LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Export Policy, CPSA & FHSA; Proposed Codification

The staff will brief the Commisssion on a draft Federal Register notice concerning the Commission's policy with regard to export of noncomplying, banned and misbranded products. The draft notice proposes the statement of export policy and the factors to be considered when acting on requests for exception and solicits written comments from all interested parties.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

2. Enforcement Matter OS# 3520

The staff will brief the Commission on Enforcement Matter OS# 3520.

3. Enforcement Matter OS# 4560

The Commission will consider Enforcement Matter OS# 4560.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301—492–6800. .

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-20754 Filed 8-1-84; 3:55 am]

BILLING CODE 6355-01-M

5

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, June 27, 1984

CHANGE IN THE MEETING: Additional item.

The following item was considered at a closed meeting held on Tuesday, July 31, 1984, at 10:30 a.m.

Settlement of injunctive action.

Chairman Shad and Commissioners Cox and Peters determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For futher information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Angela Hall at (202) 272–3085.

George A. Fitzsimmons,

Secretary.

July 31, 1984.

[FR Doc. 84-20687 Filed 8-1-84; 12:37 pm]

BILLING CODE 8010-01-M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting on Friday, August 17, 1984, at 10:00 a.m., in Room 1C30, at 450 5th Street, NW., Washington, D.C., to consider the following item.

Consideration of whether to defer the effective date of Rule 14b–1(c) under the Exchange Act, which was adopted in July, 1983, and is scheduled to take effect on January 1, 1985. The Rule requires that broker-dealers furnish corporate issuers with the names of non-objecting beneficial owners of street name securities, and that issuers requesting the information reimburse the broker-dealers for the costs of providing it.

Representatives of the Securities Industry Association, the American Society of Corporate Secretaries, the Advisory Committee on Shareholder Communications and the American Bankers Association will participate in the meeting. Anyone wishing to submit views in writing may transmit them to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Communications should refer to File No. S7–954. For further information, please contact Betsy Callicott Goodell at (202) 272–2589.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Wescoe at (202) 272–2092.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-20688 Filed 8-1-84; 12:37 pm]

BILLING CODE 8010-01-M

federal register

Friday
August 3, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alaska: AK82-5125	Oct. 22, 1982.
Connecticut: CT84-3016	June 8, 1984.
District of Columbia: DC84-3009	Apr. 6, 1984.
Iowa:	
IA84-4011	Feb. 24, 1984.
IA84-4043	June 15, 1984.
Kansas:	
KS83-4063	Sept. 2, 1983.
KS83-4064	Do.
KS83-4065	Do.
KS84-4026	Apr. 27, 1984.
Michigan: MI83-2021	Mar. 18, 1983.
Minnesota: MN83-2058	July 29, 1983.
Montana: MT83-5126	Dec. 9, 1983.
New York:	
NY83-3027	July 22, 1983.
NY81-3062	Sept. 11, 1981
North Dakota: ND81-5131	July 6, 1981.
Oklahoma:	
OK84-4033	May 18, 1984.
OK84-4034	Do.
Pennslyvania: PA82-3082	Sept. 10, 1982
Utah: UT83-5120	Sept. 30, 1983
Washington: WA83-5110	June 3, 1983.
West Virginia: WV83-3022	Nov. 18, 1983.
Wisconsin: WI84-5016	June 22, 1984.
Wyoming: WY83-5114	July 15, 1983.
Arkansas: AR84-4092	Jan. 13, 1984.
Florida: FL83-1084	Oct. 28, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Missouri: MO83-4047 (MO84-4044)	June 24, 1983.

Signed at Washingtion, D.C. this 27th day of July 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. CT84-3016 - MOD. #5 (49 FR 23980 - June 8, 1984) STATEWIDE, CONNECTICUT	Basic Hourly Rates	Fringe Benefits
OMIT:		
IRONWORKERS	18.50	5.68+j
ADD:		
IRONWORKERS: Ornamental; Reinforcing; Structural and Precast Concrete Erection	18.50	5.68+j
CHANGE:		
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; LATHERS; RESILIENT FLOOR LAYERS:		
BUILDING CONSTRUCTION:		
Area 3	15.55	2.55
HEAVY & HIGHWAY:		
Area 4	14.40	3.15
PLUMBERS & STEAMFITTERS:		
Area 4 - Pipefitters	18.00	3.87+m
POWER EQUIPMENT OPERATORS:		
HEAVY & HIGHWAY:		
Class 2	18.11	3.10+r
Crane with 150 foot boom (including jib) - $.25 extra		
Crane with 200 foot boom (including jib) - $.50 extra		

