Subpart 201-4.11—Procurement and Contracting Goverment-Wide for Automatic Data Processing Equipment, Software, Maintenance Services, and Supplies

Subpart 201-4.12—Procurement and Contracting Government-Wide for Automatic Data Processing Services

Subpart 201-4.13—Telecommunications[1]

3. Parts 201-35, 201-36, and 201-37 are added with the Part headings reading as follows:

PART 201-35—ADP TELECOMMUNICATIONS MANAGEMENT POLICY

PART 201-36—ADP MANAGEMENT

PART 201-37—TELECOMMUNICATIONS

(a) The authority citation for Parts 201-35, 201-36, and 201-37 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

(b) As of April 1, 1984, the text of 41 CFR Parts 101-35, 101-36, and 101-37 are designated as 41 CFR Parts 201-35, 201-36, and 201-37, respectively. Parts 101-35, 101-36, and 101-37 remain in Chapter 101. The text of new Parts 201-35, 201-36, and 201-37 does not appear in this document but will appear in the next edition of Title 41 of the Code of Federal Regulations.

4. Appendix A is added with the heading reading as follows:

Appendix A—Temporary Regulations

The Federal Procurement Regulations (FPR) Temporary Regulations and Federal Property Management Regulations (FPMR) Temporary Regulations listed in the table below apply to Federal Information Resources Management Regulations (FIRMR).[2] Because the temporary regulations are specific documents affecting either the FPR or FPMR, they contain references to the appropriate FPR (41 CFR Ch. 1) or FPMR (41 CFR Ch. 101) regulation. As reprinted in the text of this appendix to the FIRMR (41 CFR Ch. 201) the original FPR and FPMR references have been retained. However, when citing this material for purposes of applicability to this chapter, it should be cited using a FIRMR Part 201 reference as in the following examples: FPR Temp. Reg. 51 should be referenced as FIRMR Temp. Reg. 51; § 1-4.1301-5 should be referenced as § 201-4.1301-5; FPMR Temp. Reg. F-499 should be referenced as FIRMR Temp. Reg. F-499; § 101-35.200-1 should be referenced as § 201-35.200-1.

[1] See FPR Temporary Regulation 51 in Appendix A to Chapter 201 for temporary changes to Subpart 201-4.13.

[2] The text of the FPR's and FPMR's does not appear in this document but will appear in the next edition of Title 41 of the Code of Federal Regulations.

	Subject	Expires	FR
FPR temporary regulations:			
51	Telecommunications acquisitions	09/30/84	44 FR 41431, 07/17/79.
51, Supp. 2	do	09/30/84	47 FR 41354, 09/29/82.
64	Agency requests for delegations of procurement authority for the acquisition of ADP equipment and services.	09/30/84	47 FR 8774, 03/02/82.
64, Supp. 1	do	09/30/84	49 FR 1343, 01/11/84.
71	Changes to Federal Procurement Regulations Subparts 1-4.11 and 1-4.12.	09/30/84	48 FR 37031, 08/16/83.
FPMR temporary regulations:			
B-6 (identical to F-500)	Management of information processing resources.	09/30/84	48 FR 49236, 10/25/83.
F-499	ADP resources utilization and reporting	09/01/84	47 FR 33960, 08/05/82.
F-500 (identical to B-6)	Management of information processing resources.	09/30/84	48 FR 49236, 10/25/83.
F-502	Data communication systems and services	09/30/85	48 FR 49240, 10/25/83.

[FR Doc. 84-13336 Filed 5-16-84; 8:45 am]

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federal register

Thursday
May 17, 1984

Part IV

Environmental Protection Agency

Drinking Water Technical Assistance; Disposition of the Federal Drinking Water Additives Advisory Program; Development of a Private-Sector Voluntary Standard Organization; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL 2589-4]

Drinking Water Technical Assistance; Disposition of the Federal Drinking Water Additives Advisory Program; Development of a Private-Sector Voluntary Standard Organization

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Office of Water (ODW) has operated an advisory program designed to give technical assistance to concerned parties on the use of drinking water additives. EPA now proposes to terminate major elements of this program and to establish a private-sector program which will offer assistance in evaluating drinking water additives. EPA Solicits proposals from qualified nongovernmental, nonprofit organizations for assistance under a cooperative agreement designed to foster the inception of a credible and efficient program in the private sector. This notice explains the requirements and deadlines for submitting statements of qualifications and proposals for that assistance. EPA will decide whether one of the proposals is likely to result in a successful program; and if so, EPA may award the cooperative agreement and initiate the process for the development of such a program.

DATE: May 17, 1984. Please submit written comments to the address below by July 2, 1984. A Preproposal conference for potential applicants is scheduled on July 23, 1984, at EPA in Room 3906, 401 M Street, SW., Washington, D.C. Full proposals are due by September 4, 1984.

ADDRESSES: Submit Comments to comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. A copy of all comments will be available for review during normal business hours at the EPA, Criteria and Standards Division, Room 1109ET, 401 M Street, SW., Washington, D.C.

Submit applications and proposals to: Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Arthur H. Perler, Science, and Technology Branch, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Or call, (202) 382-3040.

I. Introduction

The Safe Drinking Water Act (SDWA) of 1974 (42 U.S.C. 300f *et seq.)* provides for enhancement of the safety of public drinking water supplies through the establishment and enforcement of national drinking water regulations. The Environmental Protection Agency (EPA) has the primary responsibility for establishing the regulations and the States have the primary responsibility for enforcing such regulations. If a State fails to assure enforcement of drinking water regulations, EPA may move to enforce the regulations by taking certain actions against the State or the public water system owner or operator. The regulations control contaminants in drinking water which may have any adverse effect on public health. (Section 1412, 42 U.S.C. 300g-1). The regulations may include maximum contaminant levels (MCLs) for specific contaminants, treatment techniques where no MCL can feasibly be ascertained, and monitoring requirements for regulated and unregulated contaminants. (Sections 1401, 1412, 1445, 42 U.S.C. 300f, 300g-1, 300j-4). In addition, EPA has broad authorities to provide technical assistance and financial assistance (grants/cooperative agreements) to States and to conduct research. (Sections 1442, 1443, 1444, 42 U.S.C. 300j-1, 300j-2, 300j-3).

The Agency has established MCLs for a number of harmful contaminants that occur naturally or pollute public drinking water supplies. In addition to such contaminants, there is a possibility that drinking water supplies may be contaminated by compounds "added to" drinking water, either directly or indirectly, in the course of treatment and transport of drinking water. Public water systems use a broad range of chemical products to treat water supplies and in maintaining storage and distribution systems. Systems may directly add chemicals such as chlorine, alum, lime and coagulant aids in the process of treating water to make it suitable for public consumption. These are known as "direct additives." As a necessary function of maintaining a public water system, storage and distribution systems (including pipes, tanks and other equipment) may be painted, coated or treated with chemical products which may leach into or otherwise enter the water. These products are known as "indirect additives." Unless direct or indirect additives consist of ingredients or contain contaminants for which EPA has promulgated MCLs, the levels of additives in drinking water currently are not regulated by EPA.

While the SDWA does not require EPA to control the use of specific additives to drinking water, EPA has provided technical assistance to States and public water systems on the use of additives through the issuance of advisory opinions on the acceptability of many additive products. EPA has provided this technical assistance pursuant to its discretionary authority in Section 1442(b)(1) to "collect and make available information pertaining to research, investigations and demonstrations with respect to providing a dependable safe supply of drinking water together with appropriate recommendations in connection therewith." Prior to the enactment of the SDWA and creation of EPA, the U.S. Public Health Service (within the Department of Health, Education, and Welfare (HEW)) has provided advisory opinions on use of additives. The authorities of the Secretary of HEW to establish drinking water regulations pursuant to the Public Health Service Act were transferred to the Administrator of EPA under Reorganization Plan No. 3 of 1970. These authorities in the Public Health Service Act subsequently were superseded by the SDWA. Therefore, the Federal Government has for many years provided technical assistance by issuing advisory opinions on the use of drinking water additives.

In 1979, EPA executed a Memorandum of Understanding (MOU) with the Food and Drug Administration (FDA) to establish areas of authorities with respect to control of additives in drinking water. (44 FR 42775, July 20, 1979). FDA is authorized to regulate "food additives" pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA). (21 U.S.C. 301 *et seq.*). Prior to the enactment of the SDWA, the FDA has interpreted the FFDCA's definition of "food" to include drinking water. Both agencies recognized in the MOU that the "passage of the SDWA in 1974 implicitly repealed FDA's authority under the FFDCA over water used for drinking water purposes." (44 FR 42775). The MOU states that FDA would continue to have authority for taking regulatory action under the FFDCA to control additives in bottled drinking water and in water used in food and for food processing. (44 FR 42776). The MOU agreed that EPA could establish appropriate regulations under the SDWA to control additives in drinking water. The MOU also discussed

authorities EPA has under the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.)* and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.)* that might relate to control of additives in drinking water. TSCA authorizes EPA to regulate new chemical substances before use. An additive product might come within the jurisdiction of TSCA. FIFRA authorizes EPA to control the use of pesticides and certain additives, such as 2,4-dichlorophenoxyacetic acid (for which EPA has promulgated a Primary Drinking Water Regulation) and copper sulfate (EPA has promulgated a Secondary Drinking Water Regulation for copper), are in fact pesticides. In addition, the MOU recognized EPA's authority to "continue to provide technical assistance in the form of informal advisory opinions on drinking water additives under Section 1442(b) of the SDWA." (44 FR 42776).

The MOU implementation plan summarized EPA's intended approach for exercising its authorities. (44 FR 42777). Regarding the issuance of advisory opinions, the Agency intended to review past advisory opinions, develop test protocols and decision criteria, and ultimately resume offering toxicological opinions to States. In the intervening four years, EPA has continued to issue advisory opinions in cases where the new additive products are virtually identical to products previously reviewed. However, the Agency has not been able to review the technical data supporting previous submissions (approximately 2300 products from 525 manufacturers) nor has it been able to develop test protocols or decision criteria for the consistent evaluation of new products. Resource constraints and the demands to implement mandatory provisions of the SDWA have precluded the Agency from implementing the program originally envisioned for the issuance of additives advisory opinions.

The Agency, however, continues to recognize the need for technical assistance in evaluating additive products an for providing advice to States and public water systems on the toxicological aspects of such additive products. Therefore, the Agency proposes to terminate its attempts to institute a formal advisory program, and, through this **Federal Register** notice, to solicit proposals from nongovernmental, nonprofit organizations to establish such a program. The guidelines for submission of proposals, and the criteria for evaluation of the applicants are found in sections V and VI, respectively.

The Agency believes that this proposal to assist in the establishment of this private sector program is consistent with, and best serves the goals of, the SDWA. EPA has opted to provide advisory opinions in the past pursuant to its discretionary authority under Section 1442(b)(1). While EPA will not play a decisionmaking role under this new program, EPA will continue to exercise its full authorities under the SDWA. If any contamination resulting from the use of direct or indirect additives warrants a primary drinking water regulation, EPA will address that issue pursuant to Section 1412. EPA will also continue to exercise all its responsibilities under other relevant statutes such as TSCA and FIFRA. However, the Agency believes that fostering an independent program relating to the use of direct and indirect drinking water additives would best serve the goals of the SDWA.

II. EPA's Proposed Approach

EPA proposes to assist in the establishment of a private-sector program by a nongovernmental, nonprofit organization for the evaluation of drinking water additives, which would function as do many other voluntary product-standard programs. This will be accomplished by evaluating proposals from qualified organizations or consortia of organizations for the competitive award of a cooperative agreement designed to provide incentive for the establishment of a private-sector program. The nongovernmental, nonprofit organization selected for the award is hereinafter referred to as the "third-party." It is expected that this activity will rapidly become self-supporting. However, EPA will continue to maintain an active interest in the development of the program, but will not assume responsibility for or direct its approach. Establishment of such a program is consistent with the Administration's initiatives in the area of regulatory reform and offers an opportunity for an innovative alternative to regulation. Completely separate from this activity, EPA will continue to establish regulations under the SDWA, FIFRA and/or TSCA, as needed, for chemicals in finished drinking water that may originate as direct or indirect additives.

EPA will continue to rely on the "Water Chemicals Codex," National Academy of Sciences, November 1982, and later revisions thereof, as a guideline in determining the recommended purity of direct additives to public drinking water. The Agency will continue to sponsor research on contaminants introduced to public water supplies as indirect additives and may take independent regulatory action when it considers such action appropriate under existing statutes.

III. Operation of the Additives Evaluation Program Pending the Successful Inception of the Third-Party Program

Until the anticipated third-party program is fully operational, EPA will continue to accept requests for opinions on additives products on a limited basis and without assurances of complete processing before the inception of the new program. Such requests will be accepted only if the product meets at least one of the following criteria:

a. Products composed entirely of other products which have been determined to be acceptable by EPA;

b. Products composed entirely of ingredients which have been determined to be acceptable by EPA or the FDA, or other Federal organizations, for addition to potable water or aqueous foods;

c. Products composed of ingredients listed in the "Water Chemicals Codex," National Academy of Sciences, Nov. 1982.

d. Certain other products of particular interest to this Agency or to other Federal agencies; or

e. Products which, if effectively excluded from the marketplace, might jeopardize the public health or safety.

EPA does not intend to develop further interim administrative procedures, testing protocols or decision criteria for future evaluation of additive products. The use of existing informal criteria will continue until a third-party or alternative program is operational.

EPA may not be able to process all requests for opinions on additive products before the establishment of a cooperative agreement with a third-party. The large volume of currently pending requests makes it unlikely that additional requests will be completely processed by that date.

Notwithstanding the provisions of this notice, each requestor must continue to comply with the statutory requirements of the TSCA, such as premanufacture notifications, and the requirements of the FIFRA, such as pesticide registration regulations, and the requirements of the FFDCA, such as application for approval for use in foods or bottled waters.

IV. Notification of a Cooperative Agreement To Be Competitively Awarded

Through this notice and by direct notice to known interested parties, EPA solicits proposals from nongovernmental, nonprofit

organizations for receipt of financial assistance under a cooperative agreement, designed to assist in the establishment of a private-sector, third-party drinking water additives evaluation program. If EPA determines that one of the proposals received pursuant to this notice is highly likely to result in a successful private-sector program, EPA may award the cooperative agreement and the selected organization will initiate the process for the constitution of such a program. The financial assistance will be offered pursuant to the SDWA Section 1442(b)(3)(C), which requires that grantees be nonprofit organizations, and subject to the provisions of 40 CFR Part 30. The third-party will provide substantial funding of its own during the term of the agreement and will be self-sustaining thereafter. Competition is expected to stimulate innovative program designs and mechanisms for handling additives within the broad framework that is described in this notice. Proposals are expected from organizations or consortia of organizations with broad experience in standard setting, drinking water technology, toxicology and public health matters.

The project period shall be 36 months, and the initial budget period shall be 12 months. The second and third budget periods shall be 12 months each. The successful applicant will receive financial assistance from EPA in the amount of $100,000.00 for the initial budget period. If, in the opinion of EPA, the program appears likely to achieve long-term success, and at the option of EPA, budget periods 2 and/or 3 may be funded by EPA with the assistance in year two not to exceed $50,000.00 and the assistance in year three not to exceed $35,000.00. Applicants shall provide for a minimum of 5% non-Federal funds cost sharing in each budget period.

