airplane, must be taken to minimize the probability that in a planned emergency landing on water or unplanned controlled water contact, the behavior of the airplane * * * [unchanged] * * *." Section 25.801(b) currently reads: "Each practicable design measure, compatible with the general characteristics of the airplane, must be taken to minimize the probability that in an emergency landing on water, the behavior of the airplane would cause immediate injury to the occupants or would make it impossible for them to escape."

In addition, the petitioner proposes to revise § 25.801(c) to read: "The probable behavior of the airplane in a planned or unplanned water landing must be investigated by model tests or by comparison with airplanes of similar configuration for which the water landing characteristics are known * * * [unchanged] * * *." Section 25.801(c) currently reads: "The probable behavior of the airplane in a water landing must be investigated by model tests or by comparison with airplanes of similar configuration for which the ditching characteristics are known. Scoops, flaps, projections, and any other factor likely to affect the hydrodynamic characteristics of the airplane, must be considered."

FAR Section 25.1411—

The petitioner proposes to revise § 25.1411(d)(1) to read: "The storage provisions for the water survival equipment described in § 25.1415 must accommodate enough rafts for the maximum number of occupants for which certification for planned and unplanned water landing is requested." Section 25.1411(d)(1) currently reads: "The stowage provisions for the liferafts described in § 25.1415 must accommodate enough rafts for the maximum number of occupants for which certification for ditching is requested."

The petitioner also proposes to revise § 25.1411(d)(2) to reflect certification for both planned and unplanned water landings. Section 25.1411(d)(2) currently reads: "Liferafts must be stowed near exits through which the rafts can be launched during an unplanned ditching."

In addition, the petitioner proposes to revise § 25.1411(f) to reflect use of life preservers in planned and unplanned water landings and to require storage of life preservers in a location above the seat bottom cushion which would permit donning of the life preserver in 15 seconds by a seated passenger.

Section 25.1411(f) currently reads: "The stowage provisions for life preservers described in § 25.1415 must accommodate

one life preserver for each occupant for which certification for ditching is requested. Each life preserver must be within easy reach of each seated occupant."

FAR Section 25.1415—

The petitioner proposes to retitle § 25.1415 as "Water survival equipment" and substitute this terminology throughout the section in place of the currently used title and term "Ditching equipment."

The petitioner also proposes to revise § 25.1415(e) to read: "For airplanes certificated for restricted overwater operation and not certificated in accordance with § 25.801, there must be approved life preservers and secondary flotation equipment to permit each occupant to keep the trunk of the body out of the water. These means must be within easy reach of each seated occupant and must be readily removable from the airplane." Section 25.1415(e) currently reads: "For airplanes not certificated for ditching under § 25.801 and not having approved life preservers, there must be an approved flotation means for each occupant. This means must be within easy reach of each seated occupant and must be readily removable from the airplane."

FAR Section 121.339—

The petitioner proposes to delete the term "extended" in the title and align the text of the section with the overwater operation definitions proposed as amendments for Part 1. Equipment for extended overwater operation would remain the same, and all references to "ditching" would be changed to "planned or unplanned water landing."

The petitioner also proposes to revise § 121.339 to require that air carrier airplanes operating in restricted overwater operations (as defined in the proposed amendments of Part 1) be equipped with water survival equipment adequate to keep occupants out of the water when operating in areas, and at times, when the water temperature is known to be below 53 degrees F.

In addition, the petitioner proposes to revise § 121.339(a)(3) to describe pyrotechnic signaling devices suitable for use in rafts in the water. Section 121.339(a)(3) currently requires that at least one pyrotechnic signaling device be carried in the airplane for each liferaft.

FAR Section 121.340—

The petitioner proposes to revise § 121.340 to eliminate the option for either a life preserver or an approved flotation means and to require the carriage of both a life preserver and an approved flotation means for each occupant. Also, the petitioner proposes to revise § 121.340 to require that life preservers be located above the level of the seat bottom cushion, and that life preservers be supplemented with rafts or flotation platforms when the water temperature is known to be below 53 degrees F.

FAR Section 139.49—

The petitioner proposes to revise § 139.49 by adding a new paragraph to read: "Airports located adjacent to significant bodies of water must maintain or have available adequate water rescue equipment to retrieve the occupants of the largest aircraft operating from that airport and to permit response of 50 percent of this equipment to a water area within 2,000 feet of the active runway threshold within 10 minutes of dispatch."

FAR Section 139.55—

Section 139.55 requires that an emergency plan be established that ensures prompt response to emergencies and unusual conditions on the airport. This section requires, in part, that the emergency plan provide, to the extent practicable, for transportation and medical assistance for the maximum number of persons that can be carried on board the largest air carrier aircraft the airport reasonably can be expected to serve. The emergency plan must contain a list of surface vehicles and aircraft that are intended to provide transportation for injured and deceased persons following an airport disaster. The petitioner proposes to revise § 139.55 to require that the emergency plan ensure prompt response both on the airport and in water areas adjacent to the airport. Also, the petitioner proposes to revise § 139.55(b)(2)(iii) to require that water vehicles be added to the list of surface vehicles and aircraft designated for medical transportation.

In addition to the changes to the above sections, the petitioner seeks the following actions:

Establish a technical standard order (TSO) describing requirements for pyrotechnic signaling devices intended for use in rafts or in the water.

Revise existing TSO's on escape slides to include design features making slides suitable as rudimentary rafts for flights conducted in restricted overwater operations.

Revise the existing TSO on lifevests to require simplified retaining systems permitting donning by a seated passenger within 15 seconds.

Develop an advisory circular describing coastal surface water temperatures and establishing water survival zones based upon water temperatures less than 53 degrees F.

The petitioner's supportive information is as follows:

There has been controversy concerning requests of some air carriers to delete liferafts from emergency equipment for operation beyond 50 nautical miles from shore. There were survival problems common to the unintentional water contact of a B-727 in Escambia Bay near Pensacola, Florida, on May 8, 1978, and a planned ditching of a DC-9 near St. Croix, Virgin Islands, on May 2, 1970. A review of available information on water survival provisions for occupants of transport aircraft indicates that existing requirements and terminology in FAA safety regulations do not meet the water survival needs of current transport aviation as reflected by service experience. Several areas which are critical to survival following intentional or unintentional water contacts are not addressed by FAA requirements. The FAR should be revised to address both intentional and unintentional water contact since the term "ditching," now used in the FAR, refers only to intentional water contact. Public interest will be served by a comprehensive FAA program aimed at revision of water survival equipment requirements.

Since the advent of turbine-powered air carrier airplanes, from the standpoint of occupant survival in water, the threat of an unplanned landing in water relatively close to rescue resources has become the predominant consideration as compared to the threat of a landing in the open ocean far from land. The current airworthiness and operational requirements for extended overwater operations are necessary to ensure the self-sufficiency needed for open-ocean survival. Accident trends and increased pressure for change by operators make it necessary to revise water survival equipment requirements for restricted operations near shore or during departure from or approach to airports located near significant bodies of water. (The petitioner does not indicate the nature of the change on the part of operators.)

The petitioner contends that experience has shown that most air carrier accidents occur during either the takeoff or approach/landing phase of flight. About 15 percent occur en route. There has been only one planned ditching of an air carrier jet transport, which was the St. Croix accident.

Four charts submitted with the petition indicate the potential of transport airplanes making an unplanned water landing close to the arrival or departure airport. One chart depicts accident locations relative to the hypothetical 10,000-foot runway and direction of flight for the period 1964 through 1977. Two charts depict the potential water hazards in the runway overrun areas and the approach and departure areas of U.S. terminal airports. One chart compiles brief descriptions of 42 jet transport accidents worldwide involving water contact during the period 1959 through 1979.

There is much literature on immersion hypothermia and human survival in water. Submitted with the petition is the current research report, "Physiological Response of Human Subjects Wearing Thermal Protective Clothing Assemblies in Varying Environments," prepared by the Naval Air Development Center. In summary, current research indicates that if human body core temperature drops to 30–35 degrees C, death is likely due to the subject's inability to participate in his or her own rescue. Some dexterity of the hands is retained at 10 degrees C. In one research project, a lightly clothed male subject in 11 degrees C water had a 2.3 degree C per hour drop in rectal temperature. At this rate, after 1 to 2 hours, the subject's temperature could be expected to become critically low. Thinner, smaller, or less healthy subjects would have a decreased survival time.

The U.S. Coast Guard National Search and Rescue Manual indicates the "safe" border is 1 hour in 11 degree C (53 degree F) water. When correlated with the Air Force System Command Design Handbook DH 2–8 table on probability of water survival, this temperature-time combination offers a probability of 1.0 of survival for 1 hour (for healthy, young males).

The petitioner submitted a survivability chart reportedly agreed on by most members of the Society of Automotive Engineers Committee S–9, Cabin Safety Provisions. This chart shows: at 32 degree F water

temperature, 50 percent of the survivors die within 10 minutes and 99 percent of the survivors are dead within 1 hour and 20 minutes; at 41 degrees F, 50 percent die within 20 minutes and 99 percent are dead within 2 hours and 15 minutes; at 50 degrees F, 50 percent die within 30 minutes and 99 percent are dead within 3 hours and 20 minutes; above 68 degrees F, likelihood of shark attack increases.