DECISION NO. AK82-5125 - MOD. #7 (47 FR 47150 - October 22, 1982) Statewide, Alaska

	Basic Hourly Rates	Fringe Benefits
Change:		
ROOFERS:		
Area 1	$21.55	$5.40
Areas 2 and 3	21.25	5.40

DECISION #MI83-2021 - Mod. #4 (48 FR 11616 - March 18, 1983) Bay, Genesee, Huron, etc., Counties, Michigan	Basic Hourly Rates	Fringe Benefits
Change:		
Roofers:		
Remainder of Counties:		
Roofers	$13.00	$3.95
Helpers (limited to handling and moving of all materials, but no application of materials or installation of a job)	7.80	3.95

DECISION #OK-4033-MOD. #5 (49 FR 21257-May 18, 1984)	Basic Hourly Rates	Fringe Benefits
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfusgee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner, and Washington Cos., Oklahoma		
CHANGE:		
Tile and Marble Finishers Area 2	$12.72	$2.00
Terrazzo Finishers Area 2	12.72	2.00
Terrazzo Floor Machine Area 2	12.92	2.00
Terrazzo Base Machine Area 2	13.26	2.00
Plasterers Area 2	13.45	

DECISION #AR84-4092-MOD. #5 (49 FR 1846-Jan. 13. 1984)	Basic Hourly Rates	Fringe Benefits
Sebastian, Crawford, and Washington Cos., Arkansas		
CHANGE:		
Sebastian and Crawford Counties:		
Plasterers	$13.45	

DECISION #OK-4034-MOD. # 5 (49 FR 21252 - May 18, 1984)	Basic Hourly Rates	Fringe Benefits
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, and Woodward Cos., Oklahoma		
CHANGE:		
Carpenters - Area 7		
Carpenters	$12.40	$1.67
Millwrights	12.90	1.67
Piledrivermen	12.90	1.67
Power Saw Operator	12.75	1.67
Carpenters - Area 8		
Carpenters	11.60	1.10
Millwrights	12.425	1.10
Piledrivermen	12.425	1.10
Power Saw Operator	11.85	1.10

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits
DECISION NO. FL83-1084-MOD. # 2		
(48 FR 49999-October 28, 1983)		
Cape Canaveral AFS, Patrick AFB, Kennedy Space Flight Center, & Melabar Radar Site in BREVARD & VOLUSIA COUNTIES IN FLORIDA		
BUILDING, HEAVY & HIGHWAY CONSTRUCTION		
CHANGE:		
BOILERMAKERS	$17.70	3.315
IRONWORKERS	13.48	3.30
PAINTERS:		
Brush	11.25	1.93
Spray, Paperhanging, & Sandblasting	11.75	1.93
SPRINKER FITTERS	16.15	3.33
DECISION NO. DC84-3009-MOD. #3		
(49 FR 13800-April 6, 1984)		
DISTRICT OF COLUMBIA, MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE D.C. TRAINING SCHOOL, VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES		
CHANGE:		
MARBLE & STONE MASONS	15.50	3.10

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IA84-4011 - MOD #5		
(49 FR 7068 - 2/24/84)		
Scott County, Iowa		
CHANGE:		
Marble, tile & terrazzo workers	$14.10	2.75
Roofers	14.25	2.00
Sheet metal workers	13.77	3%+3.08
DECISION NO. IA84-4043 - MOD. #3		
(49 FR 24856 - 6/15/84)		
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa		
CHANGE:		
Carpenters:		
All other construction:		
Zone 1:		
Carpenters, soft floor layers, piledrivermen	10.56	2.78
Millwrights	11.16	2.78
Cement masons - Zone 1	10.56	2.50
Elevator constructors:		
Zone 8:		
Mechanics	14.795	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
Ironworkers:		
Zones 2 & 8	13.27	3.01
Zone 4:		
Maintenance projects of $200,000 & under & pre-engineered metal buildings	12.50	2.40
All other work	15.00	2.40
Sheet metal workers:		
Zones 3, 4 & 5	13.77	3%+3.08

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits
DECISION #KS83-4063-MOD.#6		
(48 FR 40085-Sept. 2, 1983)		
Shawnee County, Kansas		
CHANGE:		
Boilermakers	$16.125	$3.10
LINE CONSTRUCTION:		
Lineman	16.45	3½% + 1.00
Cable Splicers	17.27	3½% + 1.00
Groundman	9.96	3½% + 1.00
Powderman	13.59	3½% + 1.00
Line Truck & Equipment Operators	13.59	3½% + 1.00
DECISION #KS83-4064-MOD.#6		
(48 FR 40087-Sept. 2, 1983)		
Sedgwick County, Kansas		
CHANGE:		
Boilermakers	$16.125	$3.10
Laborers:		
Group I	7.60	1.55
Group 2	7.80	1.55
LINE CONSTRUCTION:		
Lineman	16.45	3½% + 1.00
Cable Splicers	17.27	3½% + 1.00
Groundman	9.96	3½% + 1.00
Powderman	13.59	3½% + 1.00
Line Truck & Equipment Operators	13.59	3½% + 1.00