V. Procedure for Submission, Evaluation and Award of This Cooperative Agreement

1. On July 23, 1984, EPA will hold a pre-proposal conference for potential applicants. At that time, EPA will make a general statement to interested parties about this proposed program, and EPA staff will answer questions concerning the process. The application package will be mailed on July 30, 1984 to each person requesting one. Requests may be made at the pre-proposal conference, or by mail to the Comment Clerk in the Criteria and Standards Division, ODW (see Addresses Section). A transcription of the EPA statement and of all questions and answers will be sent to each person requesting a proposal application.

2. Applicants should submit the complete application package, consisting of the following documents, to the Comment Clerk designated in the Addresses Section by September 4, 1984.

a. Description of applicant organization and statement of participating organizations;

b. Declaration of "nonprofit" status;

c. EPA Form 5700–12, "Application for Federal Assistance," completed and signed; and

d. Full narrative proposal, based on the minimum qualifications and criteria contained in Section VI, herein. The proposal must specifically address all evaluation criteria described herein. All applicants will be scored and evaluated solely on the basis of their *written* proposals, as measured specifically against the evaluation criteria described herein (the relative importance of each criterion can be ascertained from the weights assigned herein).

3. Upon receipt of the application packages, the Comment Clerk will transmit the proposals of the Technical Evaluation Panel (TEP) Chairman who will initiate the evaluation process. Proposals will be scored according to the criteria and relative weights assigned in Section VI of this Notice. The TEP shall decide which proposal(s) have sufficiently high scores to merit further consideration. Each application which falls within that sufficiently high range will be transmitted to the EPA Grants Administration Division for registration and screening. Once registered and screened, each applicant will be given an opportunity to address deficiencies noted by the TEP. The revised proposals shall be submitted to the Comments Clerk on or before the date specified by the TEP. The TEP shall then score all revised proposals and shall determine which revised proposals fall within an acceptable high range for further consideration. The TEP may request further revisions from high scoring applicants. When the TEP determines that one or more of the proposals:

a. Attains a sufficiently high overall score, and

b. Is not significantly deficient in any evaluation criteria,

then the TEP may recommend, in its report, such proposal(s) to the Source Selection Official (SSO) for selection. If the TEP report recommends more than one proposal for consideration by the SSO, then the report shall contain both a ranking of the proposals according to actual scores and a ranking of the proposals according to the consensus recommendation of the TEP as to the relative overall quality of each proposal. The SSO reserves the right to either make a selection consistent with the recommendations of the TEP, or to determine that none of the proposals are acceptable to EPA. If an award is made, it will be made on or before September 30, 1985.

VI. Evaluation Criteria for the Cooperative Agreement

Applicant organizations or groups must meet and address all of the following criteria and qualifications as a minimum for consideration in the evaluation:

1. (weight=0; applicants who do not explicitly meet this criterion will be disqualified) Applicant shall be a "nonprofit" organization which is defined as an organization no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual. For the purposes of this notice, only nonprofit nongovernmental entities will be considered.

2. (weight=10) Applicant shall demonstrate experience as a voluntary standard body in order to assure that it will offer fair, equitable, and impartial evaluations to the user and supplier industries and to concerned public-sector entities. For the purpose of this notice, a voluntary standard body shall be defined as a private-sector domestic or multinational nonprofit organization, such as industry associations, professional or technical societies, institutes, recognized test laboratories or other groups that plan, develop, establish or coordinate voluntary standards.

3. (weight=16) Applicant shall demonstrate through clear ties to the water utility industry, manufacturers, States and the scientific community, that it is capable of gaining the confidence of interested governmental authorities, utilities, manufacturers and the public in order that they accept and adopt the third-party's recommendations and standards.

4. (weight=12) Applicant shall demonstrate that nationally recognized personnel of established expertise in the fields of chemistry, toxicology, engineering, public water supply, regulatory affairs and voluntary standards development are available and committed to work on this project.

5. (weight=8) Applicant shall demonstrate that it has access to adequate testing facilities and sufficient personnel with appropriate technical expertise to handling the testing. Applicant must have access to EPA

approved laboratory facilities for contaminant testing when the contaminants are those regulated by EPA. Applicant shall submit evidence of an understanding of the need for quality assurance support for any sampling, storage, testing, analysis, and reporting of measurement data, and shall certify a willingness to apply quality assurance guidelines acceptable to EPA.

6. (weight=12) Applicant shall demonstrate a clear understanding of the issues related to the treatment of confidential business information and trade secrets within an additives evaluation program. Applicant should have experience in gaining the confidence of private-sector entities in safeguarding such information. The nature of this program is such that it involves the disclosure of confidential business information and trade secrets to the evaluation organization by the manufacturers. In the past, this information was given voluntarily to the Agency, under the provisions of Federal regulations for handling such information. There are at least two concerns which must be addressed, and each third-party candidate for this cooperative agreement must address this subject exhaustively and to the satisfaction of the Agency:

a. How will the information in the Agency files and the Agency information system be made available to the third-party for its use?

b. How will the third-party assure the confidentiality of the information submitted by manufacturers, thereby relieving any concern on the part of manufacturers and preventing the withholding of data from the third-party?

No program can be successful unless it overcomes the difficulties related to confidentiality of information and confidence in the organization by the manufacturing community. The Agency reserves the right not to make a selection for the receipt of funds in the event that no organization proposes a mechanism for handling confidential business information which is acceptable to the Agency.

7. (total weight for this criteria=32; each subelement weight, totaling 32, is also indicated) Applicant shall demonstrate how, at a minimum, it will meet the issues described in the following "General Statement of Goals and Tasks." Applicants should carefully consider the potential for problems associated with this complicated transfer and are urged to discuss in the proposal any significant areas not specifically set forth below.

General Statement of Goals and Tasks

The following is a list and description of tasks anticipated to be performed by the third-party organization. Rather than being descriptive of the ultimate terms of agreement between the Agency and the third-party, these tasks represent a set of goals for the program. Innovative approaches proposed by third-party applicants could successfully address all the needs of this program and may meet all of the goals set by the Agency with a somewhat different set of tasks. In any case, each applicant must specifically address each goal or task either directly or through some alternative task. With this in mind, the outline of goals and tasks for the third-party is as follows:

a. (subelement weight=10) Establishment of the organizational structure and program which will develop and function as the third-party drinking water additives advisory program. For example, this task might include establishment of work groups for each type or category of product. These work groups could develop the criteria, protocols and specifications to be used in the formal evaluation of the products. An additional work group or advisory group might be constituted which would determine the health-related criteria and protocols upon which the category groups would build their standards, and which could be the final arbiter of all product approvals. This group would also certify that the category work group protocols meet the health requirements of the third-party and of the Agency, and that the protocols do not conflict with anticipated regulatory actions of the Agency. In case, the description of the proposed structure of the program must state how the workload will be organized and subdivided. Consideration must be given to the number of current approvals (approximately 2300 products from 525 manufacturers) and the potential for subdividing them into categories by either use, ingredients, contaminants or other subdivisions. The applicant shall propose a mechanism for public access and input to the third-party's conclusions. The applicant shall propose a role for the Federal Government as a permanent advisor on the "steering" and technical units within the organization. All information and data on product performance, occurrence, analytical methodology, epidemiology, toxicity and other areas to be named by the Agency will be made available to the Agency during the project period through the project officer. The release of this information to the Agency is an issue that the applicant shall address in response to criterion 6, above.

b. (subelement weight=8) Development and implementation of a voluntary standard system and a system for product certification, updates, inspections, compliance and appeals. The system shall be used to design and implement the actual criteria against which additive products will be measured for acceptance or denial within the voluntary standard program. These criteria would be developed by the organizational structure defined in (6)(a), above.

c. (subelement weight=8) Review of all product acceptance requests. The applicant must submit a time-table for implementation of this task. This task has three distinct parts:

1. Utilizing the criteria established in (6) (a&b) above, timely implementation of a review of products currently in use as drinking water additives.

2. Utilizing the criteria established in (6) (a&b), above, timely review of all incoming requests for acceptance of new additive products. Requests can be expected from manufacturers, utilities, States, municipalities, engineering and consulting firms, Federal agencies, public interest groups, and the general public at the initial rate of approximately 15 per month.

3. Provision of timely information to the public and the concerned audience on the status of additive products and the program. This task will represent the ultimate service provided by the program, so that users can easily determine the status of the individual products.

d. (subelement weight=4) The applicant should describe plans for management of the data and information necessary to operate the proposed program. These plans should consider the volume and complexity of the information related to additives and the necessity of maintaining the integrity of stored data. Applicants are not required to computerize any or all of the data or to use any particular computer hardware or softhware, but the applicant's plan should demonstrate an appreciation of data management problems and a viable approach to solving them. Applicants should be aware that EPA has developed an Additives Information System and Data Base (AIS) using a proprietary data base management system called System 2000. Under the terms of the Agency's license for System 2000 and current procedures for accessing information through the National Technical Information Service, a unit of the Department of Commerce, the third-party could use this software

on EPA's computer during the term of the cooperative agreement and be billed for the computer usage. Access of EPA's AIS may also be available after the expiration of the cooperative agreement. It is unlikely that this project alone would justify the cost of a System 2000 license for the third-party. Of course, transfer of EPA's *data*, as distinct from software, raises confidentiality issues and, if proposed, should be addressed in response to item 6, above.

e. (subelement weight=2) Identification and support of research needs in the additive area. Because ODW sponsors research in closely related areas, this task may be accomplished with the ongoing participation of the Agency.

8. (weight—10) Adoption of a budget and fee structure for the program which indicates that this program will have permanent financial viability. The applicant shall demonstrate a sufficient understanding of the market for drinking water additives to indicate that the proposed fee structure is reasonable. The financial plan for the program, incorporating the Agency assistance for the first year and the potential reduced assistance in the second and third years, must indicate that the third-party will be self-supporting by the fourth year. This may mean the expenditure of substantial private-sector resources in the start-up phases of the program. Provision of this additional funding during the start-up period will be the responsibility of the third-party. The Agency requires a budget for the fourth year (non-Federal participation) with the application package. The applicant shall provide a complete description of the proposed expenditure of the Federal funds. Sources of additional funds for the start-up phases must be enumerated. The narrative proposal must contain an itemized budget for each budget category in each budget period, and the applicant must complete the sections relating to budget and costs on Form 5700–12.

VII. Request for Comments

EPA requests comments and information on all aspects of the matter of establishing a non-governmental organization of offer technical assistance on the use of additives in drinking water. Specifically, EPA is interested in responses to the following general questions:

1. Will the program proposed in this notice adequately serve the needs of the public, manufacturers, utilities, States and other Federal agencies?

2. Would more formalized regulation and control of additives better protect the public health?

3. Would more formalized regulation and control of additives be more or less attractive, economically, to users and suppliers?

4. Will the proposed program facilitate the introduction of new and improved water treatment techniques?

5. Are the anticipated provisions for confidentiality adequate; will the proposed program require enhanced techniques for handling confidential business information; might the program fail because of the reluctance of maufacturers to reveal trade secrets to private-sector organizations?

6. Should the Agency proceed with this plan to transfer much of the control of drinking water additives to the private-sector, or should the Agency pursue another course of action?

Written comments should be sent to the address indicated in the Addresses Section of this Notice. Comments received on or before the date indicated in this notice will be carefully considered.

Dated: April 27, 1984.

Jack E. Ravan,

Assistant Administrator for Water, Office of Water, Environmental Protection Agency.

[FR Doc. 84–13286 Filed 5–16–84; 8:45 am]

BILLING CODE 6560–50–M

federal register

Thursday
May 17, 1984

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Airplane Cabin Fire Protection; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 24073; Notice No. 84-5]

Airplane Cabin Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes equipment requirements to improve cabin fire protection for passenger-carrying transport category airplanes operated under Part 121, after a specified date. This notice proposes that each lavatory and galley be equipped with a smoke detector system, which provides warning to the cockpit or to the passenger cabin crew. Also proposed is a requirement that each lavatory trash receptacle be equipped with a fire extinguisher which discharges automatically upon occurrence of a fire within the receptacle. This notice also proposes to increase the number of hand fire extinguishers located in the passenger cabins of airplanes with passenger seating capacities greater than 60 and to require that at least 2 of the hand fire extinguishers installed in the passenger cabin have halon 1211 as the extinguishing agent. These proposals are the result of investigations of in-flight fires and an inspection survey of the U.S. air carrier fleet indicating the need for an increase in protection against possible in-flight fires.

DATES: Comments must be received on or before September 14, 1984.

ADDRESS: Comments on the proposal are to be marked with "Docket No. 24073" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24073, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be inspected at Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Henri Branting, Technical Analysis Branch (AWS-120), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-8382.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should carry the regulatory document or notice number and be submitted in duplicate to the address above. All comments received, as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection both before and after the closing date for making comments.

Before taking any final action on the proposal, the Administrator will consider any comment made on or before the closing date for comments. The proposal may be changed in light of comments received.

The FAA will acknowledge receipt of a comment if the commenter submits with the comment a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24073." When the comment is received, the postcard will be dated, time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking 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. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future proposed rules should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

This notice is a result of investigations of recent aircraft cabin fires which indicate that additional measures are needed to enhance protection against such fires. One fire occurred near Cincinnati, Ohio, on June 2, 1983, and resulted in 23 fatalities. Another occurred at Tampa International Airport in Florida on June 25, 1983, and resulted in evacuation of the airplane with no injuries or loss of life. An inspection survey of the U.S. air carrier fleet was conducted recently by the FAA as part of the FAA air carrier airworthiness surveillance program. The proposals in this notice are appropriate in light of the inspection survey results. The survey was conducted to determine the effectiveness of previous FAA actions, discussed below, to correct deficiencies in fire protection and to determine whether or not the results of the corrective actions adequately serve the objectives and provide adequate safety. The survey entailed inspections and investigations by FAA air carrier inspectors of fire containment capabilities of trash receptacles in transport category airplanes. Many of the receptacles inspected revealed that the fire containment capabilities of trash receptacles may be compromised by the wear and tear typical of service. Considering the seriousness of in-flight cabin fires, an expanded approach to fire protection is considered necessary.

After an in-flight fire several years ago aboard a Varig airliner, which originated in a lavatory area, the following corrective actions were taken. The FAA issued an airworthiness directive (AD 74-09-08, Docket No. 13603), applicable to all transport category airplanes. The AD requires 1,000-hour periodic inspections, and repairs as necessary, of all lavatory trash receptacles to ensure fire containment capability. The AD also requires preflight briefings informing passengers not to smoke in lavatories, the installation of ash trays near lavatory entrances, and the installation of no-smoking signs on each side of lavatory doors. Subsequent to issuance of the AD's, 14 CFR 25.853 was amended to incorporate these requirements for ashtrays and no-smoking signs. Section 121.571 requires that passengers be given preflight briefings regarding smoking. Three additional AD's (AD 74-21-03, AD 75-02-04, and AD 75-02-05; Docket Nos. 73-NW-12, 74-WE-10, and 74-WE-11, respectively) were issued for specific airplane models requiring inspection and repair of lavatory electrical components and modification of lavatory trash receptacles to ensure fire containment. Together, the AD actions were intended to eliminate likely ignition sources, end smoking in lavatories, and provide fire-safe trash receptacles in the event that fire occurs in a receptacle despite these precautions. As indicated by the investigations of recent cabin fires, additional measures may be necessary to improve the level of fire safety.