The information above is presented in context with the number of U.S. airports located near water at or below 53 degrees F during winter or longer periods. Several U.S. air carriers operate over water which is often below this temperature. The above temperature/time criterion is conservative, and public comment may suggest a higher temperature criterion based upon better knowledge of physiology or survival experience.

In water accidents, kerosene might be released and float on the water near survivors. Kerosene ingestion is just as dangerous as hypothermia. Following the accident in Escambia Bay, the Civil Aeromedical Institute experimented with white rats and found that under certain experimental conditions kerosene on water reduced the time of survival to one-fourth to one-sixth that of rats swimming in clear water. Kerosene might have caused the deaths of three victims in Escambia Bay, all of whom were expert swimmers.

Planning and regulations for water survival must account for search and rescue (SAR). Submitted with the petition is a description of the Coast Guard's airborne SAR capabilities and the location of its aircraft. These aircraft can rescue a limited number of people, primarily by dropping rafts. Coast Guard aircraft can be expected to need 1 to 2 hours to reach an accident scene. Coast Guard SAR is augmented somewhat by Navy patrol aircraft, which can drop 2 seven-person rafts on a 2- to 4-hour notice, and by H-46 helicopters at a few naval air stations. In areas close to the shore of the continental United States and in certain other areas, ATC radar would permit direction of rescue to a transport aircraft operating under positive radar control prior to an accident. In such case, airborne water survival equipment can be selectively minimized based upon the required ability to locate an accident site and airdrop supplemental equipment within 1 hour of the accident. Minimum equipment must include flotation platforms to keep the body out of the water to delay hypotermia and protect survivors from aggressive marine life.

Though some U.S. airports near water have water rescue plans and equipment, such is not the general case. Submitted with the petition is the Washington National Airport emergency plan, as an example of a typical good plan. This plan contains one short section on contacting harbor police in the event of unspecified need. Telephone numbers or radio frequencies for harbor police are not listed. Planning maps illustrate land areas adjacent to the airport. Water areas are excluded. This deficiency in the emergency plan is reflected in the water rescue capability of the airport. The 1978 water rescue drill at National Airport contrasted with the well-planned and coordinated 1977 land rescue drill. Airport water rescue equipment and training were minimal and ineffective, and there was little coordination with nearby rescue resources such as the harbor police. National Airport is typical since it complies with current regulations. Part 139 entirely overlooks water rescue.

Part 25 requires that an airplane not equipped with life preservers be equipped with flotation devices. These devices are generally seat cushions and are inadequate for survival. Cushions lose buoyancy in about 15 minutes. An improved device should be developed, through FAA research, if necessary. Submitted with the petition is a photograph of an average male subject in still water using a device similar to those used by air carriers. The photo shows the subject assuming the natural chest-up reclining position, holding the device to his chest, with the back of his head submerged and his nose and mouth barely above water. This reclining position is insecure and critical from the standpoints of hypothermia and water ingestion. Also submitted with the petition are photographs of newly designed possible alternative devices. One is an inflatable one-person flotation platform to keep the upper torso out of water. The other is a quick-donning lifevest.

Virtually no passenger information card used by air carriers illustrates the inclined position a survivor will naturally assume when using a flotation cushion. Generally, cards show the passenger floating vertically with shoulders out of the water. One card shows a passenger floating on her stomach with the cushion beneath her chin, with head and shoulders fully out of water. Passenger information cards should be changed to relect experience and minimize passengers' surprise at their inability to float according to expectation.

Many air carriers stow lifevests under seats. During water impact, these seats tend to collapse and make lifevests inaccessible. Lifevests should be stowed in seat backs. Submitted with the petition is a photograph of a possible seat back stowage compartment. Seat back stowage would improve accessibility and help prevent pilferage, which is reported as very frequent in air carrier service.

The most logical solution to the water survival problem is to equip all aircraft with slide rafts or rapidly deployable flotation equipment to keep everyone out of the water, especially the handicapped and the aged. The slide raft does add weight to the aircraft; however, to offset this weight, the emergency pack currently required for liferafts could be eliminated since it is of little use except for an extended period of survival. The pack of course would be required for extended overwater flight.

Although the FAA requires the use of approved pyrotechnic signaling devices, no FAA guidance exists on design or operation of these devices. Due to this, one operator equipped its aircraft with highway flares labeled with prohibitions against holding in the hand and which could not be ignited in water. Though this is an example of skirting regulatory intent, no regulatory guidelines have been established. This particular case was corrected. There are more than 40 years of military experience with pyrotechnic signaling devices, and specifications exist for their design and use. A TSO should be established for these devices.

An illustration of water rescue complexity and survival is the recent rescue of the passengers and crew of the cruise ship *Prinsendam*. A fire occurred on board the ship. Submitted with the petition are the telegraphic status reports of the fire and rescue efforts which lasted several hours. These reports summarize delays in mounting an air/sea rescue and the resources that were needed in rescuing 510 people from Alaskan coastal waters. All of the *Prinsendam's* complement left the ship in boats and were airlifted to rescue vessels. All survived and no one entered the 57 degree F water. This would not be the case in an aviation accident due to existing deficiences in planning, preparation, and equipment.

A summary of the ALPA petition was published in the **Federal Register** on March 30, 1981 (46 FR 19245).

Comments on the petition:

Numerous commenters support the general objective of improving both airborne and waterborne rescue capability to increase survivability in aircraft water accidents. Many support the ALPA regulatory proposals or a comprehensive program to improve survivability, or both. Numerous comments are from individuals, indicating broad popular support from the general public.

Concerning the proposal to amend Part 1, numerous commenters support, without substantial comment, the revision of basic definitions proposed in the petition.

Regarding accident experience as it pertains to basic definitions and objectives in the petition, several commenters agree that an unplanned accident near land is much more probable than a planned ditching in open sea. No commenter opposes this basic position.

Several commenters point out that in the 42 accidents cited, the petitioner fails to distinguish between the survivable and the nonsurvivable and to identify those in which the proposals would have affected survivability.

One commenter analyzes the 14 accidents involving U.S. carriers and concludes: 2 involved turboprops not comparable to turbojets; 3 involved runway overruns, not extended overwater flight; 3 involved uncontrolled impacts and were not survivable; 3 involved inadvertent controlled descent with destruction on impact; 1 did not come to rest in water; and 2 had some type of water survival gear which was relatively ineffective. The commenter states that the accidents verify that only on rare occasions may there be a need for flotation equipment and that they do not establish a need for flotation equipment for extended overwater flight. The commenter states that since the early 1950's, jet transports of the free world have flown approximately 175 million hours, 91 million by U.S. carriers, and that there has never been a case in which a commercially operated jet transport has attempted an intentional controlled ditching. The

commenter states that in 22 years of jet operation, the need for all of the emergency equipment for extended overwater operations specified in § 121.399 has not been verified.

Another commenter similarly discusses the absence of planned ditchings. The commenter states that in jet airline operations there have been over 40 water-impact accidents and that, except for the St. Croix accident, all have been unintentional water contacts within 14 miles of land. The commenter contends that FAA regulations require airlines to prepare for a type of accident which has never occurred in jets and not to prepare for the type which has occurred.

One commenter states that no data base is shown for the accident location chart in the supporting data and that there is no definition of a "significant" body of water.

One commenter, opposed to the changes in basic definitions of Part 1, agrees with the petitioner that existing requirements and terminology on water survival do not reflect the needs of transport aviation and should be refined.

In opposition to the petition, the commenter states that the present definitions regarding extended over-water operation were developed 30 years ago based on airplanes at that time and do not reflect the improved safety and reliability of aircraft, engines, systems, and equipment in current service over that which existed when the regulations were developed.

The commenter states that the revised definition of "extended over-water operation" would be imprecise and difficult to administer and that although the present definition is outmoded, it is definable and usable by a crew in flight. The commenter questions how to present to a pilot information on the flight area falling within ATC radar coverage and how this information would be updated if a radar system becomes inoperative. The commenter questions the definition of search and rescue organizations. The commenter estimates that the new definition would increase the number of air carrier operations defined as "extended overwater" with the accompanying equipment requirements and points out that ICAO permits operation up to 400 nautical miles or 120 minutes at cruising speed, whichever is less, offshore without the carriage of liferafts. The commenter states that the definition of "restricted over-water operation" is imprecise and that no definition of "significant bodies of water" is offered. The commenter states that the proposed changes could require every airplane to have life preservers, approved flotation means, and, depending on airport location and time of year, liferafts or flotation platforms, because there is no practical way to schedule only certain airplanes for operation over water and into specific stations.

One commenter states that the major proposals should require separate rulemaking because of the impact on fleet operation. The commenter states that current regulations provide for takeoff over water and extended overwater flight and are adequate for safe operation and that the use of ATC radar coverage as a means of distinguishing between the two types of operations may introduce undesirable variations in compliance.

One commenter states that the definitions would be beneficial since they recognize both rescue resources and the threat to survival. The commenter states that distance from shore is an arbitrary criterion and a matter of custom but bears little on survival needs.

One commenter in favor of the proposed regulatory changes states that unspecified small changes are needed to achieve consistent terminology.

Concerning the proposal to amend Part 25, numerous commenters support, without substantial comment, the revisions of the various sections.

One commenter, supporting the proposed revision of § 25.801, states that the revision would orient the regulations to both unplanned as well as planned water contact. The commenter contends that this is preferable since most accidents have been unplanned.