	Basic Hourly Rates	Fringe Benefits
DECISION #KS83-4065-MOD.# 6		
(48 FR 40089-Sept. 2, 1983)		
Leavenworth County, Kansas		
CHANGE:		
Boilermakers	$16.125	$ 3.10
LINE CONSTRUCTION:		
Lineman	16.45	3½% + 1.00
Cable Splicers	17.27	3½% + 1.00
Groundman	9.96	3½% + 1.00
Powderman	13.59	3½% + 1.00
Line Truck & Equipment Operators	13.59	3½% + 1.00
DECISION #KS84-4026-MOD. # 3		
(49 FR 18217-April 27, 1984)		
Douglas, Jefferson, Leavenworth, Miami, and Shawnee Counties, Kansas		
CHANGE:		
LINE CONSTRUCTION:		
Zone 2:		
Lineman	$ 16.45	3½% + 1.00
Cable Splicers	17.27	3½% + 1.00
Groundman	9.96	3½% + 1.00
Powderman	13.59	3½% + 1.00
Line Truck & Equipment Operator	13.59	3½% + 1.00

DECISION NO. MT83-5126 - Mod. #3
(48 FR 55254 - December 9, 1983)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits
Change:		
LINE CONSTRUCTION:		
Statewide, except Flathead, Lake and Lincoln Counties:		
Lineman, Pole Sprayer	$16.48	$1.50+ 3½%
Cable Splicers	17.61	1.50+ 3½%
Line Equipment Operators, Powderman	14.59	1.50+ 3½%
Groundman	11.86	1.50+ 3½%

DECISION NO. MN83-2058 - MOD. #3
(48 FR 34617 - July 29, 1983)
Benton, Sherburne, & Stearns Counties, Minnesota

	Basic Hourly Rates	Fringe Benefits
Omit:		
Plumbers; Steamfitters:		
Benton, Sherburne (Western ½), & Stearns Counties	$15.62	$2.54
Add:		
Plumbers; Steamfitters:		
Benton, Sherburne (Western ½), & Stearns Counties:		
Residential, including single and multiple family dwellings up to and inclu. 100 unit apartment houses 3 stories above ground	11.91	3.36
All Other Work	14.88	3.36

DECISION NO. NY83-3027 - MOD. #2
(48 FR 33622 - July 22, 1983)
NASSAU & SUFFOLK COUNTIES, NEW YORK

	Basic Hourly Rates	Fringe Benefit
CHANGE:		
METALLIC LATHERS & REINFORCING IRONWORKERS	20.99	4.87+

DECISION NO. NY81-3062 - MOD. #8
(46 FR 45530 - Sept. 11, 1981)
WESTCHESTER COUNTY, NEW YORK

	Basic Hourly Rates	Fringe Benefit
METALLIC LATHERS & REINFORCING IRONWORKERS	20.99	4.87

DECISION NO. UT83-5120 - Mod. #6
(48 FR 44992 - September 30, 1983)
Statewide, Utah

	Basic Hourly Rates	Fringe Benefits
Omit:		
POWER EQUIPMENT OPERATORS:		
Piledriving:		
All classifications and wage rates under Groups 2-C and 2-D		
Add:		
POWER EQUIPMENT OPERATORS:		
Piledriving:		
Group 2-C: A-Frames	$15.98	$5.87
Group 2-D: Compressor Operator (over 2); Generator; Pumps; Welding Machine - (powered other than by electricity)	16.20	5.87

DECISION NO. ND81-5131 - Mod. #8
(46 FR 35008 - July 6, 1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits
Change:		
PLUMBERS:		
Area 2	$15.26	$1.84

DECISION #PA82-3028 - Mod. #10
(47 FR 29972 - September 10, 1982)
Elk, Forest, McKean, & Warren Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & Steamfitters:		
Forest County	$16.90	4.40
McKean & Warren Counties	17.08	4.40
ADD:		
Refrigeration Work:		
Forest County:		
Refrigeration mechanic	16.90	4.40
*Refrigeration metal trades	11.43	3.44
McKean & Warren Counties:		
Refrigeration mechanic	16.03	4.15
*Refrigeration metal trades	11.43	3.44

*Refrigeration metal trades - applies to installation, service and maintenance of heating and air conditioning (HVAC) systems up to and including Sixteen(16) tons of refrigeration capacity per unit on fast foods, convenience stores, restaurants, bars and shopping malls; contracts when heating and HVAC is $25,000.00 or less (excluding sheet metal, electrical wiring, insulation, and excavation cost).