In addition to these AD actions, a study was conducted under FAA contract which included the conceptual design and feasibility analysis of a total cabin integrated fire management system. This study included analysis of

fire-related accident and incident data taken over a 10-year period; a survey of available technology; and analysis of fire detection, monitoring, and extinguishing options for all areas of a typical wide-body passenger cabin. While technical problems precluded adoption of the total cabin integrated system as a practical fire protection standard for large cabins in general, the study did provide sound data on fire protection, some of which is pertinent to the proposals in this notice. Components of the integrated system, such as the galley and lavatory smoke detectors included in this proposal, have not been proposed for incorporation into regulations before this time because the specific corrective actions taken were, until the recent inspection survey, deemed to ensure adequate fire protection. The results of this study are contained in department of Transportation (DOT) Report No. FAA–RD–76–54, Feasibility and Tradeoffs of a Transport Fuselage Fire Mangement System, dated June 1976, available from the National Technical Information Service (NTIS), Springfield, Va. 22151.

The FAA also conducted cabin fire extinguishing tests using various types of hand extingnishers. These tests demonstrated that for a fire in a large aircraft cabin, the halon 1211 extinguishers are safe from the standpoint of toxicity and far more effective in range and knockdown capability than other extinguishers currently in service. The results of the hand extinguisher tests are contained in DOT Report No. DOT/FAA/CT–82–11, Inflight Aircraft Seat Fire Extinguishing Tests (Cabin Hazard Measurements), dated December 1982, available from NTIS. Halon 1211 extinguishers are rated for class A, B, and C fires. Under the air carrier airworthiness surveillance program, FAA issued a general notice (GENOT), dated November 29, 1980, to inspectors and air carrier operators encouraging the installation of at least two halon 1211 extinguishers in each airplane on a voluntary basis. The operators have indicated their intention to install the extinguishers on nearly all airplanes in the fleet, and many airplanes currently have them installed.

Discussion of Proposal

This notice proposes regulations which require transport category airplanes operating under Part 121 to be equipped with smoke detectors to enhance the detection capabilities of flight attendants and with increased fire extinguishment capabilities, for those area of the passenger cabin shown by experience to be more critical for fire protection.

The proposals would require smoke detectors systems in galleys since galleys have the highest incidence of flame, smoke, and overheat conditions in the passenger cabin. The proposals would also require smoke detector systems in lavatories. While lavatories have a lower smoke and fire incident rate than galleys, they are more sensitive from a fire detection standpoint because they are more often unattended, they are closed from view by a door, and they contain ventilation systems designed to keep odors, and thus sensory smoke warnings, away from the passenger cabin. The galley and lavatory detector systems would be required to provide a warning light in the cockpit or a warning light or audio warning in the passenger cabin which provides a clear and unmistakable signal, readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the flight. Because the galley and lavatory smoke detectors would serve to enhance the present ability of the flight attendants to visually detect fires in the cabin and not as primary detection systems such as those used in isolated cargo compartments, it would be unnecessary for the detectors to meet all of the performance and environnmental requirements in Technical Standard Order C1b, which are applicable to the type of primary detectors used in isolated cargo compartments. Service experience has shown that nearly all galley and lavatory fires are detected by cabin personnel early enough to allow prompt control and extinguishment. In this case, a commercially available smoke detector, such as the type commonly used in residential buildings, which is demonstrated to serve its intended function as installed, could be considered adequate under the proposals. One airline which has already voluntarily installed this type of detector in lavatories has had a most favorable service experience with the detector.

The proposals would require that lavatory trash receptable be equipped with automatic fire extinguishers. This type of extinguisher could be a small extinguishant-charged bulb with a thermal fuse plug. This type currently is in service in trash receptacles in numerous transport category airplanes.

The lavatory smoke detectors and automatic fire extinguishers would be in addition to the fire containment capability currently required for lavatory trash receptacles because, as indicated by the recent inspection survey, fire containment capability is subject to deterioration in service, and additional measures of fire protection may be necessary. The automatic fire extinguishers would counter a fire as quickly as possible at its inception and would be a practicable means of keeping response time to a minimum, which is a key principle of fire protection in general. The smoke detectors would be necessary complement to the extinguishers to enable crewmembers to quickly detect a fire and determine if additional actions, such as use of hand extinguishers, are necessary to control the fire and prevent rekindling. The requirement for trash receptacle fire containment capability would be retained since containment capability, degraded or not, delays the propagation of fire and provides a needed incremental measure of fire protection.

Because it has been determined that halon 1211 demonstrates superior performance and effectiveness in combating fires, the proposals would also require that at least 2 halon 1211 hand fire extinguishers be installed in the airplane cabins. This is consistent with the GENOT issued under the air carrier airworthiness surveillance program, encouraging the installation of halon 1211 extinguishers. In addition, the proposals would increase the number of hand fire extinguishers required by § 121.309 to be located in the passenger compartments of transport category airplanes. Section 121.309 currently requires at least 2 fire extinguishers for airplanes accommodating more than 30 passengers. The airworthiness regulations applicable to nearly all transport category airplanes in the U.S. air carrier fleet require that at least 3 fire extinguishers be located in passenger compartments of airplanes having passenger capacities greater than 60. The proposed requirements would be consistent with existing airworthiness regulations for passenger capacities up to 200. For capacities greater than 200, the proposals would require 1 additional extinguisher for each increment, or fractional increment, of 100 passengers. This reflects the current general fleetwide practice regarding the installation of fire extinguishers in the larger airplanes, many of which are equipped with an even greater number of extinguishers than specified in the proposals.

The proposals would require that airplanes operating under Part 121 comply within 1 year after the regulations become effective. The 1-year

period is intended to allow air carriers lead time to schedule the aircraft modifications necessary for compliance to coincide with major maintenance inspections and to develop appropriate maintenance and crewmember procedures and instructions. The FAA specifically requests comments on the adequacy of this 1-year implementation period.

Benefits

Benefits to the smoke detector and fire extinguisher proposals will be the prevention of potential fatalities, injuries, and property damage resulting from fires originating in galleys, lavatories, and other areas in the passenger cabin. Estimating these benefits quantitatively is complicated by the relatively limited number of in-flight cabin fire accidents. However, when such accidents have occurred, the losses have been catastrophic. A probability analysis has been utilized to estimate the risk of catastrophic cabin fires and the potential benefits which might result from the proposed regulations. This approach combines informed judgment about the nature and location of cabin fire hazards, as well as the effectiveness of the proposed countermeasures, with statistical techniques which systematically treat the uncertainty inherent in such judgments. The analysis generates a range of benefit values and a probability distribution of achieving these benefits which can be compared to the estimated costs of the various proposals.

A Poisson distribution has been used to estimate the probability of experiencing random cabin fire accidents during the 10-year period of the analysis. The Poisson distribution provides a realistic model for predicting many random phenomena and frequently is used in safety analyses to estimate accident risk in a future time period.

The Poisson distribution of potential future catastrophic cabin fire accidents represents the risk associated with maintaining the status quo and provides a baseline from which the potential benefits of the proposed regulations can be measured. To develop the Poisson distribution for this analysis, it was first necessary to determine the historical average rate of catastrophic in-flight fires believed to have originated in the passenger cabin. Post-crash fires, flight-deck fires, belly cargo fires, fires aboard freighter aircraft, and all other fires not believed to have originated in the passenger cabin were excluded in establishing this baseline. The only two major cabin fire accidents in worldwide operations, the Varig Boeing 707 fire in Paris in July 1973 and the Air Canada DC–9 fire at Cincinnati, Ohio, in June 1983, suggest an average historical rate of two random catastrophic cabin fire accidents during a 10-year period. The Poisson distribution based upon this average ranges from 0 to 9 potential accidents, with the highest probabilities concentrated about the mean value of 2.

Based upon traffic data tabulated in the *FAA Statistical Handbook of Aviation*, FAA estimates that an average of 100 persons (including crew) are carried aboard a typical Part 121 passenger operation. The average fatality rate of 75 percent from the 2 accidents cited previously yields an estimate of 75 fatalities per accident. Applying the standard value of $650,000 per statistical fatality used in FAA regulatory evaluations, adding the standard average air carrier hull value of $7,750,000 for a destroyed aircraft, and discounting this total as uniform series of payments over the 10-year period of the analysis (to allow for the random nature of such accidents which may occur anywhere within that period) at the 10 percent discount rate prescribed by OMB yields an average accident cost of $36,425,550.[1] This will be the average benefit realized for every accident prevented by the proposals in this rulemaking.

Probability distributions have also been developed to estimate the frequency that a potential accident will involve a location or scenario where each of the protective measures proposed in this notice would be operative, and should such a fire scenario occur, what would the probable effectiveness of a particular protective measure be in preventing that accident. The benefits which would result for each combination of parameter values—i.e., the number of potential accidents, the percentage of those potential accidents having scenarios and locations where a particular protective measure would be operative, and the percentage of occurrences where the protective equipment would be effective in preventing the accident—have been calculated, generating a probability distribution of potential benefits resulting from each proposed requirement. The expected benefit value, equal to the sum of the products of each possible benefit value and its associated probability, has also been calculated and represents an average of all of the possible benefit outcomes weighted by their respective probabilities.

Developing estimates of the benefits attributable to the lavatory smoke detector and to the automatic fire extinguisher in the lavatory trash receptacle requires that some allocation be made of those potential future accidents which could be expected to originate in the lavatory. These potential accidents need to be allocated further into those in which the smoke detector would be the piece of protective equipment relied upon to prevent the accident and those which would rely upon the automatically discharging fire extinguisher in the trash receptacle.

In both of the catastrophic accidents cited above, the fire likely originated in the lavatory. However, Service Difficulty Reports (SDR's), maintained by the FAA's National Safety Data Branch in Oklahoma City, indicate that only 12.1 percent of in-cabin smoke and fire incidents occur in the lavatory. The SDR data indicate that the vast majority of these incidents, 64.3 percent, occur in aircraft galleys, and the remaining 23.6 percent occur in other areas of the cabin. Although none of the catastrophic cabin fires experienced to date are thought to have originated outside of the lavatory, some allowance must be made for the possibility that a major fire could originate in one of the locations where 87.9 percent of the smoke and fire incidents historically have occurred. Lavoratory fires are particularly insidious, however, because fires in closed lavatory compartments are more likely to go undetected than in other areas of the cabin.

For the purposes of this analysis, the FAA assumes that over a prolonged period of time, an average of 80 percent of all random catastrophic cabin fire accidents would originate in the lavatory, and the remaining 20 percent would originate elsewhere in the cabin.

Of the two previous accidents which are believed to have originated in the lavatory, the Varig accident involved a fire originating in the trash receptacle, and althouth the National Transportation Safety Board has not yet issued its final report, testimony given during the investigation indicates that the Air Canada fire was electrical in origin. This suggests that potential accidents might be evenly divided between those in which the smoke detector and those in which the trash receptacle fire extinguisher would be the operative piece of protective equipment. However, the inspection survey discussed previously revealed that the fire containment capabilities of a trash

[1] See *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs*, FAA Office of Aviation Policy and Plans, September 1981 (Report No. FAA–APO–81–3). Values have been adjusted for inflation as prescribed in this guide.

receptacle can become compromised by the wear and tear typical of service. In these instances, the lavatory smoke detector would be the more significant piece of equipment in preventing a trash receptacle fire incident from becoming a major accident. Further, review of the SDR data indicates that of smoke and fire incidents occurring in the lavatory, for every trash receptacle incident there are slightly more than two incidents in other areas of the lavabory (mostly electrical in origin and frequently involving the flush pump motor). For these reasons, the FAA believes that the lavatory smoke detector will be the operative piece of equipment in preventing potential lavatory fires more often than will the trash receptacle and has assumed that of the 80 percent of all potential fire accidents expected to originate in the lavatory, an average of 45 percent of all potential accidents will involve the smoke detector as the protective equipment relied upon to prevent a major accident from developing, and only 35 percent of all potential accidents will involve the trash receptacle fire extinguisher.

These assumptions concerning the potential fire source locations and associated protective equipment are to be considered mean values of a range of values which these parameters can reasonably be expected to achieve. The FAA assumes that the proportion of potential lavatory accidents involving the smoke detector will range from 25 percent to 65 percent, distributed normally about the mean of 45 percent. Similarly, the FAA assumes that the proportion of potential lavatory accidents involving the trash receptacle fire extinguisher will range from 15 percent to 55 percent, distributed normally about the mean of 35 percent.

Estimates must also be made concerning the effectiveness of the particular piece of equipment in preventing an accident in those random combinations of circumstances where all existing safeguards have failed. The FAA assumes that given such circumstances where the lavatory smoke detector would be the relevant protective device, a catastrophic accident could be averted an average of 50 percent of the time. The FAA believes that the average effectiveness will actually be somewhat higher; however, this conservative assumption has been made for the purpose of demonstrating the desirability of the proposal in the unlikely event that the smoke detector does not prove to be as effective as expected. Potential benefits have been calculated for effectiveness values which range from 25 percent to 75 percent, distributed normally around the mean value of 50 percent.

The FAA assumes that the average effectiveness of the trash receptacle fire extinguisher will be 74 percent, with values ranging from 50 percent to 100 percent distributed normally about the mean. FAA expects the automatic fire extinguisher to be relatively more effective than the smoke detector in those circumstances in which the trash receptacle fire extinguisher would be rendered ineffective by wear and tear.

Based upon the probability distributions of the various accident parameters discussed above, probability distributions of potential benefits have been calculated for the lavatory smoke detector and trash receptacle fire extinguisher proposals and are presented in Tables 1 and 2, respectively, below:

TABLE 1.—PROBABILITY DISTRIBUTION OF BENEFITS RESULTING FROM THE LAVATORY SMOKE DETECTOR PRESENT VALUE—1983 DOLLARS

Benefit (in millions of dollars)	Probability [1] (percent)
0	100
8.0	75
14.0	50
23.5	25
62.5	0
Expected benefit value=$16.4 milion.	

[1] That the lavatory smoke detector proposal will equal or exceed the benefits shown at left.

TABLE 2.—PROBABILITY DISTRIBUTION OF BENEFITS RESULTING FROM THE LAVATORY TRASH RECEPTACLE FIRE EXTINGUISHER PRESENT VALUE—1983 DOLLARS

Benefit (in millions of dollars)	Probability [1] (percent)
0	100
8.9	75
17.1	50
27.1	25
69.6	0
Expected benefit value=$19.1 million.	

[1] That the trash receptacle fire extinguisher propsal will equal or exceed the benefits shown at left.