One commenter, opposing revision of § 25.801, states that there is no substantiation for the revision. The commenter states that structural consequences of ditching depend on airplane configuration, attitude, and orientation with water waves and that in a planned ditching the pilot can follow procedures to minimize damage. The commenter points out that in unplanned water contact, airplane configuration, attitude, and orientation are undefined and that the term "unplanned controlled water contract" is open to a multitude of interpretations which will result in confusion. The commenter points out that inadvertent contact with water can occur, for example, as a result of loss of control during climb-out or extensive overrun following an attempted rejected takeoff and that these conditions cannot be designed for structurally and would be potentially nonsurvivable accidents.

One commenter states that the requirements in current § 25.801 envisage an emergency landing on water and that the proposed changes go beyond the "unplanned controlled water contract" when taken in context with the list of 42 accidents submitted by the petition. The commenter states that an airplane cannot withstand impacts at speeds higher than normal touchdown and with the gear either up or down. The commenter states that accident history shows any successful water landing must be preplanned and precisely controlled. The commenter states that it would be impossible to prepare an airplane for "unplanned controlled water contacts" and that such a requirement is not supportable from the record.

Several commenters in favor of the proposed revision of § 25.1411 state that the term "mass flotation devices" would be more descriptive than the word "rafts."

One commenter in favor of the proposed revision of § 25.1411 states that the provisions pertaining to life preservers meet the needs of water survival and are in agreement with the Society of Automotive Engineers Aeronautical Recommended Practice on water survival equipment. The commenter states that some life preservers on a specific wide-body aircraft are mounted above the seat pan in the seat backs and that another transport, currently being designed, may have life preservers stowed in the bottoms of the overhead passenger service units. The commenter states that such locations are preferable for emergency access and likely would reduce pilferage.

One commenter favors the proposed revision of § 25.1411 regarding the stowage and donning of life preservers, stating that this is important because the size and amount of passenger carry-on baggage has doubled in the past 5 years, and this baggage, which is forced under seats, restricts passenger access to the life preservers and causes passengers to waste precious time in retrieving the life preservers.

One commenter opposes the proposed revision of § 25.1411, stating that there is no documentation in the petition to substantiate the need to don a life preserver in 15 seconds, which appears to be an arbitrary time. The commenter states that the petitioner, in proposing to locate life preservers above seat bottoms, presents no data to substantiate that the traditional location under the seat bottom does not meet the purpose of the proposed new location. The commenter states that this location requirement would be unduly restrictive because it dictates a location in the back of the seat in front of the passenger, in the back of the passenger's own seat, or in the area above the seat where automatically deployed oxygen masks are stowed. The commenter states that study and testing of alternatives should be performed before the traditional service-tested location beneath seats is prohibited as proposed.

One commenter opposes the proposed revision of § 25.1411 regar[illegible] stowage of life preservers, stating that it w[illegible]d require the relocation of every lifevest now installed. The commenter states that the traditional underseat location was selected to make the life preserver readily available, removable, and within easy reach, as is required. The commenter states that the underseat location protects the life preserver from damage and pilferage. The commenter points out that at one time vests were stowed in seat backs and, besides being pilfered, were frequently punctured by sharp objects and rendered unusable. The commenter advises that there is a new life preserver being purchased by many air carriers which can be donned in less than 15 seconds and that FAA should consider revising the life preserver TSO in this regard.

One commenter opposes the proposed revision of § 25.1415 regarding secondary flotation equipment to permit each occupant to keep the trunk of the body out of water. The commenter states that no such equipment now exists which would meet the proposed requirements of being within easy reach of each seated occupant and being readily removable from the airplane.

Concerning the proposal to amend Part 121, numerous commenters support, without substantial comment, the revisions of the various sections. Several commenters indicate that comments on related proposed revisions of Part 25 apply in principle to the proposed Part 121 revisions.

Several commenters favor the proposed revision of § 121.339, provided it requires that equipment for extended overwater operations

be demonstrated as being suitable for both planned and unplanned water landings.

Several commenters favor the proposed revision of § 121.339 regarding required equipment for operation over water at 53 degree F, except that they favor specifying a higher water temperature to allow a margin of safety. One commenter recommends 60 degrees F as the limit. Several recommend that flotation equipment be required on all overwater flights, regardless of water temperature, explaining that as water temperature increases, the risk of hypothermia decreases, but the risk of shark attack increases. One commenter briefly cited the results of three accidents to support the recommendation, and one commenter submitted two technical articles on hypothermia.

One commenter opposes the revision of § 121.339, as proposed in the petition, pointing out that it is difficult to comment without specific realignment of the text.

One commenter states that the proposed requirement for both life preservers (stowed above seat bottoms) and secondary flotation equipment is excessive. The commenter recommends requiring lifevests for all overwater operations and rudimentary raft capability for inflatable evacuation slides.

One commenter favoring the petition submitted a list of recommendations made by a panel of experts following the St. Croix accident, which included, in part: use of slide rafts, automatically deployed supplementary flotation devices, and quick-donning lifejackets. Another commenter cautions that escape slides should be evaluated to determine the feasibity of using them as flotation equipment without major modifications and that slides are critical in size and weight.

One commenter states that in an unplanned controlled water contact, reliance on lifevests and complex individual flotation devices would cause confusion. That commenter also states that it would be better to rely on multipassenger rafts, operated by trained personnel, as the primary flotation means and to use lifevests and seat cushions to ensure safe transport to the raft.

One commenter states that the inflatable one-person flotation platform cited in the petition as an example is impractical. The commenter states that stowage would be extremely difficult and that each passenger would have to retrieve and don a lifevest and retrieve and carry the platform at the same time. The commenter states that this would delay evacuation and cause more problems than it would solve. The commenter states that the Escambia Bay accident indicates evacuation time is minimal in a water landing.

Regarding the pyrotechnic device, one commenter states that, in lieu of a new TSO, the FAA should develop an advisory circular on the various types acceptable for use by air carriers and FAA inspectors. The commenter points out that the primary ocean locator is the locator beacon and that dye markers are used for daytime location and flares for night.

Concerning the proposal to amend Part 139, one commenter favors the revision of § 139.49, stating that this would allow airport operators flexibility in meeting water survival needs with airport equipment or through cooperative arrangements with local operators.

One commenter favors the revision of §§ 139.49 and 139.55 and stresses the importance of waterborne rescue. The commenter points out that wide-body aircraft can carry 400 passengers and that the required 8 flight attendants plus 3 flightcrew cannot handle 400 people in the water. The commenter states that it is likely that some crewmembers will be incapacitated and that the crew and passengers will need water rescue.

One commenter questions the need and justification for proposed § 139.49. The commenter suggests an advisory circular on existing rescue capabilities. The commenter questions whether the few accidents which occurred justify a substantial change in regulations.

One commenter favors the revision of § 139.55, citing a renewed interest at the FAA-operated Washington National Airport in water rescue and stating that this is a noteworthy improvement over the situation described by the petitioner.

One commenter opposes the changes to §§ 139.49 and 139.55, stating that it is not economically feasible to require an airport to provide adequate waterborne capability to serve its largest aircraft. The commenter explains this could entail the provision, operation, and maintenance of up to 20 watercraft for airports served by wide-body aircraft. The commenter states that the facts presented by the petitioner do not support the need and do not justify the huge cost that would be placed on the air transportation industry. The commenter states that the petitioner failed to identify in the supporting data those accidents in which waterborne rescue would have affected survivability. The commenter stated that in 14 of the accidents cited by the petitioner, the accident was not fatal, occurred far from an airport, or was unsurvivable. The commenter states that a survey of 36 airports near water indicated that 86 percent were provided waterborne rescue service, wholly or in part, by government and 17 percent had an inhouse capability.

In commenting on the possible economic impact of the proposal, one commenter submitted a summary of the costs that would be incurred by six U.S. airlines if the proposed regulations were adopted. Briefly, this summary indicates a typical liferaft costs $3,500 and weighs 130 pounds, and that the added fuel cost for 1 pound of added weight is $25 per year per airplane. One airline operating about 32,000 seats would spend $1 million for lifevest retrofit. One airline would spend $9 million for 900 new flotation escape slides and $8 million for individual flotation platforms, if available, and added fuel would cost $5.5 million per year. The commenter estimates first-year cost to the U.S. fleet at about $42 million for equipment and maintenance plus $38 million yearly for added fuel, a total of $80 million for the first year. The commenter states this does not include the cost of waterborne rescue under the proposed Part 139 changes, which could be significant.

The FAA's analysis is as follows:

The petitioner clearly states the significance and the principal aspects of the unplanned water-contact type of accident. The information submitted in support of the petition and that provided by various commenters emphasize that unplanned water contact, with the associated post-impact water survival environment, should be viewed as the predominant water accident threat as compared to the planned ditching. It indicates that a broad cross-section of the aviation community and general public perceives the potential for this type of accident as a problem which calls for action on the part of the FAA. Considerable airport and accident data are citied by the petitioner. Although several commenters question the value of these data and the relevance to specific aircraft configurations and accident scenarios, the FAA believes these data reinforce well the premise that a clear potential exists for the occurrence of an unplanned water-contact type of accident in the vicinity of certain airports in the United States. The data on hypothermia submitted by the petitioner provides an insight into one of the more critical factors of short-term water survival. Although some commenters suggest different water temperatures as the baseline for criteria addressing hypothermia, no commenter, nor the FAA, disputes the implications of the petitioner's data or the consequences of cold water immersion in survival.