MODIFICATIONS P. 7

DECISION NO.WA83-5110 - Mod #16 (48 FR 25108 - June 3, 1983) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plasterers:		
Area 2	$17.23	$3.59
Plumbers:		
Area 1	18.27	5.72
Area 3	19.89	6.76
Area 5	18.27	5.72
Roofers:		
Area 5:		
Roofers & Waterproofers	14.77	1.81
Slate & Tile Roofers	15.27	1.81
Soft Floor Layers:		
Area 5	17.03	3.10
Area 7	15.71	3.09
Area 8	15.05	1.89

	Basic Hourly Rates	Fringe Benefits
DECISION #WI84-5016 MOD# 1 (49 FR-25829-June 22, 1984) Statewide, Wisconsin		
Change:		
Bricklayers: Stonemasons:		
Zone 10	$14.88	$2.20
Cement Masons:		
Zone 15:	13.00	2.85
Zone 16:	13.65	2.20
Painters:		
Zone 11:		
Spray and Sandblasting	13.85	1.55

	Basic Hourly Rates	Fringe Benefit
DECISION NO. WV83-3022 Mod # 9 (48 FR 52547 - November 18, 1983) Statewide West Virginia excluding the Counties of Jefferson, Morgan, and Berkley		
CHANGE:		
BRICKLAYERS:		
Area 2	$15.89	3.07
CARPENTERS:		
Area 2	14.41	3.54
CEMENT MASONS:		
Area 11	15.89	3.07
IRONWORKERS:		
Area 4	15.60	3.15
PAINTERS:		
Area 1	12.70	.50
ROOFERS:		
Area 3	16.00	
SHEET METAL WORKERS:		
Area 5	16.46	3.05
TRUCK DRIVERS:		
Area 7:		
Group 1	11.85	3.25
Group 2	12.17	3.25
Group 3	12.45	3.25
Group 4	12.70	3.25
Group 5	13.04	3.25

	Basic Hourly Rates	Fringe Benefit
DECISION NO. WY83-5114 - MOD. #3 (48 FR 32549 - July 15, 1983) Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming		
CHANGE:		
Roofers	12.52	

SUPERSEDEAS DECISION

STATE: Missouri
COUNTIES: Statewide
DECISION NO.: MO84-4044
DATE: Date of Publication
Supersedes Decision No. MO83-4047 dated June 24, 1983 in 48 FR 29428.
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN:		
Zone 1	$16.96	$3.43
Zone 1A	16.56	3.43
Zone 2	16.01	3.43
Zone 3	15.90	2.23
Zone 4	15.30	2.23
Zone 5	15.30	3.43
Zone 6	17.17	.86
Zone 6A	16.22	1.28
Zone 7	17.17	.86
Zone 7A	16.72	1.31
Zone 7B	17.17	.86
Zone 7C	16.67	1.36
Zone 7D	17.17	.86
Zone 8	15.55	2.05
Zone 9	16.05	2.67
Zone 10	16.96	2.70
CEMENT MASONS:		
Zone 1	15.395	2.33
Zone 2	15.03	1.70
Zone 3	15.17	2.33
Zone 4	12.75	
Zone 5	14.23	
Zone 6	15.35	
Zone 7	14.85	
Zone 8	14.50	2.33
Zone 9	15.35	2.60
Zone 10	14.65	2.60
Zone 11	12.45	2.95
ELECTRICIANS:		
Zone 1:		
Electrical contracts over $30,000.00	16.42	.94+ 14.75%
Electrical contracts $30,000.00 & under	13.62	.94+ 14.75%
Zone 2	16.18	2.51+ 10%
Zone 3:		
Electrical contracts not to exceed 2000 man hours	15.18	2.51+ 10%
ELECTRICIANS: (CONT'D):		
Electrical contracts 2000 man hours & over	$16.18	$2.51+ 10%
Zone 4:		
Electrical contracts not to exceed 2000 man hours	15.18	2.51+ 10%
Electrical contracts 2000 man hours & over	16.18	2.51+ 10%
Zone 5:		
Electrical contracts not to exceed 2000 man hours	14.58	2.51+ 10%
Electrical contracts 2000 man hours & over	16.18	2.51+ 10%
Zone 6	17.20	2.19+ 28-1/2%
Zone 7:		
Electrical contracts over $15,000.00	17.20	2.19+ 28-1/2%
Zone 8:		
Electrical contracts $15,000.00 & under	14.78	2.19+ 28-1/2%
Zone 9:		
Electrical contracts $15,000.00 & under	11.43	2.19+ 28-1/2%
Zone 10:		
Electrical contracts $15,000.00 & under	8.07	2.19+ 28-1/2%
Zone 11	14.55	1.89+ 9%
Zone 12	15.04	1.89+ 9%