The potential benefits of the galley smoke detector and halon 1211 fire extinguisher proposals have been estimated in a manner similar to the lavatory fire prevention proposals. As stated previously, the FAA has assumed that an average of 20 percent of potential catastrophic cabin fire accidents would involve either the galley or other general areas of the passenger cabin not previously specified. Allocation of this remaining 20 percent between the galley smoke detector and the halon 1211 extinguisher has again been approached by estimating a range of values for these parameters.

The FAA assumes that the proportion of potential catastrophic fire accidents originating in the galley area where the smoke detector will be the primary preventive measure will range from 0 percent to 24 percent, distributed normally about a mean of 12 percent. Further, the FAA assumes that the proportion of potential cabin fire accidents where the halon 1211 extinguishers will be the critical preventive measures will range from 0 percent to 10 percent, distributed normally about a mean of 8 percent. The relatively higher proportion allocated to the galley smoke detector proposal reflects the fact that the majority of all passenger cabin fire incidents, 64.3 percent, occur in aircraft galleys. Further, many aircraft galleys are not located on the main deck of the cabin and therefore are less visible. The remaining portion of potential catastrophic accidents represents fire scenarios where the halon 1211 extinguisher would be the critical protective piece of equipment. The halon extinguisher is a state-of-the-art hand fire extinguisher which is effective against all classes of fires. However, its primary advantage over existing extinguishers is that it is especially effective against volatile liquid fires.

As in the case of the lavatory smoke detector, the FAA has conservatively estimated an average effectiveness of 50 percent for both the galley smoke detector and the halon 1211 propsals, with values ranging from 25 percent to 50 percent distributed normally about this mean.

The probability distributions of potential benefits for the galley smoke detector and halon 1211 extinguisher proposals are presented in Tables 3 and 4, respectively, below:

TABLE 3.—PROBABILITY DISTRIBUTION OF BENEFITS RESULTING FROM THE GALLEY SMOKE DETECTOR PRESENT VALUE—1983 DOLLARS

Benefit (in millions of dollars)	Probability [1] percent
0	100
1.8	75
3.5	50
6.1	25
18.4	0
Expected benefit value=$4.4 million	

[1] That the galley smoke detector proposal will equal or exceed the benefits shown at left.

TABLE 4.—PROBABILITY DISTRIBUTION OF BENEFITS RESULTING FROM THE HALON 1211 FIRE EXTINGUISHER PRESENT VALUE—1983 DOLLARS

Benefits (in millions of dollars)	Probability [1] (percent)
0	100
1.2	75
2.4	50
4.1	25
12.3	0
Expected benefit value=$2.9 million.	

[1] That the Halon 1211 proposal will equal or exceed the benefits shown at left.

The proposal which would amend the regulations specifying the location and number of hand fire extinguishers which must be available for use in designated cargo compartmens, galley areas, the flight deck, and the passenger cabin of Part 121 aircraft reflects current industry practice and is expected to have a negligible economic impact on the U.S. air carrier fleet. Therefore, an analysis of benefits is not required. The basis for this conclusion is discussed further in the costs section.

Costs

The total costs of implementing the proposals to require smoke detectors in aircraft lavatories and galley areas include the cost of retrofitting approximately 15,000 galleys and lavatories installed in 2,333 passenger aircraft subject to the rule, installing smoke detectors on newly manufactured aircraft over the next 10 years, the fuel penalty resulting from the added weight of the smoke detectors, and maintenance costs. The major assumptions which have been made in developing these cost estimates include a 1-year period to retrofit the existing 1983 fleet, the use of commercially available residential-type smoke detectors at a unit cost of $50 per installed detector, an average of 140 new aircraft manufactured each year over the next 10 years, an average additional fuel burn cost of $3.35 per year for each 4-ounce smoke detector, an annual average cost of $70 in maintenance labor per smoke detector, and 10 percent unit replacement rate required each year for maintenance. Because this proposal involves a new system, information on previous airline operating experience is relatively limited. Therefore, the FAA requests comments on the assumptions which it has made, particularly with respect to the feasibility of residential-type smoke detectors, and the cost of maintenance.

Table 5 summarizes the estimated total costs of $5.9 million for the lavatory smoke detector proposal and $3.9 million for the galley smoke detector proposal over the 10-year period following implementation.

TABLE 5.—SUMMARY OF SMOKE DETECTOR COSTS PRESENT VALUE—1983 DOLLARS

[Thousands]

	Lavatories	Galleys	Both
Retrofit 1983 fleet	$465.4	$291.2	$756.6
Newly manufactured aircraft	153.1	104.8	257.9
Fuel burn cost	226.9	151.2	378.1
Maintenance	5,077.0	3,384.7	8,461.7
Total cost	5,922.4	3,931.9	9,854.3

The costs of the proposal requiring lavatory trash receptacles to be equipped with a fire extinguisher capable of discharging automatically upon the detection of a fire were estimated in a manner similar to that used to estimate smoke detector costs. The major assumptions which have been made in developing these cost estimates include a unit cost of $300 per installed fire extinguisher, the assumption that 25 percent of the fleet is already equipped with these extinguishers (based upon a survey indicating that 32 percent of the aircraft operated by Air Transport Association of America (ATA) members were so equipped), the assumption that all newly manufactured Boeing aircraft will have automatic fire extinguishers installed in lavatory trash receptacles as standard equipment, an average additional fuel burn of 15 gallons per year for each 1-pound extinguisher, and a weight check every 6 months by maintenance personnel to determine the condition of each extinguisher. Table 6 summarizes the estimated $3.9 million total costs of the automatic lavatory trash receptable fire extinguisher proposal.

TABLE 6.—SUMMARY OF LAVATORY TRASH RECEPTACLE FIRE EXTINGUISHER COSTS PRESENT VALUE—1983 DOLLARS

[Thousands]

Retrofit 1983 Fleet	$2,094.3
Newly Manufactured Aircraft	101.5
Fuel Burn Weight Penalty	574.7
Maintenance	1,129.0
Total cost	3,899.5

The total fleet cost of equipping each aircraft with two halon 1211 hand fire extinguishers has been estimated to be $93,000. This estimate is based upon a $40 unit cost and the assumption that 50 percent of the fleet is already equipped with this type of extinguisher. (ATA's survey indicated that as of April 1983, 79 percent of the ATA fleet was either equipped or intended to be equipped with halon 1211 extinguishers.) However, as a result of the relatively lighter weight halon 1211 extinguishers in comparison to CO_2 extinguishers, fuel savings alone should pay for the new halon extinguishers, during the first year of operation. Further, no costs are associated with equipping newly manufactured aircraft with halon extinguishers because the price of these units is comparable with the average price of the dry chemical and CO_2 extinguishers which the halon units will replace. Therefore, the net costs of this proposal are zero.

The proposal to amend § 121.309(c) to require an increased number of hand fire extinguishers in airplanes operated under Part 121 should have a negligible economic impact on the U.S. air carrier fleet. The airworthiness regulations applicable to nearly all transport category airplanes in the fleet require at least 3 hand fire extinguishers be located in passenger compartments of airplanes having passenger seating capacities greater than 60. Consequently, airplanes in compliance with that rule would meet the proposed rule for passenger capacities up to 200, which includes most of the airplanes in the fleet. Larger airplanes generally carry more hand fire extinguishers than the minimum required by Part 121 and, therefore, are not expected to incur any appreciable additional costs to comply with the proposal.

Comparison of Benefits and Costs

The probability distributions of potential benefits have been compared to the estimates of costs for those proposals expected to have positive costs, providing probability distributions of the benefit/cost ratios which could result from each of these proposals. The probability of achieving benefits equal to or greater than the cost of each proposal has been identified in this manner. Further, the expected benefit values have been compared to the estimated costs, providing an expected benefit/cost ratio and an expected net benefit for each proposal. The expected benefit/cost ratio and expected net benefit represent averages of the possible benefit/cost ratios and net benefit outcomes which may be realized by each proposal, weighted by the probability associated with each outcome. Finally, the expected benefit values and estimated costs of all proposals have been totalled, enabling a comparison to be made of the benefits and costs of all of the proposals taken together.

The comparison of the benefits and costs of the lavatory smoke detector proposal is summarized in Table 7 below:

TABLE 7.—PROBABILITY DISTRIBUTION OF BENEFIT/COST RATIOS FOR THE LAVATORY SMOKE DETECTOR

Benefit (in million of dollars)	Benefit/cost ratio	Probability[1]
0	0	100
5.9[2]	1.0	82
8.0	1.4	75
14.0	2.4	50
23.5	4.0	25
62.5	10.6	0
Expected benefit/cost ratio=2.8.		
Expected net benefit=$10.5 million (based on an expected benefit of $16.4 million).		

[1] That the lavatory smoke detector proposal will equal or exceed the benefit/cost ratio shown at left.
[2] Break even.

The comparison of the benefits and costs of the lavatory trash receptacle fire extinguisher proposal is summarized in Table 8 below:

TABLE 8.—PROBABILITY DISTRIBUTION OF BENEFIT/COST RATIOS FOR THE LAVATORY TRASH RECEPTACLE FIRE EXTINGUISHER

Benefit (in millions of dollars)	Benefit/cost ratio	Probability[1] (percent)
0	0	100
[2]3.9	1.0	86
8.9	2.3	75
17.1	4.4	50
27.1	7.0	25
69.6	17.8	0
Expected Benefit/Cost Ratio = 4.9. Expected Net Benefit = $15.2 million (based on an expected benefit of $19.1 million).		

[1] That the trash receptacle fire extinguisher proposal will equal or exceed the benefit/cost ratio shown at left.
[2] Break even.

The comparison of the benefits and costs of the galley smoke detector proposal is summarized in Table 9 below:

TABLE 9.—PROBABILITY DISTRIBUTION OF BENEFIT/COST RATIOS FOR THE GALLEY SMOKE DETECTOR

Benefit (in millions of dollars)	Benefit/cost ratio	Probability[1] (percent)
0	0	100
1.8	0.5	75
3.5	0.9	50
[2]3.9	1.0	45
6.1	1.6	25
18.4	4.7	0
Expected benefit/cost ratio = 1.1. Expected net benefit = $.5 million (based on an expected benefit of $4.4 million).		

[1] That the galley smoke detector proposal will equal or exceed the benefit/cost ratio shown at left.
[2] Break even.

The halon 1211 fire extinguisher is clearly cost-beneficial for any level of potential benefits because the proposal involves no net costs. The expected benefit value for the halon 1211 fire extinguisher is $2.9 million in pure safety benefit.

Summing the benefits and costs of all of the proposals in this rulemaking together, total expected benefits equal $42.8 million and total costs equal $13.8 million, resulting in a total expected benefit/cost ratio of 3.1 and a total expected net benefit of $29.0 million.

International Trade Impact Analysis

The proposals will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. The proposals will affect only U.S. air carriers because foreign air carriers are not subject to Part 121. Foreign air carriers are prohibited from operating between points within the United States; therefore, they will not gain any competitive advantage over the domestic operations of U.S carriers. In international operations, foreign air carriers could realize some minor cost advantages over U.S. air carriers if the foreign countries do not require similar fire protection equipment. However, these costs are negligible in comparison to the overall costs of providing international passenger services and, therefore, there will essentially be no trade impact.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. FAA Order 2100.14, *Regulatory Flexibility Criteria and Guidance* (dated July 15, 1983), prescribes standards for determining whether or not a rule will result in "a significant economic impact on a substantial number of small entities" as required by the RFA.

The small entities affected by the proposal are the small air carriers regulated under 14 CFR Part 121. FAA Order 2100.14 has established criteria describing what is a significant economic impact on a small air carrier and what is a substantial number of small air carriers for purposes of complying with the RFA. That order stipulates a size threshold of nine or few operating aircraft as the standard for small air carriers. FAA data indicate that as of April 1983, there were 45 passenger air carriers (both scheduled and unscheduled) subject to Part 121 which operated 9 or fewer aircraft.

Based upon the costing assumptions discussed previously in the economic evaluation, a typical configuration of three galley areas and three lavatories per aircraft, and applying a capital recovery factor to annualize retrofit costs over a 10-year period, the FAA has estimated that the average annualized net compliance cost for a small air carrier to meet the requirements of this proposal is approximately $798 per aircraft.

Based on the criteria of FAA Order 2100.14 and as fully discussed in the regulatory evaluation for this rulemaking, this proposal is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 121

Aviation safety, Safety, Air carriers, Air traffic control, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Airports, Airspace, Airworthiness directives and standards, Beverages, Cargo, Chemicals, Children, Narcotics, Flammable materials, Handicapped, Hazardous materials, Hours of work, Infants, Liquor, Mail, Drugs, Pilots, Smoking, Transportation, Common carriers.

The Proposed Rule

Accordingly, the Federal Aviation Administration proposes to amend Part 121 of the Federal Aviation Regulations (14 CFR Part 121) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By adding a new § 121.308 to read as follows:

§ 121.308 Lavatory and galley fire protection.

(a) After (a date 1 year after the effective date of this regulation), no person may operate a passenger-carrying transport category airplane unless each lavatory and galley in the airplane is equipped with a smoke detector system that provides a warning light in the cockpit or provides a warning light or audio warning in the passenger cabin which would be readily detected by a flight attendant, taking into consideration the positioning of flight attendants throughout the passenger compartment and galleys during various phases of flight.

(b) After (a date 1 year after the effective date of this regulation), no person may operate a passenger-carrying transport categoroy airplane unless each lavatory in the airplane is equipped with a built-in fire extinguisher for each disposal receptacle for towels, paper, or waste, located within the lavatory. The built-in fire extinguisher must be designed to discharge automatically into each disposal

receptacle upon occurrence of a fire in the receptacle.

2. By amending § 121.309(c), by revising paragraphs (c) (1), (2), and (3); by redesignating revised paragraphs (c) (2) and (3) as (c) (3) and (4), respectively; and by adding new paragraphs (c) (2) and (5), as follows:

§ 121.309 Emergency equipment.

* * * * *

(c) * * *

(1) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur in the compartment where the extinguisher is intended to be used and, for passenger compartments, must be designed to minimize the hazard of toxic gas concentrations.

(2) At least one hand fire extinguisher must be provided and conveniently located for use in each class E cargo compartment which is accessible to crewmembers during flight, and at least one must be located in each upper and lower lobe galley.

(3) At least one hand fire extinguisher must be conveniently located on the flight deck for use by the flightcrew.

(4) At least 2 hand fire extinguishers must be conveniently located and uniformly distributed in the passenger compartment of airplanes having a passenger seating capacity of 60 or less. For the passenger compartment of each airplane having a passenger seating capacity of more than 60, there must be at least the following number of hand fire extinguishers conveniently located and uniformly distributed throughout the compartment:

Minimum Number of Hand Fire Extinguishers	
Passenger seating capacity:	
61 through 200	3
201 through 300	4
301 through 400	5
401 through 500	6
501 through 600	7
601 or more	8

(5) After (a date 1 year after the effective date of this regulation), at least two of the required hand fire extinguishers installed in the airplane must contain halon 1211 as the extinguishing agent.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.45)

Note.—Under the terms of the Regulatory Flexibility Act (the Act), the FAA has reviewed these proposals to determine what impact they may have on small entities. As discussed previously, the proposals included in this notice are only expected to affect a few small entities. Therefore, the FAA certifies that this proposal, if adopted, will not result in a significant economic impact on a substantial number of small entities.