Contrary to the view of one commenter that current regulations do not address unplanned water contact, the regulations contain requirements intended to account for the full range of crash-landing situations, including the crash landing on land, the planned ditching associated with extended overwater flight, and the unplanned crash landing on water. Most of these current regulations are intended to address all three types of accidents collectively, with requirements on seat retention, occupant head protection, emergency exit marking, emergency lighting, exit access, aisle width, emergency equipment, and cabin interior materials. The objective of these regulations is to provide occupants protection against the crash-landing impact sequence, whether it occurs on land or water, and to ensure quick escape after the airplane has come to rest.

In addition to these collective requirements, certain regulations aim specifically at the crash landing on land, with requirements on evacuation slides, emergency exits, fire protection, and evacuation demonstration. Because a suvivable accident on land is more probable than on water, these requirement have added importance and, consequently, are frequently upgraded as technology and economic considerations permit.

Of the regulations pertaining to the two types of water contact accidents discussed in the petition, planned ditching and unplanned water contact, those for the planned ditching associated with extended overwater flight are the more extensive. These include requirements on aircraft impact behavior, flotation characteristics, ditching, emergency exits, liferafts, life preservers, extended survival and emergency locator equipment,

and demonstration of ditching evacuation capability. As one commenter points out, these ditching regulations were developed before the advent of civil jet transports and have not been revised substantially since then, even thought the improved reliability of multiengine jet transports has greatly reduced the likelihood of a planned ditching. The petitioner seeks to retain these regulations essentially intact to provide for the self-sufficiency and endurance necessary for extended survival in open sea. The FAA concurs in this.

The airworthiness regulations the petitioner proposes to revise are those pertaining to the unplanned water-contact accident. These have been in effect about 25 years and apply to the certification of all transport category airplanes. Although these regulations are less extensive than those on the planned ditching, they clearly envisage the special circumstances which could arise if the airplane were to contact a body of water without warning. They require that each airplane were to contact a body of water without warning. They require that each airplane, whether or not intended for extended overwater flight, be equipped with a prescribed number of exits located above the flotation water line and with an approved individual flotation device, readily removable from the airplane, located within each reach of each seated occupant. These regulations, of course, are in addition to those mentioned above on occupant head protection, emergency lighting, and other features designed to protect the occupants against crash landings in general, whether they occur on land or water. The individual flotation devices required by regulations are defined by TSO–C72b and are generally foam flotation seat cushions, although in many cases inflatable life preservers are used.

The FAA is in full accord with the thrust of the petitioner's presentation. The FAR recognize that extended endurance time is critical to survival following a planned ditching far from land and rescue; similarly, it is clear that short-term endurance is critical to survival in cold water following an unplanned crash landing in water close to land and rescue, as might occur during an approach or departure at an airport adjacent to a body of water. The FAA believes a program for improvement of water survival provisions, as advocated by the petitioner, is warranted to establish, as soon as practicable, a basis for identifying feasible and cost-effective requirements pertaining to the unplanned water-contact type of accident and, if appropriate, to bring these requirements into closer balance with the existing requirements regarding planned ditching. The FAA has such a program underway at this time.

In July 1981, the FAA initiated a research, development, and evaluation program of the scope, and for the objectives, described in the petition. One of the first tasks in this program was the assessment of the feasibility of the petitioner's proposals in light of the prerequisites for any such comprehensive upgrading of the civil fleet's water crash survivability. This program, Survivability in Unplanned Crash Landings in Water, is under the direction of the Office of the Associate Administrator for Aviation Standards and involves development programs at the Civil Aeromedical Institute at Oklahoma City and the FAA Technical Center at Atlantic City. Inquiries regarding this program may be made to Dr. William T. Shepherd, Office of Aviation Medicine, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3434. Details and the time frame of this program are discussed in several of the following paragraphs.

While the FAA concurs with the petitioner on the significance of the unplanned water-contact type of accident and the general objectives of the petition, it is apparent that certain problems confront the establishment of new requirements in the immediate future. There is not sufficient information in the petition and comments to permit the development and identification of effective options. There is a substantial technical area which must be explored and issues to be resolved before reasonable judgment can be exercised as to how to handle this general matter of water survival. The wide range of comments and conflicting viewpoints expressed in response to the petition are indicative of this.

As is generally the case in establishing new requirements, the basic issue is one of defining the hazard and the exposure to the hazard, developing countermeasures, and defining the circumstances which would call for these countermeasures. The hazard in this case is the unplanned water-contact accident scenario. The exposure is the potential for occurrence. Although the information in the petition and comments addresses this problem and appears to offer some specific solutions, it does not equip the FAA to analyze the numerous possible water contact scenarios, derive the baseline scenario, and proceed with development of equipment and design criteria to counter that scenario. At this time, there are too many different accident situations, types of emergency equipment, and design configurations which have not been evaluated, to reach a valid conclusion as to the proper way to handle the problem. The FAA program aims to resolve these issues. We believe it should be completed as expeditiously as possible to establish a sound technical basis for identifying options. The program is concentrating on the unplanned water-contact type of accident and is taking into consideration the crash-impact sequence, the evacuation process, immersion hypothermia, and any other factors found significant in determining survival. It will entail an assessment of airworthiness design and aircraft emergency equipment vis-a-vis the crash-landing scenario and post-crash survival environment. The program will consider all of the proposals and supporting information submitted by the petitioner.

There are several technical areas in which there is a particular need for information. One of these is in the determination of the hazard exposure and the definition of the circumstances, or airport locales, which warrant consideration of the possibility of an unplanned water-contact accident. The petitioner has proposed new definitions in FAR Part 1 as the means of specifying applicability of the proposed equipment requirements for both "extended overwater operation" and "restricted overwater operation" based, in part, on the location of the flight route relative to ATC radar coverage and on the location of the airport relative to a significant body of water. While several commenters support these proposals, others cite problems which might arise and object to the lack of definition of the term "significant" as used in the petition. The FAA believes a criterion more definitive than that proposed by the petitioner is necessary. One of the key parts of the FAA program is the development of a rational reference criterion which can be used to identify those airport locales for which consideration of the possibility of an unplanned water-contact accident is reasonably practical and those for which consideration is not practical. This is to provide a basis for an efficient and cost-beneficial application of whatever findings or conclusions may be developed in the program. Until this aspect of the problem has been explored and some definitive rationale is available for determining applicability, we do not believe criteria should be established, as proposed in the petition. As one commenter points out, the proposed new definition of "extended overwater operation" would require a number of carriers to upgrade airplanes and carry a full complement of ditching equipment over existing routes. The information and data submitted by the petitioner in this regard is limited, and we find that it does not support such a general upgrading, especially in view of the favorable service experience on ditchings.

Another key area in which information and data are needed is in the development of the baseline accident scenario. The scenario must account for the condition of the survivable space within the cabin from the time the airplane initially contacts the water to the time it comes to rest and the evacuation process is underway. This is necessary to provide the baseline against which various cabin and equipment configurations can be evaluated and their effectiveness and efficiency determined. In regard to a baseline scenario, the petitioner proposes to revise § 25.801 (b) and (c) to require that unplanned controlled water contact and unplanned water landing be accounted for in the airplane design, in addition to the emergency landing on water, as currently required for ditching certification. The petitioner does not propose parameters on other means of identifying the specific design impact conditions envisaged in the proposal, such as aircraft speed, attitude, or descent rate. Commenters point out that this lack of definition of scenario could result in various interpretations and confusion in design and that some unplanned controlled water-contact accidents essentially are nonsurvivable.

The FAA program recognizes the importance of a valid and practicable baseline scenario and the complex aspects of establishing and adequately defining the scenario for design purposes. An unplanned crash landing in water might result from various events, such as runway overrun or

controlled descent into water. Contact could be made at many combinations of aircraft speed, attitude, weight, fuel loading, and center of gravity, all of which could greatly affect the impact behavior of the aircraft. While the research and development program cannot account for all of the details of the numerous possible sequences of structural behavior in crash landings, there should be some general indication as to what to expect in unplanned water contacts for various types of aircraft and various impact conditions. For instance, if an airplane contacts the water at a given speed, weight, attitude, etc., can that airplane be expected to remain relatively intact, or is massive breakup probable? Will the airplane come to rest upright or inverted? What is the expected flotation time and attitude?

These scenario factors are critical since the efficacy of the required emergency systems and equipment is dependent on the scenario the systems and equipment are intended to counter. For example, if the airplane is expected to undergo an impact sequence which would leave the cabin intact with emergency exits above water and all passengers and crew in sound condition and ambulatory, the proper survival equipment might consist of a few well-placed high-capacity liferafts or flotation platforms which would be deployed by trained crewmembers and able-bodied assistants. If, on the other hand, the airplane is expected to undergo major breakup which would leave some of the passengers and crewmembers incapacitated, the survival equipment configuration might entail a number of readily accessible individual flotation devices dispersed throughout the cabin which would be usable by untrained passengers without the assistance of crewmembers.