DECISION NO.: MO84-4044 Page 2

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D):		
Zone 13	$14.22	$2.02+ 10%
Zone 14:		
Electricians	13.09	1.67+ 8%
Cable Splicers	13.44	1.67+ 8%
Zone 15:		
Electricians	15.71	3.47+ 10%
Cable Splicers	15.96	3.47+ 10%
IRONWORKERS:		
Zone 1	16.575	2.90
Zone 2	17.25	3.25
Zone 3	14.25	3.25
Zone 4	14.60	2.67
Zone 5	16.00	2.40
Zone 6	13.85	2.46
Zone 7	15.55	2.45
Zone 8	15.825	2.90
Zone 9	16.125	2.99
LABORERS:		
Group 1:		
Zone 1	12.43	3.45
Zone 2	11.28	3.20
Zone 3:		
(a)	14.90	2.05
(b)	14.40	2.55
Zone 4:		
(a)	14.15	2.05
(b)	13.65	2.55
Group 2:		
Zone 1	12.78	3.45
Zone 2	11.83	3.20
Zone 3:		
(a)	15.50	2.05
(b)	15.00	2.55
Zone 4:		
(a)	14.75	2.05
(b)	14.25	2.55
Zone 5: (Clay, Jackson, Platte & Ray Counties):		
Group 1	12.52	3.45
Group 2	13.32	3.45
Zone 6: (St. Louis City and County):		
General Laborer	15.275	2.58
Dynamiter or Powderman	15.775	2.58

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Zone 1:		
Lineman	$17.80	$1.00+ 8-1/2%
Lineman Operator	16.60	1.00+ 8-1/2%
Groundman Powderman	12.47	1.00+ 8-1/2%
Groundman	11.87	1.00+ 8-1/2%
Zone 2:		
Lineman	17.03	1.00+ 8-1/2%
Lineman Operator	16.24	1.00+ 8-1/2%
Groundman Powderman	11.91	1.00+ 8-1/2%
Groundman	11.03	1.00+ 8-1/2%
Zone 3:		
Linemen & Cable Splicer	16.37	1.00+ 23.75%
Groundman-Winch Driver	12.03	1.00+ 23.75%
Groundman-Driver	11.60	1.00+ 23.75%
Equipment Operator	14.64	1.00+ 23.75%
Groundman	11.60	1.00+ 23.75%
Zone 4:		
Lineman	17.75	.65+ 13-1/2%
Groundman Equipment Operator	15.14	.65+ 13-1/2%
Groundman - Class A	11.26	.65+ 13-1/2%
Zone 5: Railroad & Cross County Transmission Lines:		
Lineman	15.50	1.00+ 8-1/2%
Lineman Operator	14.36	1.00+ 8-1/2%
Groundman Powderman	10.79	1.00+ 8-1/2%
Groundman	10.09	1.00+ 8-1/2%

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D):		
Zone 5 (Cont'd):		
Pole Treating Specialist	$16.24	$1.00+ 8-1/2%
Pole Treating Truck Driver	10.79	1.00+ 8-1/2%
Pole Treating Groundman	10.09	1.00+ 8-1/2%
Zone 6: Telephone and Telegraph Railroad Communications and C.A.T.V. Work:		
Cable Splicer, Air Pressure Technician, Central Office Equipment Man and Key System Installer	10.16	.50+ 8-1/2%
Telephone Lineman, Installer, CATV Terminator and Equipment Operator (D-4 or larger Crawler, Wheel Trencher Quarter Yard Backhoe or larger)	9.73	.50+ 8-1/2%
Equipment Operator (all other small equipment)	8.50	.50+ 8-1/2%
Groundman-Winch Driver	7.61	.50+ 8-1/2%
Groundman	6.67	.50+ 8-1/2%
Zone 7: Telephone & Telegraph & CATV Work:		
Cable Splicers; Air Pressure Technician, Central Office Equipment Man	10.96	.45+3%
Telephone Lineman & Installer, Repairman, CATV Terminator, Equipment Operator (1/4 yd. Backhoe & larger & D-4 Crawler & larger)	10.39	.45+3%
Groundman-Winch Driver	7.87	.45+3%
Groundman	6.36	.45+3%