As discussed previously, this proposal, if adopted, is not likely to result in an annual effect on the economy of $100 million or more, or a major increase in costs for consumers; industry; or Federal, State, or local government agencies. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Since this proposal concerns a matter on which there is substantial public interest, the FAA has determined that this action is significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034); February 26, 1979).

A regulatory evaluation of this proposal, including a Regulatory Flexibility determination and Trade Impact Assessment, has been placed in the regulatory docket, and a copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, D.C., on May 11, 1984.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 84-13303 Filed 5-16-84; 8:45 am]

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federal register

Thursday
May 17, 1984

Part VI

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Parts 76, 369, and 370

Client Assistance Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Parts 76, 369, and 370

Client Assistance Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations under Section 112 of the Rehabilitation Act of 1973, as amended by Pub. L. 98–221. The proposed regulations describe the agencies that a Governor may designate to conduct the client assistance program authorized by Section 112, identify examples of authorized activities, and specify the conditions that apply to States in the operation of their client assistance programs. The proposed regulations implement amendments to Section 112 made by Pub. L. 98–221 which, among other things, changed the program from a discretionary to a formula grant program.

DATES: Comments must be received on or before June 18, 1984.

ADDRESSES: Comments should be addressed to: Charles Smolkin, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, room 3418), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Charles Smolkin, telephone: (202) 732–1303.

SUPPLEMENTARY INFORMATION: The Client Assistance Program is authorized by Section 112 of the Rehabilitation Act of 1973, Pub. L. 93–112 (29 U.S.C. 732). The Client Assistance Program provides support to a public or private agency designated by the Governor of each State for programs that assist clients and client applicants to secure the benefits and services available to them under the Act.

Regulations for this program were published on January 19, 1981 (46 FR 5421), and are currently codified at 34 CFR Part 370. Additional regulations applicable to this and several other vocational rehabilitation service programs are contained in 34 CFR Part 369. These proposed regulations implement Section 112 of the Act, as recently amended by Pub. L. 98–221, the Rehabilitation Amendments of 1984; and incorporate provisions of the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 76, 77, 78, and 79).

A summary of the proposed regulations follows:

(a) *Subpart A—General.*

Section 370.1 describes the program.

Section 370.2 describes who is eligible to apply for an award and what agencies the Governor of each State may designate to carry out that State's client assistance program. In accordance with Sections 112(e)(3) (A) and (f) of the Act, § 370.2(a) provides that any State, through its Governor, is eligible for a client assistance grant. Section 370.2(b) permits the Governor to designate any public or private agency to conduct the State's client assistance program. However, § 370.2(c) requires the Governor to designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under the Act.

Section 370.2(d) provides an exception to the independence requirement of § 370.2(c) for any State which, before the enactment of Pub. L. 98–221, placed its client assistance program is in agency which was also a Federal grantee under the Act, whether under Section 112 or some other provision of the Act. Thus, for example, a State which has in the past placed its client assistance program in the State vocational rehabilitation agency designated under Section 101, or in a private organization that was also carrying out a vocational training project under Section 302, may continue to place its client assistance program in an agency that also provides other services to handicapped individuals under the Act. Those States that have not previously carried out a client assistance program under Section 112, or which have placed their program only in an agency that was also a grantee under the Act, are subject to the independence requirement of § 370.2(c).

The independence requirement, and the exception to it contained in § 370.2(d), implement Section 112(c)(1) of the Act. The Secretary interprets these statutory provisions to mean, in effect, that a State may choose not to conform to the independence requirement if it had not done so prior to the enactment of the amendments to the Act.

Section 370.3 lists the regulations that apply of the Client Assistance Program, including Parts 74, 76, 77, 78, and 79 of the Education Department General Administrative Regulations (EDGAR), and certain provisions of 34 CFR Part 369 (Vocational Rehabilitation Service Projects) which currently apply to several programs, including the client assistance program.

Section 370.3(c)(2) lists certain provisions of Part 76 which do not apply to the client assistance program. Those provisions, relating to three-year State plans, the carryover of funds, the retention of records, and the privacy rights of students implement sections of the General Education Provisions Act (GEPA) which, under Section 427 of the Department of Education Organization Act, 20 U.S.C. 3487, do not apply to programs transferred to the Department in 1980, such as client assistance program, which were not subject to GEPA before the Department's creation. To the extent that regulations on these matters are needed for the client assistance program, they are contained in EDGAR Part 74 or in these proposed regulations.

Moreover, because it is the State, rather than the designated client assistance agency, that applies for, and receives, a grant under this program, the State is the applicant and the grantee under Part 370 and EDGAR, even if the Governor designates an agency that is not a State agency to conduct the client assistance program. The State, therefore, remains responsible in all cases for ensuring that the provisions of Section 112 of the Act and these regulations are carried out. In addition, because each State's client assistance program is not carried out through mutiple competitive or formula-based awards, the Secretary does not regard the designated agency as a "subgrantee" as that term is used in Part 76 of EDGAR. (*See* the Note of § 370.4.) Accordingly, the provisions of EDGAR Part 76 governing the relationship between grantees and subgrantees, such as Subparts D and E of Part 76, are inapplicable to the client assistance program.

Finally, the provisions of Part 76 relating to consolidated grants to Insular Areas, §§ 76.125–76.137, which implement Title V of Pub. L. 95–134, do not apply to the client assistance program. Section 11 of the Rehabilitation Act of 1973, as amended, provides that Title V of Pub. L. 95–134 does not apply to Rehabilitation Act programs.

Section 370.4 provides definitions that apply to the program. In addition to incorporating certain EDGAR definitions, it provides definitions of "Act", "client or client applicant", "designated agency", and "Governor".

(b) *Subpart B—What Kinds of Activities Does the Secretary Assist Under this Program?*

Section 370.10 lists examples of activities and services which programs may carry out under this part. The list is based on current § 370.11.

(c) *Subpart C—How Does One Apply for a Grant?*

Section 370.20 describes the assurances and information that each

State must include in its request for funds under this program.

(d) *Subpart D—How Does the Secretary Make a Grant?*

Section 370.30 implements Section 112(e)(1) of the Act and describes how the Secretary allocates funds under this program. Under § 370.30(a), the Secretary allocates available funds to the 50 States, the District of Columbia, and Puerto Rico on the basis of the relative population of each State, with a minimum allocation of $50,000 to each State. Under § 370.30(b), the Secretary allocates $30,000 each to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Section 370.31 provides that the Secretary reallocates funds in accordance with Section 112(e)(2) of the Act.

(e) *Subpart E—What Conditions Must Be Met by a Grantee?*

Section 370.40, based on current § 370.41, provides that the cost of client, client applicant, or attendant travel in connection with the provision of assistance is an allowable cost under this program.

Section 370.41 describes a conflict of interest provision that applies to employees of client assistance programs. Section 370.41(a) provides that no program employee may, while so employed, serve as a staff member of or consultant to, or receive benefits of any kind directly or indirectly from, any other rehabilitation project, program, or facility receiving assistance under the Act in the State. This provision implements Section 112(g)(1) of the Act. Section 370.41(b), however, states that this conflict of interest provision does not prohibit a trainee under Section 304 of the Act from serving with a client assistance program during the traineeship.

Section 370.42 requires that the client assistance program director be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities. This provision implements Section 112(g)(2) of the Act.

Section 370.43 requires each client assistance program to implement procedures designed to ensure that, to the maximum extent possible, mediation procedures are used by the program before it resorts to administrative or legal remedies. This provision implements Section 112(g)(3) of the Act.

Section 370.44 requires each designated agency to submit to the Secretary an annual report on the operation of its program during the previous year. This provision implements Section 112(g)(4) of the Act.

Section 370.45 prohibits a client assistance program from bringing a class action in carrying out its responsibilities under these regulations. This provision implements Section 112(d) of the Act.

Section 370.46 requires the Governor, in designating a client assistance agency under § 370.2 and in carrying out the other provisions of these regulations, to consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving handicapped individuals in the State. This provision implements Section 112(c)(2) of the Act.

(f) *Technical amendments to Parts 76 and 369.*

Current 34 CFR Part 369, Vocational Rehabilitation Service Projects, contains various general provisions, including selection criteria, applicable to eight discretionary programs, including client assistance projects. Because the Rehabilitation Amendments of 1984, Pub. L. 98–221, change the client assistance program from a discretionary to a formula grant program, it is no longer appropriate to subject that program to all the provisions of Part 369. The Secretary therefore proposes to amend Part 369 by deleting references to the client assistance program from that part. Those sections of Part 369 which the Secretary believes should continue to apply to this program are cited in § 370.3(b).

The Secretary also proposes to add the State's request for assistance under this program to the list of "State plans" contained in 34 CFR 76.102 in order to ensure that appropriate provisions of Part 76 apply to this program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. States and State agencies are not regarded as small entities under the Act. In addition, becaue small entities are not applicants or grantees under this program, these regulations will not impose any burdens on those entities.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations to the address at the beginning of this document. All comments received on or before June 18, 1984 will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3418, Mary E. Switzer Building, 330 C Street SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act of 1980

The information collection requirement contained in § 370.44 of these proposed rules will be sent to OMB for review under the provisions of Section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Comments concerning information collection requirements *only* should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR 370

Vocational rehabilitation.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.128, Client Assistance Program)

Dated: May 11, 1984.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Parts 76, 369, and 370 of Title 34 of the Code of Federal Regulations as follows:

PART 76—STATE ADMINISTERED PROGRAMS

1. Section 76.102 is amended by redesignating paragraph (x) as paragraph (y) and adding a new paragraph (x) to read as follows:

§ 76.102 Definition of "State plan" for Part 76.

* * * * *

(x) *Client Assistance Program.* The written requests for assistance under Section 112 of the Rehabilitation Act of 1973.

PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS

§ 369.1 [Amended]

2. Section 369.1 is amended by removing subparagraph (b)(1) and redesignating the remaining subparagraphs (2)–(8) as (1)–(7) accordingly.

§ 369.2 [Amended]

3. Section 369.2 is amended by removing paragraph (a) and redesignating the remaining paragraphs (b)–(h) as (a)–(g) accordingly.

§ 369.30 [Amended]

4. Section 369.30 is amended by removing the references to Part 370 and to § 370.30 from § 369.30(a).

§ 369.32 [Amended]

5. Section 369.32 is amended by removing the reference to Part 370.

6. Part 370 is revised to read as follows:

PART 370—CLIENT ASSISTANCE PROGRAM

Subpart A—General

Sec.

370.1 What is the Client Assistance Program?
370.2 Who is eligible for an award under the Client Assistance Program?
370.3 What regulations apply to the Client Assistance Program?
370.4 What definitions apply to the Client Assistance Program?
370.5–370.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under this Program?

370.10 What kinds of activities does the Secretary assist under this program?
370.11–370.19 [Reserved]

Subpart C—How Does One Apply for a Grant?

370.20 What must be included in a request for a grant?
370.21–370.29 [Reserved]

Subpart D—How Does the Secretary Make a Grant?

370.30 How does the Secretary allocate funds?
370.31 How does the Secretary reallocate funds?
370.32–370.39 [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee?

370.40 What are allowable costs?
370.41 What conflict of interest provision applies to program employees?
370.42 What access must the program director be afforded to policymaking and administrative personnel?
370.43 What requirement applies to the use of mediation procedures?
370.44 What reporting requirement applies to each designated agency?
370.45 What limitation applies to the pursuit of legal remedies?
370.46 What consultation requirement applies to the Governor?

Authority: Sec. 112 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 732), except where otherwise noted.

Subpart A—General

§ 370.1 What is the Client Assistance Program?

The purpose of this program is to provide assistance in informing and advising clients and client applicants of all available benefits under the Act and, when requested by clients and client applicants, assist them in their relationships with projects, programs, and facilities providing services to them under the Act.

(Section 112(a) of the Act; 29 U.S.C. 732(a))

§ 370.2 Who is eligible for an award under the Client Assistance Program?

(a) Any State, through its Governor, is eligible for an award under this part.

(b) The Governor of each State shall designate a public or private agency to conduct the State's client assistance program under this part.

(c) Except as provided in paragraph (d) of this section, the Governor shall designate an agency which is independent to any agency which provides treatment, services, or rehabilitation to individuals under the Act.

(d) The Governor may designate an agency which provides treatment, services, or rehabilitation to handicapped individuals under the Act if, at any time before February 22, 1984, there was an agency in the State that both—

(1) Served as a client assistance agency under Section 112 of the Act by directly carrying out a client assistance program; and

(2) Was, at the same time, a grantee under Section 112 or any other provision of the Act.

(e) The program conducted by the designated agency must have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of handicapped individuals who are receiving treatments, services, or rehabilitation under the Act within the State.

(Section 112 (a) and (c) of the Act; 29 U.S.C. 732 (a) and (c))

§ 370.3 What regulations apply to the Client Assistance Program?

The following regulations apply to this program:

(a) The regulations in this Part 370.

(b) The regulations in 34 CFR 369.43 and 369.46—369.48, relating to various conditions to be met by grantees.

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR—

(1) Part 74 (Administration of Grants);

(2) Part 76 (State-Administered Programs), except for—

(i) § 76.103;

(ii) §§ 76.705 and 76.706;

(iii) § 76.734; and

(iv) §§ 76.740 and 76.741;

(3) Part 77 (Definitions);

(4) Part 78 (Education Appeal Board); and

(5) Part 79 (Intergovernmental Review of Federal Programs).

(Section 112(c) of the Act; 29 U.S.C. 732(c))

§ 370.4 What definitions apply to the Client Assistance Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Award

EDGAR
Fiscal year
Private
Public
Secretary
State

(20 U.S.C. 3474(a))

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Rehabilitation Act of 1973, as amended.

"Client or client applicant" means an individual receiving or seeking services under the Act.

"Designated agency" means the agency designated by the Governor under § 370.2 to conduct a client assistance program under this part.

"Governor" means the chief executive of the State.

(Section 112(e)(3)(B) of the Act; 29 U.S.C. 732(e)(3)(B))

Note.—The funds made available to a State under this program which are transferred to a designated agency do not comprise a subgrant as that term is defined in 34 CFR 77.1. The designated agency is not, therefore, a subgrantee as that term is defined in that section.)

(Section 112 of the Act; 29 U.S.C. 732)

§§ 370.5–370.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under this Program?

§ 370.10 What kinds of activities does the Secretary assist under this program?

Funds made available under this part may be used for activities consistent with the purpose of this program, including—

(a) Helping clients or client applicants to understand rehabilitation services programs under the Act;

(b) Advising clients or client applicants of benefits available to them through rehabilitation programs authorized under the Act and related Federal and State assistance programs, and their rights and responsibilities in connection with those benefits;

(c) Otherwise assisting clients and client applicants in their relationships with projects, programs, and facilities providing rehabilitation services under the Act;

(d) Helping clients or client applicants by pursuing, or assisting them in pursuing, legal, administrative, and other available remedies when necessary to ensure the protection of their rights under the Act;

(e) Advising State and other agencies of identified problem areas in the delivery of rehabilitation services to handicapped individuals and suggesting methods and means of improving agency performance; and

(f) Providing information to the public concerning the client assistance program.