The program being carried out by the FAA will include an investigation of the behavior of typical transport airplanes in unplanned water-contact type accidents and the resulting general condition of the cabin, structural damage, flotation time and attitude, availability of exits, and any other factors found relevant to survival. This will provide necessary insight into what to expect in water crash landings of various types of airplanes so that emergency equipment and procedures can be configured accordingly. Much of the work required for this scenario study has been completed under a research program concerned with crash impact scenarios in general and the structural behavior of airplanes involved in accidents. The results of this research program were published recently in three FAA/NASA reports: No. DOT-FAA-CT-82-69, Transport Aircraft Crash Dynamics, dated March 1982; No. DOT-FAA-CT-82-70, Transport Aircraft Accident Dynamics, dated March 1982; and No. DOT-FAA-CT-82-68, Commercial Jet Transport Crashworthiness, dated April 1982—all of which are available from the National Technical Information Service, Springfield, Virginia 22161.

Considerable technical information concerning performance capabilities of various types of water-survival equipment and cabin design features is still needed. This information is necessary to identify those equipment items and design features which effectively and efficiently counter the design accident scenario and increase survivability. The petitioner favors use of specific types of survival equipment, much of which is the type currently used in service, and proposes revisions of §§ 25.1411, 25.1415, 121.339, and 121.340 to establish new requirements pertaining to liferafts, life preservers, individual flotation devices, and secondary flotation equipment. Secondary flotation equipment is a relatively new concept in survival gear, not mandated or otherwise referenced in current regulations. Essentially, it is a simple and lightweight flotation device which can keep the survivors out of the water but is not intended or equipped for extended survival in open sea as is the liferaft.

The FAA is particularly interested in new ideas and concepts in water survival equipment and in ways of making existing equipment more effective. We do not believe selection of equipment and design features should necessarily be limited to those currently available since some new concept might be found the most effective. The one-person flotation platform cited by the petitioner is an example of the type of new equipment which should be considered. Although commenters contend this particular device is impractical and not available on the general market, it might be found to have sufficient merit to warrant further design refinement and commercial production. Any such new equipment item volunteered by a manufacturer, individual, or other party early enough in the program to allow its consideration, or otherwise obtained by the FAA, will be tested and evaluated. The FAA program is looking into many aspects of survival equipment and design features including quick-donning life preservers, life preserver stowage and access, emergency evacuation slides/rafts, flotation seat cushions, advanced lightweight portable liferafts, and secondary flotation equipment. This will entail thorough evaluations by survival pool tests and, if necessary, open-sea tests to determine the capabilities and performance levels which can be expected.

The FAA issued a notice regarding water-survival equipment in the November 16, 1981, **Federal Register** (46 FR 56292). This notice announced publicaiton and invited public comment on the proposed comprehensive upgradings of three TSO's on inflatable equipment: TSO-C13d, Life Preservers; TSO-C69a, Emergency Evacuation Slides, Ramps, and Slide/Raft Combinations; and TSO-C70a, Liferafts (reversible and nonreversible). These proposed upgradings are based on research, development, and testing and on the experience in recent aircraft type certification programs. Proposed TSO-C13d would establish a new requirement that a life preserver be demonstrated capable of being donned within 15 seconds by an unassisted seated adult, who has received only the customery preflight briefing. This is consistent with the proposal made by the petitioner.

The equipment testing and evaluation portion of the FAA program has a special bearing on the petitioner's proposal that inflatable evacuation slides serve as rudimentary flotation platforms for unplanned water-contact accidents and that the TSO be revised to require this. Obviously, this concept has merit although its feasibility has not been established for slides in general. If a slide could be inflated, released from the airplane, and boarded by survivors, it would be invaluable in a water-survival situation. Proposed TSO-C69a would foster this concept to some extent. This TSO would establish a new criteria package for the certification of slide/raft combination devices and contain provisions in evacuation slide criteria for optional design features which would permit slides to be usable as rudimentary flotation platforms. Not all slides, however, may be suitable as flotation platforms. Some slides have flotation and water-stability characteristics which have not been evaluated and demonstrated to be appropriate for the purposes of survival equipment. The FAA program is to investigate this matter of slides as flotation equipment, including open-water testing of typical slides, and identify those characteristics and design features which are necessary to ensure that a slide can serve adequately as a flotation platform. This basic work is necessary to place the FAA in a position to develop guidelines and criteria regarding the design of slides for use as water-survival equipment.

As a result of a reported service difficulty, in Febraury 1981 the FAA initiated a program to investigate the buoyancy of flotation seat cushions used in airline service. This program is germane to the petitioner's contention that flotation cushions lose buoyancy after a short time in water. Cushions which have been in long service are being obtained from various air carriers and subjected to cyclical submersion testing in a manner simulating the wave action of an actual survival situation. The objective of this program is to determine if there is some deficiency in current flotation criteria for cushions and, if so, the appropriate means to correct it.

Several of the petitioner's proposals would revise sections of Part 139 to require that each airport which is adjacent to a significant body of water maintain an extensive water-rescue capability. Apropos of the petitioner's proposals, the National Transportation Safety Board (NTSB) recently recommended to the FAA that it "Amend 14 CFR 139.55 to require adequate water resuce capabilities at airports having approach and departure flight-paths over water which are compatible with the range of weather conditions which can be expected." (Recommendation A-82-89.)

The FAA is reviewing all of Part 139 to update its provisions and ensure that, in compliance with Executive Order 12291, the benefits to society of each requirement outweigh the potential costs to society and to maximize the net benefits to society of the airport certification and operating rules as a whole. The FAA recognizes that there are emergency situations in which ground-based water rescue could be effective, and the FAA sees the positive benefits of planning and preparedness by local governments and jurisdictions for all types of emergencies and accidents, regardless of whether on water or on land. In reviewing Part 139, the FAA will consider the information provided in the petition; however, to adopt the petitioner's

proposed revisions while all of Part 139 is under review would be premature.

The NTSB has also recommended to the FAA that it "Survey all certificated airports having approach and departure flightpaths over water and evaluate the adequacy of their water rescue plans, facilities, and equipment according to the guidance contained in Advisory Circular 150/5210-13 and make recommendations for improvement as necessary to appropriate airport authorities." (Recommendation A-82-88.) In response to this recommendation, the FAA is surveying over 200 airports to inventory their water-resuce capabilities. This information will be used, not only in formulating recommendations to these airports, but also in determining what revisions of Part 139 would be appropriate.

The petitioner specifically proposes that the FAA revise § 139.55(b)(2)(iii) to require that water vehicles be added to the list of surface vehicles and aircraft designated for medical transportation. The FAA, however, interprets "surface vehicles" to include vehicles that travel on water as well as those that travel on land and, while a clarification of this and other provisions may be proposed during the review of Part 139, it is unnecessary at this time.

The petitioner has recommended several actions to complement and facilitate its package of regulatory proposals, among which is the development of a TSO on pyrotechnic devices. The FAA issued Advisory Circular C 91-58. Use of Pyrotechnic Visual Distress Signaling Devices in Aviation, dated May 27, 1982, which describes the approval basis and appropriate uses of various types of devices for both day and night rescue. This satisfies the objective of the petitioner's recommendation, and development of a TSO is not necessary.

The other actions recommended by the petitioner are revision of passenger information cards on individual flotation devices and publication of advisory material regarding survival zones and coastal water temperatures.

There is merit in these recommendations and they will be taken into consideration along with the results of the FAA program.

In summary, the petitioner has identified a safety matter which, as indicated by the comments, many parties in the aviation community and general public see as a problem calling for corrective action. Although the petitioner proposes a number of specific actions and regulatory changes there is no supporting information indicating that these proposals are the appropriate means for countering the problem from practical and cost-beneficial standpoints. The petitioner and commenters make clear the possible consequences of cold-water immersion on the survival of occupants following an unplanned water-contact type of accident. The FAA recognizes this critical aspect of water survival and has a comprehensive program underway which is similar to that advocated by the petitioner for the improvement of water survival provisions.

Considerable progress has been made in the FAA program to date, and we expect this program to continue without major problem to its completion which is estimated to be in later 1983. The analysis of water impact accident scenarios and the development of the airport reference criterion on threat exposure are nearing completion. We expect the preliminary reports on these two subprograms to be completed by December 1982. The three proposed TSO's on water survival equipment which were published in the **Federal Register** drew supportive response from a wide section of the aviation community. More than 60 individual responses containing valuable information and constructive suggestions were submitted. These responses are currently being evaluated. Issuance of the finalized TSO's is expected in later 1982.

In the subprogram regarding the buoyancy of individual flotation devices, more than 70 flotation seat cushions from inservice transport airplanes have been subjected to cyclical submersion testing. We plan to continue this testing as additional cushions become available from service and to complete this subprogram well ahead of the completion of the overall program in later 1983.

The major subprogram in terms of cost and significance is the performance testing and evaluation of various emergency equipment items and design features and the evacuation slides intended for flotation use. This work is taking a critical look at the capabilities and feasibility of equipment and seeking practical and cost-effective solutions to the problem of water survivability. The outcome of this subprogram will depend in large part on the availability for FAA testing of a wide range of state-of-the-art emergency equipment, particularly those new models and experimental prototype which might offer new and innovative approaches to water survivability. Except in a very few circumstances, the FAA does not have the resources or the responsibility for product development. As a result, the new ideas and equipment being sought in this program must come from the private sector. The FAA takes this opportunity to invite the petitioner and any other party, especially those parties the petitioner deems well-qualified, to cooperate and assist in obtaining items of emergency equipment for tesing and evaluation under the FAA program. This, in effect, is an open invitation for any party, finding it to its competitive advantage, to volunteer or loan equipment items to the FAA and to call attention to the merits of their equipment through an objective and impartial evaluation.