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Zone 1:		
Brush & Roller	$16.49	$1.55
Spray	17.49	1.55
Bridge	17.24	1.55
Zone 2:		
Brush	11.30	1.07
Spray	12.30	1.07
Sandblasting & Waterblasting	13.10	1.07
Tower, Stacks, Walkway, Cables, Tanks, and Bridges	12.80	1.07
Bridges over 500 ft. in length	16.52	1.07
Zone 3:		
Brush	12.50	2.60
Spray, Structural Steel & Sandblasting	13.75	2.60
Zone 4:		
Brush	14.25	
Bridge	15.00	
Spray, Sandblasting Operator; Work performed on bridges 75 ft. in height	15.25	
All Structural Steel over 50 ft. in height	15.00	
Zone 5:		
Brush	14.60	1.45
Spray	15.60	1.45
Steel, storage bin & tank	15.00	1.45
Bridges, stage; Belt; Bazooka	15.10	1.45
Zone 6:		
Brush, Roller	13.02	.60
Spray	13.52	.60
Zone 7:		
Brush	13.20	.45
Spray	13.70	.45
Zone 8:		
Brush	15.66	2.03
Spray	17.66	2.03
Zone 9:		
Brush	13.73	1.28
Spray, Bridgeman, Steelmen	14.23	1.28
Zone 10:		
Brush	10.50	
Spray	12.50	

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Zone 1:		
Group I	$14.60	$4.07
Group II	14.35	4.07
Group III	13.65	4.07
Group IV:		
(a)	9.63	4.07
(b)	12.65	4.07
Zone 2:		
Group I	16.32	4.04
Group II	16.32	4.04
Group III	15.02	4.04
Group III (a)	13.95	4.04
Group IV	14.57	4.04
Group IV (a)	13.49	4.04
Group V:		
(a)	17.02	4.04
(b)	17.87	4.04
(c)	18.32	4.04
(d)	19.07	4.04
Zone 3:		
Group I	16.45	3.97
Group II	16.25	3.97
Group III	16.05	3.97
Group IV	15.45	3.97
Zone 4:		
Group I	14.85	3.97
Group II	14.50	3.97
Group III	14.30	3.97
Group IV	13.45	3.97
Zone 5:		
Group I	14.65	4.05
Group II	14.40	4.05
Group III	13.70	4.05
Group IV	12.20	4.05
Zone 6:		
Group I	14.60	4.05
Group II	14.25	4.05
Group III	14.05	4.05
Group IV	12.25	4.05
Zone 7:		
Group I	15.32	2.75
Group II	14.97	2.75
Group III	14.77	2.75
Group IV	12.72	2.75
Zone 8:		
Group I	15.90	3.97
Group II	15.70	3.97
Group III	15.50	3.97
Group IV	14.90	3.97

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Zone 1:		
Group 1	$13.82	$4.00
Group 2	13.67	4.00
Group 3	13.36	4.00
Group 4	13.16	4.00
Group 5	12.94	4.00
Zone 2:		
Group 1	19.25	
Group 2	19.40	
Group 3	19.47	
Group 4	19.36	
Group 5	19.15	
Zone 3:		
Group 1	18.05	
Group 2	18.20	
Group 3	18.27	
Group 4	18.16	
Group 5	17.95	
Zone 4:		
Group 1	15.09	3.00
Group 2	15.24	3.00
Group 3	15.31	3.00
Group 4	15.20	3.00
Group 5	14.99	3.00
Zone 5:		
Group 1	13.88	3.00
Group 2	14.03	3.00
Group 3	14.15	3.00
Group 4	14.04	3.00
Group 5	13.78	3.00
Zone 6:		
Group 1	13.15	3.00
Group 2	13.30	3.00
Group 3	13.42	3.00
Group 4	13.31	3.00
Group 5	13.05	3.00
Zone 7:		
Group 1: Trucks or Trailers of a water level capacity of 11.99 cu. yds. or less; Forklift Trucks; Job Site Ambulance & Pickup Trucks & Flat Bed Trucks except as modified below	13.52	76.50+a

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	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
Zone 7 (Cont'd):		
Group 2: Truck or Trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including Euclids, Speedace and similar equipment of same capacity and Compressors	$13.72	76.50+a
Group 3: Trucks or Trailers of a water level capacity of 22.0 cu. yds. and over including Euclids, speedace and all Floats, Flat Bed Trailers, Boom Trucks, Winch Trucks including small trailers, Farm Wagons, Tilt-top Trailers, Field Offices Tool Trailers, Concrete Pumps, Concrete Conveyors and Gasoline Tank Trailers	13.82	76.50+a