(Section 112 of the Act; 29 U.S.C. 732)

§§ 370.12—370.19 [Reserved]

Subpart C—How Does One Apply for a Grant?

§ 370.20 What must be included in a request for a grant?

(a) Each State seeking assistance under this part shall submit to the Secretary, in writing—

(1) The name of the designated agency; and

(2) An assurance that the designated agency meets the independence requirement of § 370.2(c) or that the State is excepted from that requirement under § 370.2(d).

(b) Each State shall submit to the Secretary assurances that the client assistance program for which it seeks funds under this part—

(1) Has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of handicapped individuals who are receiving treatments, services, or rehabilitation under the Act within the State;

(2) Will meet each of the requirements of §§ 370.40—370.46 of this part; and

(3) Will provide the Secretary the information needed to conduct evaluations and studies of the program, such as the evaluation described in Section 112(h) of the Act.

(c) Each State shall specify the amount of funds requested under this part.

(d) A State's request for assistance may cover a period of up to three years.

(Section 112(f) of the Act; 29 U.S.C. 732(f))

§§ 370.21–370.29 [Reserved]

Subpart D—How Does the Secretary Make A Grant?

§ 370.30 How does the Secretary allocate funds?

(a)(1) The Secretary allocates the funds available under this part for any fiscal year to the States on the basis of the relative population of each State, except that the Secretary allocates at least $50,000 to each State.

(2) For the purposes of paragraph (a)(1) of this section, the term "State" does not include American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) The Secretary allocates $30,000 each to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) Upon approval of a State's request for assistance under this part, the Secretary pays to the Governor of each State, from that State's allotment under paragraph (a) or (b) of this section, the amount specified in the State's approved request.

(Section 112(e)(1) of the Act; 29 U.S.C. 732(e)(1))

§ 370.31 How does the Secretary reallocate funds?

The Secretary reallocates funds in accordance with Section 112(e)(2) of the Act.

(Section 112(e)(2) of the Act; 29 U.S.C. 732(e)(2))

§§ 370.32–370.39 [Reseved]

Subpart E—What Conditions Must Be Met by a Grantee?

§ 370.40 What are allowable costs?

In addition to those allowable costs established in EDGAR, the cost of client, client applicant, or attendant travel in connection with the provision of assistance is also allowable under this program.

(Section 112 of the Act; 29 U.S.C. 732)

§ 370.41 What conflict of interest provision applies to program employees?

(a) No program employee may, while so employed, serve as a staff member of or consultant to, or receive benefits of any kind directly or indirectly from, any other rehabilitation project, program, or facility receiving assistance under the Act in the State.

(b) This section does not prohibit an individual receiving a traineeship under Section 304 of the Act from serving with a program under this part during the traineeship.

(Section 112(g)(1) of the Act; 29 U.S.C 732(g)(1))

§ 370.42 What access must the program director be afforded to policymaking and administrative personnel?

The program director must be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

(Section 112(g)(2) of the Act; 29 U.S.C. 732(g)(2))

§ 370.43 What requirement applies to the use of mediation procedures?

Each designated agency shall implement procedures designed to ensure that, to the maximum extent

possible, mediation procedures are used before resorting to administrative or legal remedies.

(Section 112(g)(3) of the Act; 29 U.S.C. 732(g)(3))

§ 370.44 What reporting requirement applies to each designated agency?

Each designated agency shall submit to the Secretary an annual report on the operation of its program during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by the program.

(Section 112(g)(4) of the Act; 29 U.S.C. 732(g)(4))

§ 370.45 What limitation applies to the pursuit of legal remedies?

A designated agency may not bring any class action in carrying out its responsibilities under this part.

(Section 112(d); 29 U.S.C. 732(d))

§ 370.46 What consultation requirement applies to the Governor?

In designating a client assistance agency under § 370.2 and in carrying out the other provisions of this part, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving handicapped individuals in the State.

(Section 112(c)(2) of the Act; 29 U.S.C. 732(c)(2))

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federal register

Thursday
May 17, 1984

Part VII

Environmental Protection Agency

40 CFR Parts 403 and 420

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; and General Pretreatment Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 403 and 420

[FRL 2550-4]

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; and General Pretreatment Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final regulation.

SUMMARY: EPA is promulgating modifications to the regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing iron and steel. EPA agreed to propose these modifications in a Settlement Agreement which resolved the various lawsuits brought against EPA by the steel industry and the Natural Resources Defense Council, Inc., challenging the final iron and steel industry regulation promulgated by EPA on May 27, 1982, 47 FR 23258. This promulgation satisfies EPA's obligations under that Settlement Agreement.

The modifications include: (1) An amendment to the "water bubble" rule; (2) certain modifications of the effluent limitations guidelines for "best practicable control technology currently available: (BPT); "best available technology economically achievable" (BAT); "best conventional pollutant control technology" (BCT); and, "new source performance standards" (NSPS) for direct dischargers; and (3) certain modifications to the pretreatment standards for new and existing indirect dischargers (PSES and PSNS). In addition, EPA agreed to publish additional preamble language regarding the steel industry regulation. The Agency is also promulgating an amendment to the General Pretreatment Regulations (40 CFR Part 403) which permits reclassification of non-contact cooling water flows contaminated with significant quantities of pollutants from "dilute" to "unregulated" for purposes of the combined waste stream formula contained in 40 CFR § 403.6(e).

DATES: This regulation shall become effective on July 2, 1984.

The compliance date for the BAT regulations is as soon as possible, but in any event, no later than July 1, 1984. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operations. The compliance date for pretreatment standards for existing sources (PSES) is July 10, 1985.

Under Section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements. In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. eastern time on May 31, 1984.

ADDRESSES: Mr. Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention EGD Docket Clerk, Proposed Iron and Steel Rules (WH-552).

The supporting information and all comments on this regulation are available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Amendola, Senior Iron and Steel Industry Specialist, (216) 835-5200.

SUPPLEMENTARY INFORMATION:

Organization of this document:

I. Legal Authority
II. Background
  A. Prior Regulation
  B. Challenges to the Prior Regulation
  C. Settlement Agreement
III. Response to Public Comments
IV. Modifications to the Iron and Steel Manufacturing Point Source Category Regulation
  A. Alternative Effluent Limitations (Water Bubble) (§ 420.03)
  B. Calculation of Mass-Based Pretreatment Standards
  C. Removal Credits for Phenols (4AAP) (§ 420.06)
  D. Subparts B and C—Sintering and Ironmaking Subcategories
  E. 301(g) Water Quality Variance for Ammonia-N and Phenols (4AAP)
  F. Blast Furnace Flow: Related Safety Issue
  G. Subpart I—Acid Pickling Subcategory, Sulfuric and Hydrochloric Acid Pickling Segments
  H. Subpart J—Cold Forming Subcategory, Cold Worked Pipe and Tube Segments
  I. Subpart L—Hot Coating Subcategory
V. Amendments to the Preamble to the Regulation
  A. Pretreatment Issues
  B. Central Treatment
VI. Modification to the General Pretreatment Regulation, § 403.6(e)
VII. Environmental Impact of the Modifications to the Steel Industry Regulation
VIII. Executive Order 12291
IX. Regulatory Flexibility Analysis
X. OMB Review
XI. List of Subjects:
  A. 40 CFR Part 403
  B. 40 CFR Part 420

I. Legal Authority

The regulation described in this notice is promulgated under authority of sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et seq., as amended by the Clean Water Act of 1977, P.L. 92-517).

II. Background

A. Prior Regulation

On January 7, 1981, EPA proposed a regulation to establish Best Practicable Control Technology Currently Available (BPT), Best Available Technology Economically Achievable (BAT), and Best Conventional Pollutant Control Technology (BCT) effluent limitations guidelines and New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS) for the iron and steel manufacturing point source category (steel industry), 46 FR 1858. EPA promulgated that steel industry regulation on May 27, 1982, 47 FR 23258. The preamble to the final steel industry regulation describes the history of the rulemaking action.

B. Challenges to the Prior Regulation

After publication of the steel industry regulation, certain members of the steel industry, the American Iron and Steel Institute, and the Natural Resources Defense Council, Inc., filed petitions to review the regulation. Those challenges were consolidated into one lawsuit by the Third Circuit Court of Appeals. (*National Steel Corp. v. EPA*, No. 82-3225 and Consolidated Cases).

C. Settlement Agreement

(1) *Agreement to Modifications and Changes.* On February 24, 1983, the parties in the consolidated lawsuits entered into a comprehensive Settlement Agreement which resolved all issues related to the steel industry regulation raised by the petitioners. As a result of that Settlement Agreement, the United States Court of Appeal issued an order on March 9, 1983 which stayed briefing in the law suits. In the Settlement Agreement, EPA agreed to

publish a notice of proposed rulemaking and to solicit comments regarding certain modifications to the final steel industry regulation. In addition, EPA agreed to publish an amendment as an interim final rule. EPA also agreed to publish proposed additions to the preamble to the regulation. The petitioners agreed that, if, after EPA has taken final action under the Settlement Agreement, each individual provision of the final steel industry regulation and each addition to the preamble is substantially the same as, and does not alter the meaning of, language set forth in the settlement agreement, the petitioners will dismiss the various lawsuits challenging the final steel industry regulation. Petitioners also agreed that, pending completion of this rulemaking, they would abide by the regulatory language described in the Settlement Agreement.

EPA also agreed to take final action on a proposed amendment to the general pretreatment regulations (40 CFR Part 403) which would allow reclassification of non-contact cooling waters contaminated with significant quantities of pollutants from "dilute" to "unregulated" for purposes of the combined waste stream formula to 40 CFR 403.6(e).

(2) *Stay of Certain Effluent Limitations.* As part of the Settlement Agreement, the parties jointly requested the Untied States Court of Appeals for the Third Circuit in *National Steel Corp. v. EPA*, to stay the effectiveness of certain sections of 40 CFR Part 420 pending final action by EPA on each respective modification or addition. Copies of the Settlement Agreement were promptly sent to EPA Regional Offices and State NPDES permit issuing authorities after it was executed. On March 9, 1983, the Court entered an order staying those sections of the regulation promulgated on May 27, 1982 which EPA proposed to amend.

All limitations and standards contained in the final steel industry regulation published in May 27, 1982 which are not specifically listed in the attached proposed regulation were not stayed by the order entered by the court. EPA is not deleting or modifying any of those limitations and standards in this notice.

III. Response to Public Comments

The Agency received twelve (12) letters containing comments on the proposed regulation published on October 14, 1983. All of the comments received are supportive of the proposed changes to the steel industry regulation originally promulgated on May 27, 1982, and also supportive of the proposed modification of § 403.6(e) of the General Pretreatment Regulation. A comment from petitioner American Iron and Steel Institute (AISI) indicated that it spoke for and on behalf of its members.

Independently of the Settlement Agreement, two commenters recommended that the clarifying language added to the preamble to the steel industry regulation for four pretreatment issues (See section V, A), be extended to all industrial point source categories. One commenter recommended that EPA delete the words "* * * or could have been * * *" from subpart (c) of the dilution flow (Fd) definition in the combined waste stream formula in the general pretreatment regulation. EPA is now reviewing the propriety of making complementary amendments to the general pretreatment regulation for the pretreatment issues, and, is also reviewing the definition of dilution flows (Fd).

IV. Modifications to the Iron and Steel Manufacturing Point Source Category Regulation

EPA is making the following changes to the steel industry regulation:

A. Alternative Effluent Limitations (Water Bubble) (§ 420.03)

The amendments to the water bubble rule for the iron and steel manufacturing point source category regulation provide that the alternative effluent limitations established under the water bubble must result in a decrease in the discharge of traded pollutants from the amount allowed by the generally applicable limitations. The water bubble rule established by the final regulation published on May 27, 1982, provided that there could be no increase in the discharge of pollutants beyond that allowed by the generally applicable limitations. The preamble amendments presented below describe the revisions to the water bubble rule. The following preamble language is substantially the same as the language in the Settlement Agreement.

As part of the settlement, EPA is amending its bubble rule for the steel industry. As originally promulgated, the rule provided that a discharger could qualify for alternative effluent limitations as long as its discharge from a combination of outfalls met certain requirements (water quality standards) and restrictions and would not exceed the total mass of each pollutant otherwise allowed under the regulation. Under the revised rule being promulgated today, a discharger would have to meet the same requirements and restrictions, but would qualify for alternative effluent limitations only if it achieves a net reduction from the total mass of each traded pollutant.

The amended regulation provides that the permit issuing authority must determine an "appropriate net reduction amount" in each case. In making that determination, it is intended that the permit writer will examine historical discharge levels and seek to achieve those reductions that are attainable at a facility through good engineering practices, improved operations and supervision of existing treatment systems or other feasible modifications, *e.g.*, non-process flow segregation or chemical addition, if they can be achieved without requiring significant additional expenditures. It is intended that in reviewing opportunities for appropriate reductions, the permit writer will require only those measures which result in non-trivial (substantial) effluent reductions and which will not require significant additional expenditures.

The minimum net reduction in all cases for each pollutant traded is to be the amount specified in the regulation. The amount is expressed in terms of percentages of the amount by which a discharger proposes to exceed the otherwise applicable effluent limitations established in this regulation. The amounts the Agency is specifying in this rule are approximately 15 percent for TSS and O&G and approximately 10 percent for all other traded pollutants.

In the simplest case, for example, a discharger might propose to exceed the allowable limitation for TSS on Outfall A by 100 pounds and then make up the amount on Outfall B by reducing its allowable discharge by 100 pounds. The net reduction provision would require that, at a minimum, the allowable discharge for Outfall B (or any other outfall which the discharger has included in the bubble trade) be reduced by approximatly 115 pounds. In making a determination of the "appropriate net reduction amount," the permit writer will require further, non-trivial (substantial) reductions only if he determines that they can be achieved without significant additional expenditures.

This amendment results from settlement of litigation among several parties with significantly divergent views of the water bubble rule. This provision does not represent the Agency view on whether it is either a legally required condition of a bubble rule under the Clean Water Act or any other environmental statute or required as a matter of policy, nor shall it be taken as an indicator of what the Agency may or may not require in any other regulations establishing effluent limitations guidelines under the Clean Water Act.

In reaching this accord, the parties do not imply any changes in their positions. In the interest of avoiding protracted litigation and of expediting the installation of pollution controls for this industry, the parties have reached an overall settlement of many issues that they view as beneficial. In that context, the parties have agreed to resolve their differences with this settlement.

B. Calculation of Mass-Based Pretreatment Standards

The effluent limitations guidelines, new source performance standards and

pretreatment standards for existing and new sources established in 40 CFR Part 420 (iron and steel manufacturing point source category) are "mass-based" limitations and standards. These mass-based limitations and standards establish the maximum amount of a pollutant which may be discharged per 1,000 pounds of product. The Agency's NPDES permit regulations, 40 CFR 122.45(b)(2), establish a method for deriving the applicable product basis for applying the effluent limitations and standards for direct dischargers. However, neither the General Pretreatment Regulations (40 CFR Part 403) nor the steel industry pretreatment standards (40 CFR Part 420) presently contain a comparable method for deriving the production basis for those who discharge wastewaters to publicly owned treatment works (POTWs).