In view of the progress made to date, we believe the FAA program should be completed to develop requirements pertaining to survival before specific actions, such as those proposed, are taken. Any action taken before completion of this program would be premature and could waste time and money in addressing an issue which has not been evaluated thoroughly. We also believe that the petitioner's proposals should be taken into consideration to enhance the scope and effectiveness of the FAA program.

In consideration of the foregoing, I find that rulemaking, as proposed, is not appropriate at this time. Therefore, in accordance with rulemaking procedures of Part 11 of the Federal Aviation Regulations, the petition of the Air Line Pilots Association to amend Parts 1, 25, 121, and 139 of the Federal Aviation Regulations is hereby denied.

Issued in Washington, D.C., on November 30, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 83-4100 Filed 2-16-83; 8:45 am]

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federal register

Thursday
February 17, 1983

Part V

Environmental Protection Agency

Toxic Substances Control; Significant New Uses of Chemical Substances

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50501; FRL 2255-2]

Potassium N,N-Bis (Hydroxyethyl) Cocoamine Oxide Phosphate and Potassium, N,N-Bis (Hydroxyethyl) Tallowamine Oxide Phosphate; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), to require persons to notify EPA at least 90 days before manufacturing, importing, or processing two substances for a "significant new use." EPA is proposing that consumer uses of potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate be designated as a "significant new use." The two substances were the subject of premanufacture notices (PMN's) P-82-400 and P-82-409.

DATES: Written comments should be submitted by April 18, 1983.

ADDRESS: Comments should bear the document number OPTS-50501 and should be addressed to: TSCA Publication Information Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Chris C. Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, toll free: (800-424-9065), in Washington, D.C. (554-1404), outside the USA (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of the Toxic Substances Control Act (TSCA) authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). If EPA does not take regulatory action under sections 5, 6 or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the **Federal Register.** Substances covered by proposed or final SNUR's are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707.

I. PMN Background

The two chemical substances covered by this proposed rule were the subject of PMN's. They are potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, which was the subject of P-82-400 and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate which was the subject of P-82-409. For convenience, the chemical substances will be referred to by their PMN numbers in this preamble.

On June 1 and 2, 1982, EPA received two PMN's from Jordan Chemical Company (the notice submitter) which the Agency designated as P-82-400 and P-82-409. EPA announced receipt of the two PMN's in the **Federal Register** of June 11, 1982 (47 FR 25401). The notice submitter stated in the PMN's that the substances, which are amphoteric surfactants, will be used primarily in industrial cleaning products and could be used in general purpose cleaners and in personal care products. In the PMN submission, the notice submitter included test data for acute oral toxicity and eye and skin irritation. The two substances were tested for skin and eye irritation potential at concentrations of 45 to 50 percent using rabbits. The reported primary skin irritation scores were 6.05 for P-82-400 and 6.12 for P-82-409 (with eight the maximum score). Some evidence of corrosive effects was reported for both substances. The reported ocular irritation scores for the substances ranged from 5.8 to 42.2 for P-82-400 and 37.0 to 103.3 for P-82-409 (with 110 the maximum score). Based on these results, EPA believes that both substances are severe primary skin and eye irritants at concentrations of 45 to 50 percent. In addition, the substances may be severe primary skin and eye irritants at lower concentrations. A more detailed analysis of the possible health hazard posed by the substances appears in the section 5(e) Consent Order for these substances which is included in the public record for this rulemaking.

The PMN's contained no data for eye and skin irritation at concentrations of 0.5 to 5 percent that are likely to be found in consumer products. Since irritation effects of relatively low concentrations are not known and cannot be reliably estimated from the available data, EPA concluded that information available to the Agency was insufficient to permit a reasoned evaluation of potential health effects of the two substances at the lower concentrations. EPA further determined that, absent sufficient information to make such and evaluation, the two substances may present an unreasonable risk of injury to human health.

Based on these findings, EPA negotiated a section 5(e) Consent Order with the notice submitter. The Order became effective on September 14, 1982 and will remain in effect until the effective date of this SNUR. The Order prohibits the notice submitter from manufacturing, processing, or distributing either P-82-400 or P-82-409 for use as a "consumer chemical." The Order defines "consumer chemical" as "any chemical which is (1) sold or made available directly to consumers for their use; or (2) present in a solution, mixture, suspension, or gelatin which is sold or made available to consumers for their use." In addition, the Order prohibits the notice submitter from manufacturing, processing, or distributing either P-82-400 or P-82-409 unless a Material Safety Data Sheet (MSDS) is distributed to each vendee or other recipient of the substances. The MSDS must state that the substance is not to be manufactured, processed, or distributed for use as a consumer chemical. Further, the notice submitter has stated that the MSDS will warn that preliminary screening suggests that the substance may cause severe skin and eye irritation and recommend the use of protective gloves and eye protection by workers who may be exposed to the substance.

II. Reasons for Proposing This Rule

As stated above, EPA issued a section 5(e) Consent Order to prohibit manufacture of the two substances for use as a consumer chemical pending the development of further information on the substances' potential health effects. However, the Order by its terms applies only to the notice submitter. Since the notice submitter has commenced commercial manufacture of the substances and submitted a Notice of Commencement of Manufacture to EPA,

the Agency will add the substances to the TSCA Chemical Substance Inventory. When the substances are on the Inventory, another person may manufacture or process the substances for any use, including use as a consumer chemical. Therefore, EPA is proposing to designate use of the substances as a consumer chemical a significant new use so that the Agency can review that use before it occurs. In that review, EPA would want to see data on the effects of the substances at lower concentrations.

EPA considered other possible approaches. One alternative approach would be to not place the substances on the Inventory while the section 5(e) Order is in effect. However, under this approach, another person would have to submit a premanufacture notice if he intended to manufacture the substances for any use, even an industrial use about which EPA has little concern. Another alternative is to promulgate a section 8(a) reporting rule for the substances. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substances for use as a consumer chemical. Because the substances are subject to a section 5(e) Order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has one major drawback. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substances for use as a consumer chemical, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substances pending development of information. Rather, EPA would have to obtain test data under section 4 and then, if necessary, regulate the substances under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. The Agency specifically requests comment on these possible alternatives to promulgating a SNUR.

III. Proposed Significant New Uses

To determine what would constitute a significant new use of these chemical substances, EPA considered relevant information about the toxicity of the chemicals and likely exposures associated with possible new uses including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential new uses may change the exposure to humans. Based on these considerations, EPA proposes to define "use as a consumer chemical" as a significant new use of P-82-400 and P-82-409.

The Agency proposes to define consumer chemical as "any chemical substance which is (1) sold or made available directly to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise; or (2) present in a solution, mixture, suspension, or gel which is sold or made available to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise." This definition is similar to that in the section 5(e) Order. Examples of chemical substances "present in a solution, mixture, suspension, or gel which is sold or made available to consumers for their use * * *" include substances used as surfactants in liquid soap, household all-purpose cleaners, rug shampoos, or laundry detergents which are sold or made available to consumers. By "consumers," EPA means natural persons who use products for personal rather than business purposes. This definition of "consumer chemical" is consistent with the definition of "consumer product" in the Consumer Product Safety Act, 15 U.S.C. 2051. EPA's basis for its proposed significant new use determination is explained below.

EPA believes that the use of P-82-400 or P-82-409 as a consumer chemical would present a greater and different type of exposure than the likely exposures associated with the non-consumer uses allowed under the section 5(e) Consent Order. In addition, the largest identified market for the substances for which manufacture would be permitted under the section 5(e) Order is use in industrial cleaners containing alkaline materials such as caustic (sodium hydroxide), ammonia, or metasilicates. Because of the presence of alkaline materials, these products generally will have labeling which warns of potential skin and eye irritation. This labeling limits potential exposure to the substances in the uses permitted under the section 5(e) Order.

The PMN submitter indicated that P-82-400 and P-82-409 could be used in a number of consumer products such as liquid soaps, household all-purpose cleaners, rug shampoos, scouring pads, oven and pot and pan cleaners, and laundry detergents. Use of many of these products would involve direct contact with the skin. The users of these consumer products are unlikely to expect that the products may cause severe eye or skin irritation since products such as liquid soaps, household all-purpose cleaners, rug shampoos, and laundry detergents do not normally cause such effects and are not likely to be labeled as severe irritants. Thus, the likelihood of eye and skin exposures is much greater since users of such products are unlikely to take the same precautions that workers do when using industrial cleaners. In addition, any use of these substances in consumer products would expose far more people to the substances. These users of the consumer products would constitute a different, much broader segment of the general population than the workers likely to be exposed to industrial cleaners. Therefore, EPA believes that use of the substances as a "consumer chemical" would significantly change the population exposed to the substances and greatly increase the level and magnitude of exposure.

Finally, EPA has already determined in the section 5(e) Consent Order that use of the substances as a consumer chemical may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that this new use of the substances would be significant.