FOOTNOTE:

a - 7 Paid Holidays also, paid vacation of 3 days of 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any contract year; 5 days paid vacation for 1,000 hours of service in any one contract year.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

AREAS COVERED BY CARPENTERS AND PILEDRIVERMEN ZONES

Zone 1 - Franklin, Jefferson, St. Charles Counties
Zone 1A - Lincoln, Warren Counties
Zone 2 - Pike, St. Francois, Washington Counties
Zone 3 - Cass, Lafayette, Buchanan, Clinton and Johnson Counties
Zone 4 - Atchison, Andrew, Barry, Barton, Bates, Caldwell, Camden, Carroll, Cedar, Christian, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties
Zone 5 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon & Texas Counties
Zone 6 - Boone, Cooper and Howard Counties
Zone 6A - Pettis, Benton and Morgan Counties
Zone 7 - Lewis, Marion and Ralls Counties
Zone 7A - Callaway, Cole, Miller, Moniteau and Osage Counties
Zone 7B - Adair, Putnam, Sahuyler, Knox and Sullivan Counties
Zone 7C - Audrain and Monroe Counties
Zone 7D - Randalph, Chariton, Linn, Macon and Shelby Counties
Zone 8 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties
Zone 9 - Clay, Jackson, Platte and Ray Counties
Zone 10 - St. Louis County and City

AREAS COVERED BY CEMENT MASONS ZONES

Zone 1 - Bates, Carroll, Cass & Lafayette Counties
Zone 2 - Dent, Phelps, Pike, Pulaski, Texas, Marion, Ralls and Shannon Counties
Zone 3 - Clay, Jackson, Platte & Ray Counties
Zone 4 - Cedar, Christian,Dade, Dallas, Douglas, Greene, Howell, Laclede, Ozark, Polk, Stone, Taney, Webster & Wright Counties
Zone 5 - Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline & St. Clair Counties
Zone 6 - Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan & Putnam Counties
Zone 7 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery, & Osage Counties
Zone 8 - Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Modaway & Worth Counties
Zone 9 - St. Louis City & County, Jefferson & St. Charles Counties
Zone 10 - Franklin, Lincoln, Warren, Iron, St. Francois, Ste. Genevieve, Washington, Reynolds & Madison Counties
Zone 11 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties

AREAS COVERED BY ELECTRICIAN ZONES

Zone 1 - Adair, Audrain (that part of east of Highway 19), Clark, Knox, Lewis Linn, Macon, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Counties
Zone 2 - Area bounded on the North by State Highway 92 in Platte & Clay Counties; east bya straight line from Intersection of State Highway 92 & 33 in Clay County Intersection of U.S. Highway 24 & State Highway 7 in Jackson County, south on Highway 7 to Pleasant Hill; South from Pleasant Hill due West to the Missouri - Kansas State Line; West by the Missouri - Kansas State Line. Towns of Pleasant Hill & Blue Springs are excluded
Zone 3 - Portion of Cass, Clay, Jackson and Platte Counties not included in Zone 2
Zone 4 - Bates, Benton, Henry, Johnson, Lafayette & Pettis Counties
Zone 5 - Carroll, Cooper, Morgan, Ray and Saline Counties
Zone 6 - St. Charles County, St. Louis County and City
Zone 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington and Wayne Counties
Zone 8 - Franklin, Jefferson, Lincoln & Warren Counties
Zone 9 - Bollinger, CapeGirardeau, Perry, Scott, St. Francois and Ste. Genevieve Counties
Zone 10 - Butler, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Ripley, Reynolds, Stoddard, Washington and Wayne Counties
Zone 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster and Wright Counties
Zone 12 - Pulaski County
Zone 13 - Andrew, Buchanan, Clinton, DeKalb, Atchison, Holt, Mercer, Gentry, Harrison, Daviess, Grundy, Worth, Livingston, Nodaway, Caldwell Counties
Zone 14 - Barry, Barton, Cedar, Dade, Jasper, McDonald, Newton, St. Clair, Vernon and Lawrence Counties
Zone 15 - Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Howard, Maries, Miller, Moniteau, Osage Phelps and Randolph Counties