In accordance with the Settlement Agreement, the Agency is promulgating a regulation which establishes the method for calculating the applicable mass-based pretreatment standard. This regulation, in large measure, mirrors the existing regulation by which mass-based effluent limitations for direct dischargers are calculated.

C. Removal Credits for Phenols (4AAP) (§ 420.06)

EPA is promulgating § 420.06 which specifies that pretreatment removal credits for phenols (4AAP) may be granted when phenols (4AAP) is used as an indicator or surrogate pollutant. Under the general pretreatment regulations, a categorical pretreatment standard may be revised to reflect removal of indicator or surrogate pollutants if the standard specifies that such revisions are permissible (40 CFR 403.7(a)). The final regulation published on May 27, 1982, did not specify that removal credits could be granted for phenols (4AAP). The Agency believes that the biological treatment systems employed at publicly owned treatment works will, in large measure, remove those pollutants for which phenols (4AAP) is used as an indicator pollutant to the same degree as they remove phenols (4AAP). Accordingly, EPA is revising the steel industry regulation to provide that removal credits may be granted for phenols (4AAP).

The following preamble language is substantially the same as the language in the Settlement Agreement.

Removal allowances pursuant to 40 CFR 403.7(a)(1) may be granted for phenols (4AAP) limited in 40 CFR Part 420 when used as an indicator or surrogate pollutant. Of course, when phenols (4AAP) are not used as an indicator or surrogate pollutant, removal allowances may also be granted.

D. Subparts B and C—Sintering and Ironmaking Subcategories

The modified BAT, NSPS, PSES, and PSNS ironmaking and sintering limitations and standards for lead and zinc are slightly higher than those contained in the final steel industry regulation published on May 27, 1982. After promulgating the final regulation, EPA learned that the final limitations for ironmaking operations (blast furnaces) were based in part upon data obtained at a plant with treatment operations more extensive than the EPA model treatment system. Therefore, these data may not be an appropriate basis for the limitations and standards. The limitations and standards promulgated today are based upon data obtained from steelmaking operations using the applicable BAT model treatment system. The model treatment systems used to develop the limitations and standards for steelmaking operations are the same as those considered for sintering and ironmaking operations. Because wastewaters from steelmaking operations are similar in character and treatability to wastewaters from sintering and ironmaking operations with respect to toxic metal pollutants, the Agency believes that it is appropriate to rely upon that data in promulgating modified lead and zinc limitations and standards for sintering and ironmaking operations. Volume I of Development Document (EPA 440/1–82/024, May 1982, pages 13, 18, 19, 27, 31, 34, 35, 40, 41, 46, 51, 55, 59, 63, 64, 66–68, and 409–427) contains the relevant data relating to steelmaking operations.

EPA is modifying the BAT limitations and PSES for total cyanide and establishing a new segment for existing indirect blast furnace dischargers that contain standards which are the same as the generally applicable PSES except that the promulgated ammonia-N and phenols (4AAP) standards are less stringent. These standards are only applicable to the two existing iron blast furnace operations which discharge their wastewater into POTWs. These operations are located in Chicago, Illinois and discharge their wastewater into the Metropolitan Sanitary District system. Compliance with the cyanide BAT limitations and PSES could be accomplished through the use of wastewater treatment technologies other than the model BAT and PSES alkaline chlorination technology. The changes would, accordingly, give the industry added flexibility. EPA is not, however, promulgating any changes to the BAT limitations and pretreatment standards (except as noted above for existing indirect dischargers) for ammonia-N and phenols (4AAP) contained in the final regulation.

E. 301(g) Water Quality Variance for Ammonia-N and Phenols (4AAP)

The availability of variances from the BAT limitations for non-toxic nonconventional pollutants as allowed under section 301(g) of the Clean Water Act can significantly affect the cost of compliance for a discharger. Section 301(g) variances can, however, only be granted in cases where the granting of the variance will not interfere with attainment of existing water quality standards. Certain parties to the Settlement Agreement have sought a clarification regarding the availability of section 301(g) variances for steel industry discharges. The following preamble language is substantially the same as the language in the Settlement Agreement.

The BPT referred to in section 301(g) of the Clean Water Act is either (a) the requirement applicable to the facility as a result of the BPT limitation contained in the steel industry regulation, or (b) the requirement applicable to a facility as a result of the BPT limitation contained in the steel industry regulation which is or may be modified after February 24, 1983 by a fundamentally different factors ("FDF") variance, (40 CFR 125.31), or the net/gross provisions of the NPDES permit regulations (40 CFR 122.63(h)). Section 301(g) variances may be granted for ammonia-N discharges from blast furnaces and from sinter plants when sinter plant wastewaters are treated with blast furnace wastwaters. Section 301(g) variances may also be granted for phenols (4AAP) discharges from blast furnaces and from sinter plants when sinter plant wastewaters are treated with blast furnace wastewaters if the applicant discharging phenols performs appropriate analyses (*e.g.*, GC or GC/MS) of the effluent which demonstrate that the effluent does not contain significant amounts of toxic pollutants. Of course, no variance may be granted pursuant to section 301(g) unless the demonstration called for by that section has been made.

F. Blast Furnace Flow: Related Safety Issue

The following preamble language is substantially the same as the language in the Settlement Agreement.

It has been brought to the Agency's attention that one facility contends that it may encounter a safety problem related to the maintenance of gas seal pressures resulting from efforts to reduce its blast furnace flows to those contemplated by the EPA model. Such a safety related flow problem may result in difficulty in meeting blast furnace mass limitations at the facility. Safety related issues were not raised prior to promulgation of the effluent limitations guidelines and were, therefore, not considered by the Agency in the rulemaking.

The Agency has not received any information that this may be a problem at any other facility. If it appears that there is a safety problem at that particular site related to flow reduction (or the total cost of compliance with the BAT requirements, including the cost of remedying the safety problem, is substantially greater than the EPA model treatment system cost estimate) then either or both of those circumstances may be an appropriate basis for a FDF variance for that facility. Any application for such a variance shall be in accordance with and satisfy the requirements of 40 CFR Part 125 Subpart D.

G. Subpart I—Acid Pickling Subcategory, Sulfuric and Hydrochloric Acid Pickling Segments

In accordance with the settlement agreement, the BPT and BAT limitations and NSPS, PSES, and PSNS for zinc promulgated in this regulation are slightly higher than those contained in the regulation promulgated on May 27, 1982.

H. Subpart J—Cold Forming Subcategory, Cold Worked Pipe and Tube Segments

The regulation promulgated on May 27, 1982, limited all cold worked pipe and tube operations to zero discharge at each level of treatment (BPT, BAT, NSPS, PSES, PSNS, and BCT). The model treatment system relied upon by the Agency as the basis for those limitations and standards includes recycle of the oil or water solution and, when appropriate, contract hauling of a small oil solution blowdown. This regulation permits nominal discharges of the spent oil or water solution (rather than contract hauling), and also specifies that appropriate limitations and standards for process wastewaters which are not regulated by the prior regulation are to be developed on a case-by-case basis. The effluent limitations and standards for cold worked pipe and tube operations are based upon the cold rolling model treatment systems and a model flow rate of 5 gallons per ton.

I. Subpart L—Hot Coating Subcategory

This regulation contains modified effluent limitations and standards for zinc. These limitations and standards are based upon the same effluent concentration as are the zinc limitations and standards for acid pickling operations (0.20 mg/l). This regulation contains a provision requiring that hot coating treatment facilities presently achieving zinc discharge levels more stringent than the limitations and standards continue to do so. This regulation also provides that the limitations may be used as a basis for determining alternative limitations under 40 CFR 420.03 (water bubble rule) even for those facilities presently achieving discharge levels more stringent than the limitations and standards.

V. Amendments to the Preamble to the Regulation

A. Pretreatment Issues

(1) *Flow Monitoring for Combined Wastestream Formula.* The following preamble language is substantially the same as the language in the Settlement Agreement.

Under § 403.12(b)(4) of the General Pretreatment Regulations, a facility must monitor the flow of regulated process streams and other streams "as necessary" to allow use of the Combined Wastestream Formula. A facility must monitor the flows of its regulated streams. However, a facility can avoid monitoring its other streams (unregulated and dilute) under this section by agreeing to meet a mass limitation at least as stringent as the one which would be calculated under the Combined Wastestream Formula if these other streams were taken into consideration. An integrated iron and steel facility combining regulated process streams with either unregulated or dilute streams, or both, can avoid monitoring the flows of those streams if it agrees to meet the mass limit calculated solely through use of the limits applicable to the regulated streams. Such a limit would be as stringent as any which could possibly be derived under the formula if either the unregulated or dilute streams, or both, were taken into consideration. If, however, the facility desires to take into account potential pollutants contained in these unregulated or dilute streams, monitoring of these streams will be required to enable calculation of the alternative limit under the formula.

It should be noted that it is an entirely different matter where concentration-based rather than mass-based limits are involved. A facility cannot, for example, avoid monitoring unregulated or dilute streams by agreeing to meet the concentration limit applicable to its regulated streams. This is because application of the formula could result in a more stringent concentration-based limit if the unregulated or dilute streams were taken into consideration.

(2) *Monitoring Data for Temporarily Closed Plants.* The following preamble language is substantially the same as the language in the Settlement Agreement.

The pretreatment regulations should be construed to establish that temporarily closed plants are required to submit a baseline monitoring report if recommencement of discharge is expected, but need not include the monitoring information unless the plant wants to submit historical data and this is acceptable to the Control Authority. Monitoring data should be submitted within a reasonable time after reopening the plant. For those plants that are operating at a reduced rate of production, a complete baseline monitoring report is required. The report should include monitoring data based upon the present average rate of production. If the plant calculates its limits through use of the Combined Wastestream Formula, it will be necessary to inform the Control Authority of any significant change in the values used to calculate this limit. *See* 40 CFR 403.6(e) (1982).

(3) *Flow Estimates for Combined Wastestream Formula.* The following preamble language is substantially the same as the language in the Settlement Agreement.

Flows from integrated facilities can be estimated when it is difficult or nearly impossible to monitor the flows to achieve an actual reading. 40 CFR 403.12(b)(4) (1982) lists the flow measurement requirements, and states in part that "the Control Authority may allow for verifiable estimates of these flows [regulated streams and other streams necessary to allow use of the Combined Wastestream Formula] where justified by cost or feasibility considerations."

(4) *Mass-Based and Concentration-Based Pretreatment Standards.* The following preamble language is substantially the same as the language in the Settlement Agreement.

If an integrated plant is required to comply with a categorical pretreatment standard expressed only in mass-based limits and with another categorical pretreatment standard expressed only in concentration-based limits, a mass-based limit should be applied to the combined flow. To accomplish this under the formula, the concentration limit may be converted to a mass limit by multiplying the concentration limit by the average or other appropriate flow of the regulated stream to which that limit applies.

B. Central Treatment

The following preamble language is substantially the same as the language in the Settlement Agreement.

Industry petitioners believe that they are entitled to obtain a FDF variance under 40 CFR Part 125 subpart D for an individual process (a) where the removal costs are wholly out of proportion to the removal costs considered during development of the national limits, or (b) where other factors solely related to that individual process would result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits, even though EPA may have considered such costs or such other factors in making its determination pursuant to 40 CFR 420.01(b). EPA does not concede that petitioners' contention is a correct interpretation of

applicable law, but does agree that the discussion in the preamble (47 FR 23267 (Column 3) (May 27, 1982)) was not intended to preclude this contention.

VI. Modification to the General Pretreatment Regulation, § 403.6(e)

In the combined wastestream formula, the term "dilution stream" is defined to include boiler blowdown and non-contact cooling water streams, among others. However, in certain circumstances (e.g., where recycled cooling water is treated with algaecides) non-contact cooling water or boiler blowdown could contain significant concentrations of regulated pollutants. The Agency today is refining the meaning of dilution stream to address this situation. Where non-contact cooling water or a boiler blowdown stream contains a significant amount of a pollutant, and an industrial user combines this wastewater with its regulated process wastestream(s) prior to treatment, resulting in a substantial reduction of that particular pollutant, the Control Authority is authorized to exercise its discretion to classify this stream as either a dilution or an unregulated stream. The term "Control Authority" refers either to the POTW if it has an approved pretreatment program, or to the Approval Authority (EPA or the NPDES State) if the POTW has no approved program

Before the Control Authority can exercise its discretion to classify such a stream, the industrial user must provide engineering, production, and sampling and analysis information sufficient to allow a determination by the Control Authority on how the stream should be classified.

VII. Environmental Impact of the Modifications to the Steel Industry Regulation

EPA's estimates of the industry-wide direct discharges of toxic metals and total cyanide under the steel industry regulation promulgated on May 27, 1982 and this regulation are presented below. Volume I of the Development Document contains a compilation of estimated industry-wide discharges on a subcategory specific basis. The estimated discharges of other pollutants limited by the steel industry regulation promulgated on May 27, 1982 are the same under this regulation. These estimates do not take into account the change in the water bubble rule which would result in a decrease in the amount of pollutants discharged at those facilities using the rule.

PRIOR REGULATION (MAY 27, 1982)

[Discharge in tons per year]

	Untreated wastewaters	BPT	BAT
Toxic Metals	121,900	462	273
Total Cyanide	17,000	431	96

THIS REGULATION

[Discharge in tons per year]

	Untreated wastewaters	BPT	BAT
Toxic Metals	121,900	468	280
Total Cyanide	17,00	431	100

VIII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency previously prepared such an analysis regarding the May 27, 1982 final steel industry regulation. Today's regulation is not major because it does not fall within the criteria for major regulations established in Executive Order 12291.

IX. Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* EPA must prepare a Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. In the preamble to the May 27, 1982 final steel industry regulation, the Agency concluded that there would not be a significant impact on any segment of the regulated population, large or small. For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to this regulation. The Agency has not, therefore prepared a formal analysis for this regulation.

X. OMB Review

This regulation was submitted to the Office of Management and Budget 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 at Room M2404, U.S. EPA, 401 M Street SW., Washington, D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding Federal holidays.

XI. List of Subjects:

A. *40 CFR Part 403:* Confidential business information, reporting and recordkeeping requirements, waste treatment and disposal, water pollution control.

B. *40 CFR Part 420:* Iron, steel, water pollution control, wastewater treatment and disposal.

Dated: April 27, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, EPA is amending 40 CFR Part 420 as follows:

PART 420—[AMENDED]

1. The authority citation for Part 420 reads as follows:

Authority: Sections 301; 304 (b), (c), (e), and (g); 306 (b) and (c); 307; 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311; 1314 (b), (c), (e), and (g); 1316 (b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567; Pub. L. 95–217.

2. By revising § 420.03 to read as follows:

§ 420.03 Alternative effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available technology, and best conventional technology.