IV. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to submit a SNUR notice to EPA before they manufacture or process a substance subject to a SNUR for a significant new use. The language of this proposal makes clear that manufacturers, importers, and processors are subject to SNUR notice requirements. Since both manufacturers and processors are legally subject to SNUR notice requirements, EPA could require both manufacturers and processors to submit complete SNUR notices. However, this may be unnecessary since it could result in the Agency receiving the same information from both parties. Therefore, EPA is considering allowing manufacturers and processors to decide which party should submit what information to EPA so long as all appropriate information is submitted. Thus, manufacturers and processors may decide to submit one joint SNUR notice or to submit separate notices each containing the information uniquely within the purview of the respective party. For example, under this approach, the processor may submit a notice containing such information as likely exposures and releases from processing, while the manufacturer may submit a notice containing information such as the projected market potential

for the substance. Both the manufacturer and processor would submit test data in their sole possession or control and the parties would determine who is responsible for submitting test data that they both possess or control. Alternatively, manufacturers and processors could decide to submit one joint notice containing information from both parties.

Another approach would be to require only the person who actively develops and markets the substance for the significant new use to submit a SNUR notice because this person is likely to know the most about exposure from the significant new use and to have the most information about the market potential for the substance in the new use. The other party or parties technically subject to the notice requirements would at least initially be excused from this responsibility. For example, if a person manufactures a substance for use in industrial cleaners, but a processor formulates the substance for use in liquid soaps, increased and different exposures would occur only from the actions of the processor. In such a case, the processor is the one who actively develops the substance for a significant new use and the person who should have information on potential exposure and the market potential for the product. Therefore, under this approach, the processor would submit ther SNUR notice. On the other hand, if a person intends to manufacture the substance for use in consumer products, that person is developing and marketing the substance for a significant new use and the person who is most likely to have information about potential new uses and likely exposures. Therefore, under this approach, the manufacturer would submit the SNUR notice. However, under this approach, EPA would reserve the right to require the party that did not submit a SNUR notice to submit necessary information. For example, if the manufacturer submitted a SNUR notice, but only the processor had certain exposure information, EPA would require the processor to submit that information.

The Agency specifically requests comment on these various approaches.

V. Uses That May Be Subject to SNUR Notice Requirements

EPA recognizes that when chemical substances proposed to be subject to a SNUR are added to the Inventory they may be manufactured or processed for "significant new uses" as defined in the proposal before promulgation of the rule. The statute and its legislative history do not make clear whether uses occurring after proposal but before promulgation are to be considered "new uses" subject to SNUR notification. However, EPA believes that the intent of section 5(a)(1)(B) can be best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses commenced during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, under this statutory interpretation, if substances are manufactured or processed between proposal and promulgation for proposed "significant new uses," the Agency will still consider such uses to be "new" if those particular significant new uses are included in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commenced manufacture or processing for a "significant new use" during the proposal period. The Agency specifically requests comment on ways to minimize this disruption.

VI. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNUR's in the TSCA Chemicals-in-Progress Bulletin, published by the Industry Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNUR's through footnotes by the chemical identities of substances subject to SNUR's. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNUR's as an Inventory Appendix.

Any person who intends to manufacture or import a substance for the first time should check the Inventory to determine if the substance is listed. If a person finds that the substance is on the Inventory, but subject to a SNUR, he can determine whether he would be subject to reporting by contacting EPA or reviewing the rule. EPA believes that manufacturers and importers will generally know the identities of the substances they manufacture and import and therefore can follow this procedure.

EPA recognizes that some processors may not know the identity of substances they process and therefore may not know they are required to submit a SNUR notice. Therefore, EPA has identified two ways of ensuring that processors are aware that substances are subject to a SNUR.

First, EPA could hold manufacturers and importers responsible if any of their customers process a substance subject to this rule for a significant new use without submitting a SNUR notice even if the manufacturer did not know that the customer intended to process the substance for a significant new use. However, manufacturers and importers could avoid this problem by informing their customers in writing that the substances are subject to a SNUR. Even if a manufacturer or importer provides such information to a processor, if the manufacturer or importer has reason to believe that the processor is commencing a significant new use before submitting a SNUR notice, the manufacturer or importer should submit a SNUR notice and cease sales to the processor for that use to avoid further liability. In addition, the manufacturer or importer may wish to contact EPA enforcement authorities to mitigate any liability stemming from sales made prior to the discovery by the manufacturer or importer that a customer was processing the substance for a significant new use without submitting a SNUR notice.

Second, EPA could hold processors responsible if they process substances for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substances or that the substances were subject to a SNUR. However, processors could avoid this problem by asking their suppliers whether the substances are subject to a SNUR. EPA believes that many processors ask suppliers to certify that chemical substances of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject to SNUR notice requirements.

The Agency specifically requests comment on these two approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

VII. Required Information

EPA is not now proposing a special form for SNUR notices. Instead, the Agency will encourage SNUR notice

submitters to use the proposed premanufacture notice form published in the **Federal Register** of October 16, 1979 (44 FR 59754) or, when it is promulgated, the final premanufacture notice form. SNUR notices must comply with section 5 of TSCA. The Agency interpreted section 5 requirements in its Interim Policy for Premanufacture Notices published in the **Federal Register** of May 15, 1979 (44 FR 28564) and its Statement of Revised Interim Policy published in the **Federal Register** of November 7, 1980 (45 FR 74374).

VIII. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is only required to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health risk that may be posed by a significant new use of P-82-400 and P-82-409, EPA encourages possible SNUR notice submitters to test the substances to evaluate the potential for skin and eye irritation at concentrations likely to be found in consumer products. If a SNUR notice is submitted for a use involving consumer exposure without such test data, EPA may take action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

EPA generally encourages potential notice submitters who intend to test the substances to review test methodologies published by the Organization for Economic Cooperation and Development or EPA test guidelines proposed under section 4 of TSCA or section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act. Other test methods generally accepted in practice among professionals in the particular scientific field may also be appropriate.

IX. EPA Review of Notice

EPA generally intends to review SNUR notices the same way it reviews premanufacture notices. EPA will publish a summary of each notice in the **Federal Register** under section 5(d)(2). The review period for the notice will run 90 days from EPA's receipt of the notice. Under section 5(c) this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substances for a significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for a chemical substance without information sufficient to judge the toxicity and exposure potential of the substances, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit a significant new use that presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 5, 6, or 7 to control a substance on which it has received a significant new us notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

X. Modification of Reporting Requirements

EPA is not proposing a sunset provision that would terminate significant new use reporting requirements for a particular substance on a certain date. However, the Agency believes that there may be circumstances that will lead to modification of the proposed requirements.

When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will amend the SNUR to eliminate notice requirements for the use if the Agency decides that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate notice requirements for other uses if it determines based on new data that the substances no longer present health or environmental concerns for those uses.

EPA will amend a SNUR through a rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may dispense with notice and comment if it for good cause finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XI. Proposed Rule Language

This proposed rule is structured as follows. The chemicals and defined significant new use are described in paragraph (a) of this rule. In paragraph (b), EPA proposes definitions applicable for the section, most of which have been used in other TSCA rules. Paragraph (c) describes the persons who must report. In this proposal, EPA also makes clear that the "principal importer" in an import transaction must be the party that submits the SNUR notice. An explanation of the principal importer concept appeared in EPA's clarification of its proposed premanufacture notification requirements published in the **Federal Register** of September 23, 1980 (45 FR 63006). The notice requirements and procedures for reporting under this rule are stated in paragraph (d).

Paragraph (e) clarifies that the exemptions of TSCA section 5(h) apply in SNUR's with the exception of the section 5(h)(4) exemption provisions which apply only to new chemical substances. Thus, substances may be manufactured in small quantities solely for research and development without a SNUR notice being submitted. In addition, EPA proposes that if the substances appear in a consumer chemical as an impurity or byproduct, they are not subject to SNUR notice requirements. The Agency is adopting this policy for this proposal because identification of the presence of the substances when used in this way can be very difficult and because the Agency does not believe that these substances would give rise to significant exposures if they appear as an impurity or byproduct. Paragraph (f) describes enforcement provisions applicable to this rule.

EPA invites comments on all aspects of this proposed rule language.

XII. Enforcement

It is unlawful for any person to fail or refuse to comply with any provisions of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use, as defined by rule, without submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distrubuted in commerce in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XIII. Analyses and Assessments

A. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P-80-400 and P-82-409. This evaluation is summarized below.

Persons who intend to manufacture or process the substances for a significant new use, as defined in this rule, would be required to submit a SNUR notice with the information required by statute. The cost of submitting a SNUR notice can be estimated from the cost of submitting a PMN, which has been estimated to range between $1,200 and $7,900 per substance, or an average of $4,550.

In addition, although the SNUR would not require that persons submitting notices perform additional testing, EPA expects that some additional test data will be developed. EPA recommends that the substances be tested to evaluate the potential for skin and eye irritation at concentrations likely to be found in consumer products. The direct costs of such tests would be about $1,600 per substance. The dermal irritation test would cost from $300 to $1,000, with a most likely cost of $700. The eye irritation test would cost from $450 to $1,350, with a most likely cost of $900.

The SNUR may also result in delay costs. The delay caused by the preparation of a SNUR notice and the statutory notice review period could reduce the value of future profits. EPA estimates that these delay costs could range from zero to $6,100.

Total direct costs, including notification, testing, and delay would be from $2,000 to $16,500 per substance. If the original PMN submitter also intends to manufacture the substances for the new use, the direct costs would add from less than 0.1 percent to 3.5 percent to the price of the substances.