(a) Except as provided in paragraphs (b)(1) through (b)(3) of this section, any existing point source subject to this part may qualify for alternative effluent limitations to those specified in Part 420, Subparts A through L for a number of its processes representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available technology economically achievable, and best conventional technology. The alternative effluent limitations for each pollutant are determined for a combination of outfalls by totaling the mass limitations of each pollutant allowed under subparts A through L and subtracting from each total an appropriate net reduction amount. The permit authority shall determine an appropriate net reduction amount for each pollutant traded based upon consideration of additional available control measures which would result in non-trival (substantial) effluent reductions and which can be achieved without requiring significant additional expenditures at any outfall(s) in the combination for which the discharge is projected to be better than required by this regulation.

(b) In the case of Total Suspended Solids (TSS) and Oil and Grease (O&G), the minimum net reduction amount shall be approximately 15 percent of the amount(s) by which any waste stream(s)

in the combination will exceed otherwise allowable effluent limitations. For all other traded pollutants, the minimum net reduction amount shall be appoximately 10 percent of the amount(s) by which the discharges from any waste stream(s) in the combination will exceed otherwise allowable effluent limitations for each pollutant under this regulation.

(1) A discharger cannot qualify for alternative effluent limitations if the application of such alternative effluent limitations would result in violation of any applicable State water quality standards.

(2) Each outfall from which process wastewaters are discharged must have specific, fixed effluent limitations for each pollutant limited by the applicable Subparts A through L.

(3) Subcategory-Specific Restrictions:

(i) There shall be no alternate effluent limitations for cokemaking process wastewaters;

(ii) There shall be no alternate effluent limitations for cold forming process wastewaters.

3. By adding a new § 420.04 as follows:

§ 420.04 Calculation of pretreatment standards.

(a) Pretreatment standards shall be calculated for each operation using the applicable average rate of production reported by the owner or operator of the facility to the Control Authority in accordance with 40 CFR 403.12(b)(3).

(b) The average rate of production reported by the owner or operator in accordance with 40 CFR 403.12(b)(3) shall be based not upon the design production capacity but rather upon a reasonable measure of actual production of the facility, such as the production during the high month of the previous year, or the monthly average for the highest of the previous 5 years. For new sources of new dischargers, actual production shall be estimated using projected production.

(c) If, due to a change of circumstances, the average rate of production for an operation reported by the owner or operator of the facility to the Control Authority in accordance with 40 CFR 403.12(b)(3) does not represent a reasonable measure of actual production of that operation, the owner or operator must submit to the Control Authority a modified average rate production.

4. By adding a new § 420.06 to read as follows:

§ 420.06 Removal credits for phenols (4AAP).

Removal allowances pursuant to 40 CFR 403.7(a)(1) may be granted for phenols (4AAP) limited in 40 CFR Part 420 when used as an indicator or surrogate pollutant.

5. The table in § 420.23 is amended by revising the entries for cyanide, lead, and zinc as follows:

§ 420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

SUBPART B

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Cyanide [1]	0.00300	0.00150
* * *	*	*
Lead	0.000451	0.000150
Zinc	0.000676	0.000225

* * * * *

6. The table in § 420.24 is amended by revising the entries for lead and zinc as follows:

§ 420.24 New source performance standards (NSPS).

* * * * *

SUBPART B

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Lead	0.000451	0.000150
Zinc	0.000676	0.000225

* * * * *

7. The table in § 420.25 is amended by revising the entries for cyanide, lead and zinc as follows:

§ 420.25 Pretreatment standards for existing sources (PSES).

* * * * *

SUBPART B

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Cyanide [1]	0.00300	0.00150
* * *	*	*
Lead	0.000451	0.000150
Zinc	0.000676	0.000225

* * * * *

The table in § 420.26 is amended by revising the entries for lead and zinc as follows:

§ 420.26 Pretreatment standards for new sources (PSNS).

* * * * *

SUBPART B

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Lead	0.000451	0.000150
Zinc	0.000676	0.000225

* * * * *

9. By adding a new paragraph (c) to § 420.31 as follows:

§ 420.31 Specialized Definitions

* * * * *

(c) The term "existing indirect dischargers" means only those two iron blast furnace operations with discharges to publicly owned treatment works prior to May 27, 1982.

10. The table in paragraph (a) of § 420.33 is amended by revising the entries for cyanide, lead, and zinc as follows:

§ 420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Cyanide	0.00175	0.000876
* * *	*	*
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131

* * * * *

11. The table in paragraph (a) of § 420.34 is amended by revising the entries for lead and zinc as follows:

§ 420.34 New source performance standards (NSPS).

* * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131
* * *	*	*

* * * * *

12. The table in paragraph (a) of § 420.35 is amended by revising the entries for cyanide, lead, and zinc as follows:

§ 420.35 Pretreatment standards for existing sources (PSES).

* * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Cyanide	0.00175	0.000876
* * *	*	*
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131

* * * * *

13. By adding a new paragraph (c) to § 420.35 as follows:

§ 420.35 Pretreatment standards for existing sources (PSES).

* * * * *

(c) *Existing indirect dischargers.*

SUBPART C

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0350	0.0175
Cyanide	0.00175	0.000876
Phenols (4AAP)	0.000175	0.0000584
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131

14. The table in paragraph (a) of § 420.36 is amended by revising the entries for lead and zinc as follows:

§ 420.36 Pretreatment standards for new sources (PSNS).

* * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131

* * * * *

15. Section 420.92 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(5) as follows:

§ 420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * *

(a) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000701	0.000234

SUBPART I—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
* * *	*	*

* * * * *

(2) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000225	0.0000751
* * *	*	*

* * * * *

(3) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000451	0.000150
* * *	*	*

* * * * *

(4) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) or product	
* * *	*	*
Zinc	0.00125	0.000417
* * *	*	*

* * * * *

(5) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.0491	0.0164
* * * * *		

* * * * *

(b) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00123	0.000409
* * * * *		

* * * * *

(2) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000701	0.000234
* * * * *		

* * * * *

(3) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00255	0.000851
* * * * *		

* * * * *

(4) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.0491	0.0164
* * * * *		

* * * * *

(5) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.327	0.109
* * * * *		

* * * * *

16. Section 420.93 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(5) as follows:

§ 420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

(a) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000701	0.000234

(2) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000225	0.0000751

(3) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000451	0.0000150

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00125	0.000417

(5) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.0491	0.0164

* * * * *

(b) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00123	0.000409

(2) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000701	0.000234

(3) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.00255	0.000851

(4) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	*	*
Zinc	0.0491	0.0164

* * * * *

(5) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	*	*
Zinc	0.327	0.109

* * * * *

17. Section 420.94 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(4) as follows:

§ 420.94 New source performance standards (NSPS).

* * * * *

(a) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000125	0.0000417

* * * * *

(2) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.0000751	0.0000250

* * * * *

(3) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000100	0.0000334

* * * * *

(4) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000175	0.0000584

* * * * *

(5) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	*	*
Zinc	0.0491	0.0164

* * * * *

(b) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of products	
* * *	*	*
Zinc	0.000150	0.0000501

* * * * *

(2) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000100	0.0000334

* * * * *

(3) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.000275	0.0000918

* * * * *

(4) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.0491	0.0164
* * * * *		

* * * * *

18. Section 420.95 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(5) as follows:

§ 420.95 Pretreatment standards for existing sources (PSES).

* * * * *

(a) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000701	0.000234

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000225	0.0000751

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000451	0.000150

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00125	0.000417

(5) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
* * * * *		
Zinc	0.0491	0.0164

* * * * *

(b) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00123	0.000409

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000701	0.000234

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.00255	0.000851

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.0491	0.0164

* * * * *

(5) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.327	0.109

* * * * *

20. Section 420.96 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(4) and adding a note at the end of the table in paragraph (a)(5) as follows:

§ 420.96 Pretreatment standards for new sources (PSNS).

* * * * *

(a) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000125	0.0000417

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.0000751	0.0000250

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000100	0.0000334

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000175	0.0000584

(5) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kilogram per day	
* * * * *		
Zinc	0.0491	0.0164

NOTE.—The above limitations are applicable to each fume scrubber associated with sulfuric acid pickling operations.

(b) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000150	0.0000501

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000100	0.0000334

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * *		
Zinc	0.000275	0.0000918

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kilograms per day	
* * * * *		
Zinc	0.0491	0.0164

* * * * * *

20. By redesignating the existing text of § 420.100 as paragraph (a) and to add new paragraph (b) as follows:

§ 420.100 Applicability; description of the cold forming subcategory.

(a) * * *

(b) The limitations and standards set out below for cold worked pipe and tube operations shall be applicable only where cold worked pipe and tube wastewaters are discharged at steel plant sites. No limitations are applicable or allowable where these wastewaters are hauled off-site for disposal or are otherwise not discharged at steel plant sites. The limitations and standards set out below for cold worked pipe and tube operations shall be applicable only to the blowdown of soluble oil or water solutions used in cold worked pipe and tube forming operations. Limitations for other wastewater sources from these operations must be established on a site-specific basis.

21. By revising § 420.102(b) (1) and (2) as follows:

§ 420.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * * *

(b) *Cold worked pipe and tube.*

(1) *Using water.*

SUBPART J

Pollutant of pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Using oil solutions.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	.....
Tetrachloroethylene	0.0000031	.....
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

22. By revising § 420.103(b) (1) and (2) as follows:

§ 420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

(b) *Cold worked pipe and tube.*

(1) *Using water.*

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) *Using oil solutions.*

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

23. By revising § 420.104(b) (1) and (2) as follows:

§ 420.104 New source performance standards (NSPS).

* * * * *

(b) *Cold worked pipe and tube mills.*

(1) *Using water.*

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
pH	[2]	[2]

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are cotreated with descaling or combination acid pickling wastewaters.

[2] Within the range of 6.0 to 9.0.

(2) *Using oil solutions.*

SUBPART J

Pollutant or pollutant property	New Source Performance Standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.00026
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	
pH	[2]	[2]

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are cotreated with descaling or combination acid pickling wastewaters.

[2] Within the range of 6.0 to 9.0.

24. By revising § 420.105(b) (1) and (2) as follows:

§ 420.105 Pretreatment standards for existing sources (PSES).

* * * * *

(b) *Cold worked pipe and tube mills.*

(1) *Using water.*

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Using oil solutions

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

25. By revising § 420.106(b) (1) and (2) as follows:

§ 420.106 Pretreatment standards for new sources (PSNS).

* * * * *

(b) *Cold worked pipe and tube mills.*

(1) *Using water.*

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Using oil solutions

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	kg/kkg (pound per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewasters.

26. By revising § 420.107(b)(1) and (2) as follows:

§ 420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology (BCT).

* * * * *

(b) *Cold worked pipe and tube.*

(1) *Using water.*

SUBPART J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
pH	[1]	[1]

[1] Within the range of 6.0 to 9.0

(2) *Using oil solutions.*

SUBPART J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

28. By redesignating the existing text of § 420.120 as paragraph (a) and adding a new paragraph (b) as follows:

§ 420.120 Applicability; description of the hot coating subcategory.

(a) * * *

(b) The BPT and BAT limitations for zinc set out below are not applicable to hot coating operations with wastewater treatment facilities achieving, during periods of normal production, zinc discharge levels more stringent than those BPT and BAT limitations. For such operations, the BPT and BAT limitations for zinc shall be determined on a case-by-case basis based upon the existing performance of the wastewater treatment facility. The permitting authority shall evaluate representative effluent data from the wastewater treatment facility during periods of normal production in establishing the case-by-case BPT and BAT limitations. The BPT and BAT limitations specified in 40 CFR 420.122 and 420.123 may be used as the basis for calculating total mass limitations for zinc pursuant to 40 CFR 420.03.

28. Section 420.122 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * *

(a) * * *

(1) * * *

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.00150	0.000500

SUBPART L—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
* * * * *		

* * * * *

(b) * * *

(1) * * *

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.00601	0.00200

* * * * *

(c) * * *

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	*	*
Zinc	0.327	0.109

* * * * *

29. Section 420.123 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

(a) * * *

(1) * * *

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	*	*
Zinc	0.00150	0.000500

* * * * *

(b) * * *

(1) * * *

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of products	
* * *	*	*
Zinc	0.00601	0.00200

* * * * *

(c) * * *

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	*	*
Zinc	0.0491	0.0164

* * * * *

30. Section 420.124 is amended by revising the entry for zinc in the table in paragraphs (a)(1), (b)(1), and (c) revising the table headings in paragraph as follows:

§ 420.124 New source performance standards (NSPS).

* * * * *

(a) * * *

(1) * * *

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of products	
* * *	*	*
Zinc	0.000376	0.000125

* * * * *

(b) * * *

(1) * * *

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	* * *	*
Zinc	0.00150	0.000500
* * *	* * *	*

* * * * *

(c) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	* * *	*
Zinc	0.00601	0.00200
* * *	* * *	*

* * * * *

(c) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	* *	*
Zinc	0.00150	0.000500
* * *	* *	*

* * * * *

(c) * * *

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	* *	*
Zinc	0.0491	0.0164
* * *	* *	*

* * * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	* *	*
Zinc	0.0491	0.0164
* * *	* *	*

* * * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	* *	*
Zinc	0.0491	0.0164
* * *	* *	*

* * * * *

31. Section 420.125 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) and revising the table headings in paragraph (b)(1) as follows:

§ 420.125 Pretreatment standards for existing sources (PSES).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	* *	*
Zinc	0.00150	0.000500
* * *	* *	*

* * * * *

(b) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
* * *	* *	*
Zinc	0.000376	0.000125
* * *	* *	*

* * * * *

(b) * * *
(1) * * *

32. Section 420.126 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.126 Pretreatment standards for new sources (PSNS).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
* * *	* *	*
Zinc	0.0491	0.0164
* * *	* *	*

* * * * *

PART 403—[AMENDED]

EPA is amending 40 CFR Part 403 as follows:

1. The authority citation for Part 403 reads as follows:

Authority: Sections 301; 304 (b), (c), (e), and (g); 306 (b) and (c); 307; 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311; 1314 (b), (c), (e), and (g); 1316 (b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567; Pub. L. 95–217.

2. Section 403.6(e)(1) (i) and (ii) are amended by revising the definition for F_D. As revised, the definition for F_D in both paragraphs reads as follows:

§ 403.6 National pretreatment standards: categorical standards.

* * * * *

F_D = the average daily flow (at least a 30-day average) from (a) boiler blowdown streams and non-contact cooling streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an Industrial Users regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Control Authority, upon application of the Industrial User, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Control Authority, the Industrial User must provide engineering, production, sampling and analysis and such

other information so that the Control Authority can make its determination, or (b) sanitary wastestreams where such streams are not regulated by a categorical Pretreatment Standard, or (c) from any process wastestreams which were or could have been entirely exempted from categorical Pretreatment Standards pursuant to paragraph 8 of the *NRDC* v. *Costle* Consent Decree (12 ERC 1833) for one or more of the following reasons (see Appendix D):

(1) the pollutants of concern are not detectable in the effluent from the Industrial User (paragraph (8)(a)(iii));

(2) the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii));

(3) the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or

(4) the wastestream contains only pollutants which are compatible with the POTW (paragraph (8)(b)(i)).

* * * * *

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