EPA has not estimated any indirect costs that may result from this SNUR. These indirect cost may result from decisions not to manufacture or process these substances because of uncertainty about possible Agency regulatory action or due to the magnitude of the direct costs. The cost of this impact would be whatever profits or benefits to consumers that use of the substances would have generated. In addition, EPA has not estimated the potential public benefits gained through the avoidance of potential health and environmental problems. Such benefits include the avoidance of costs such as the medical costs of treating exposed persons. While the Agency acknowledges that indirect cost and benefits exist, it is impossible at this time to estimate their extent precisely.

As a regulatory alterntive, EPA considered proposing reporting requirements under section 8(a) rather than a SNUR. Therefore, the Agency also assessed the costs and benefits of a section 8(a) rule. Unlike a SNUR, a section 8(a) rule would not cause delay costs. The direct costs of a section 8(a) rule would range from $1,000 to $10,350, including $200 to $7,900 for form submission and $800 to $2,450 for testing that may be required under section 4 after the Agency receives a SNUR notice. The direct costs of the section 8(a) rule would add from less than 0.1 percent to 3.3 percent to the price of the substances.

The prime benefit of a SNUR over a section 8(a) rule is that the substances cannot be used as consumer chemicals until EPA has reviewed a SNUR notice and had the opportunity to take action under section 5(e). These advantages are significant here since the potential risks are acute effects and a consumer population is potentially exposed.

A more complete economic analysis of this SNUR and other regulatory options is included in the rulemaking record and is available for public review. EPA invites comments on this economic analysis.

B. Regulatory Assessment Requirements

1. *Executive Order 12291.* Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the record for this rulemaking.

2. *Regulatory Flexibility Act.* Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. EPA acknowledges that the submitter of the PMN's for P-82-400 and P-82-409, who is also the most likely submitter of a SNUR notice, is a small business. The Agency has not determined whether other parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substances. The Agency expects that one of the first notice submitters will test the substances to determine their potential for skin and eye irritation at concentrations found in consumer products. With this data, EPA would be able to evaluate the risks posed by the substances in this use and, if necessary, take action to control those risks. At that time, the Agency presumably would

repeal the SNUR. Therefore, even if all SNUR notices are submitted by small businesses, only a few small businesses will be directly affected by the rule. In addition, the cost of the testing that may be encouraged by this rule should not have a major impact on a small business that may want to use these substances as a consumer chemical.

3. *Paperwork Reduction Act.* The reporting provisions of this rule are not subject to the Paperwork Reduction Act, 44 U.S.C. 3501, because this rule is not expected to impose reporting requirements on ten or more persons as defined in 44 U.S.C. 3502(4).

XIV. Rulemaking Record

EPA has established a public record for this rulemaking (docket number OPTS-50501). The complete record is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays in the OPTS Reading Room, Rm. E-107, 401 M St., SW., Washington, D.C.

The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN's for these substances.
2. The **Federal Register** notice of receipt of the PMN's.
3. A copy of the section 5(e) Consent Order.
4. The Economic Analysis of this proposed rule.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: February 7, 1983.

Anne M. Gorsuch,

Administrator.

Therefore, it is proposed that a new Part 721 be added to Chapter I of Title 40, consisting at this time of § 721.225, to read as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

Subpart A—[Reserved]

Subpart B—Significant New Uses for Specific Chemical Substances

Sec.
721.225 Potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate.

Authority: Sec. 5, Pub. L. 94-469, 90 Stat. 2012 (15 U.S.C. 2604).

Subpart A—[Reserved]

Subpart B—Significant New Uses for Specific Chemical Substances

§ 721.225 Potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate.

This section identifies activities with respect to certain chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act (TSCA). In addition, it specifies procedures for reporting on these chemicals.

(a) *Chemical substances subject to reporting.* Use as a consumer chemical is a "significant new use" of potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate.

(b) *Definitions.* The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply to this section. In addition, the following definitions apply:

(1) The terms "article," "byproduct," "EPA," and "impurity," have the same meanings as in § 710.2 of this Chapter.

(2) "Consumer chemical" means any chemical substance which is (i) sold or made available directly to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise; or (ii) present in a solution, mixture, suspension, or gel which is sold or made available to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise.

(3) "Importer" or "person who intends to import" means anyone who intends to import any chemical substance, in pure form or as part of a mixture or article, into the customs territory of the United States and includes:

(i) The person liable for the payment of any duties on the merchandise, or any authorized agent on his behalf (as defined in 19 CFR 1.11).

(ii) The consignee.

(iii) The importer of record.

(iv) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(v) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition the customs territory of the United States consists of the 50 States, Puerto Rico, and the District of Columbia.

(4)(i) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(A) For commercial distribution, including for test marketing.

(B) For use by the manufacture, including use for product research and development, or as an intermediate.

(ii) The term "manufacture for commercial purposes" also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(5) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(6) "Principal importer" means the first importer who, knowing that a chemical substance will be imported rather than manufactured domestically, specifies the chemical substance and the amount to be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(7) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing

of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commerical purposes, then those impurities are also processed for commercial purposes.

(8) "Small quantities solely for research and development" means quantities of a chemical substance manufactured, imported, or processed solely for research and development and that: (i) Are not greater than reasonably necessary for such purposes and (ii) are used by, or directly under the supervision of, a technically qualified individual.

(9) "Technically qualified individual" means a person or persons: (i) Who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervison, (ii) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks, and (iii) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity.

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process the substances listed in paragraph (a) of this section for the significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of TSCA and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing a significant new use. The submitter must comply with any applicable requirement of section 5(b) of TSCA, and the notice must include the information and test data specified in section 5(d)(1).

(e) *Exemptions and exclusions.* The chemical substances listed in this section are not subject to the notification requirements of this section if they:

(1) Meet any of the applicable exemption requirements of TSCA section 5(h), including the exemptions of subsection 5(h)(1) for test marketing substances and subsection 5(h)(3) for substances manufactured only in small quantities solely for research and development.

(2) Are manufactured or processed only as an impurity or byproduct.

(f) *Enforcement.* (1) Failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a Significant New Use Rule is a violation of section 15 of TSCA (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by TSCA, is a violation of TSCA section 15 (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by TSCA section 11, is a violation of section 15 of TSCA (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of a Significant New Use Rule may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of a Significant New Use Rule or act to seize any chemical substance manufactured or processed in violation of a Significant New Use Rule or take other actions under the authority of TSCA section 7 or 17 (15 U.S.C. 2606 or 2616).

[FR Doc. 83-4125 Filed 2-16-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50013B; BH FRL-2268-8]

N-Methanesulfonyl-P-Toluenesulfonamide; Withdrawal of Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Termination of proposed rule.

SUMMARY: EPA is withdrawing a rule proposed under section 5(a)(2) of the Toxic Substances Control Act (TSCA) on the chemical substance N-methanesulfonyl-p-toluenesulfonamide (NMPT). The proposal was published in the **Federal Register** of November 26, 1980 (45 FR 78970). EPA is withdrawing this proposed rule because the chemical does not present potential risks of sufficient concern to justify regulation under a Significant New Use Rule (SNUR) at this time.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washinton, D.C.: (544-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2)(A) through (D). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import or process the substance for that use. The notice must contain the information specified in section 5(d)(1). After submission of a notice, the EPA can take action to regulate the chemical under the authorities of section 5(e) or 5(f). Under section 12(b), persons who export or intend to export a chemical substance subject to a proposed or final rule under section 5 must notify EPA of this fact.

NMPT was the subject of a premanufacture notice (PMN) number 79-3 (0016) from National Starch and Chemical Corporation, submitted September 5, 1979. In its notice, National Starch provided no test data concerning specific health or environmental effects of the substance, although it did supply some information on certain physical and chemical properties of the substance. At that time, EPA was unable to evaluate the toxicity of the PMN substance because no data were available on the PMN substance or on any close structural analogues. However, the Agency was satisfied that the submitter would limit exposures in manufacture and use of the substance. The Agency took no action to regulate the substance during the PMN period, and the substance was added to the TSCA Inventory of Chemical Substances in Commerce when National Starch began production.

On November 26, 1980, EPA proposed a SNUR on NMPT. EPA proposed a SNUR primarily because, once listed on the TSCA Inventory, the chemical substance could be manufactured in any volume or for any purpose, with possible increased exposure and release. However, the submitter's original production volume estimates and further information on the progress of NMPT in

the market place indicate that it is unlikely that exposures to this chemical will significantly increase in the future.

Because significant increases in exposure are unlikely and because the Agency has not identified potential toxicity concerns, the Agency believes that NMPT is not likely to present a significant risk to health or the environment. Therefore, EPA has concluded that a SNUR is not appropriate for this chemical at this time and is withdrawing the proposed rule. One immediate effect of this action is that if the chemical is exported, no notice need be submitted under section 12(b).

Withdrawal of this proposed rule does not signal lessened interest by the Agency in the use of SNUR's on new or existing chemical substances. For example, elsewhere in today's **Federal Register**, EPA is proposing a SNUR on the PMN substances 82-400/409. EPA will continue to propose regulations under section 5(a)(2) for chemical substances that may present significant risks or result in widespread exposure in future uses.

Dated: February 7, 1983.

Anne Gorsuch,

Administrator.

[FR Doc. 83-4128 Filed 2-16-83; 8:45 am]

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Thursday, February 17, 1983

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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