AREAS COVERED BY IRONWORKERS ZONES

Zone 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Gasconade, Maries, Montgomery, Osage, Phelps, Pike, Pulaski and Shannon Counties
Zone 2 - Buchanan, Cass, Clay, Jackson, Lafayette, Platte and Ray Counties
Zone 3 - Andrew, Atchison, Barton, Bates, Benton, Caldwell, Carroll, Cedar, Chariton, Christian, Clinton, Cooper, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Johnson, Laclede, Linn, Livingston, Mercer, Moniteau, Morgan, Nodaway, Pettis, Polk, Putnam, Randolph, St. Clair, Saline, Sullivan, Vernon, Webster, and Worth Counties
Zone 4 - Barry, Jasper, Lawrence, McDonlad, Newton and Stone Counties
Zone 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Schuyler, Scotland, Ralls, Monroe and Shelby Counties
Zone 6 - Ozark and Taney Counties

AREAS COVERED BY IRONWORKERS ZONES - (CONT'D)

Zone 7 - Butler, Cape, Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties
Zone 8 - Camden, Douglas, Howell, Laclede, Miller, Monroe, Oregon, Ralls, Texas and Wright Counties
Zone 9 - City & County of St. Louis, St. Charles, Jefferson, Franklin, Lincoln, Warren, Washington, St. Francois, Iron, Ste. Genevieve, Reynolds, Madison, Ballinger, Carter and Wayne Counties

LABORERS CLASSIFICATIONS DEFINITIONS ZONES 1 AND 2

GROUP 1 - GeneralLaborers - Carpenter tenders; salamander tenders; loading trucks under bins; hopper & conveyors; track men& all other general laborers; air tool operator;cement handler, bulk or sack; dump man on earth fill; georgie buggie man; material batch hopper man; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; scaffolds over ten feet notself-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator, all work in connection with hydraulic or general dredging operations; puddlers (paving only); straw blower nozzleman; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river; ditchliners; pressure groutmen; caulker and chain or concrete saw; cliffscalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over (10) feet above ground; mortarmen on brick or block manholes.
GROUP 2 - Skilled Laborers - Head pipe layer on sewer work; laser beam man; Jackson on any other similar tamp; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters; hot mastic kettleman; hot tar applicator; sandblasting and gunite nozzlemen; air tool operator in tunnels; screed man on asphalt machine; asphalt raker; barco tamper; churn drills; air track drills and all similar drills; vibrator man; stringline man for electronic grade control; manhole builders--brick or block; dynamite and powder men; welder; grade checker on cuts and fills

LABORERS CLASSIFICATIONS DEFINITIONS ZONES 3 AND 4

GROUP 1 - General Labor-Carpenter tenders; salamander tenders; dump man; ticket takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggie man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers-rock, block or brick; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil,drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzleman; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handlingepoxy material; topper of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutment and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footings in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch liners; hot mastic kettleman; hot tar applicator; hand blade operator; mortar men on brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.
GROUP 2 - Skilled Laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills,gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; stringline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man

AREAS COVERED BY LABORERS

Zone 1 - Buchanan, Cass and Lafayette Counties
Zone 2 - Andrew, Atchison, Barry, Barton, Bates, Benton, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Greene,Gentry, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Morgan, Newton, Nodaway, Ozark, Pettis, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Wright and Worth Counties.
Zone 3:
a - Franklin and Jefferson Counties
b - St. Charles County
Zone 4:
a - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Chariton, Clark, Cole, Cooper, Crawford, Dent, Dunklin, Gasconade, Howard, Howell, Iron, Knox, Lewis, Linn, Macon, Madison, Maries, Marion, MIller, Mississippi, Moniteau, Monroe, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam,Ralls, Randolph, Reynolds, Ripley, St.Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Sullivan, Texas, Washington and Wayne Counties

AREAS COVERED BY LABORERS - (CONT'D)

Zone 4 (Cont'd):
b - Lincoln, Montgomery and Warren Counties

LABORER CLASSIFICATION DEFINITIONS - ZONE 5 - CLAY, JACKSON PLATTE AND RAY COUNTIES

Group 1 - General laborer - Carpenter tenders, salamander tenders; loading trucks under bins, hoppers and conveyors; track men and all other general laborers; air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgia buggies man; material batch hopper man; scale man; material mixer man (except on manholes); goffer dams; abutments and pier hole men working below ground); riprap pavers rock, block or brick; signal man; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; puddlers (paving only); crusher feeder; men handling creosote ties on creosote materials; men working with and handling epoxy material or materials (where specialprotection is required); topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on under ground tunnels where compressed air is not used

Group 2 - Skilled Laborers - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any other similar tamp; wagon driller, churn drills, air trackdrills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters and (etc.); hot mastic kettleman; hot tar applicator; hand blade operators; mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels; head pipe layer on sewer work; manhole builder (brick or block); dynamite and powder men; welder

AREA COVERED BY LINE CONSTRUCTION

Zone 1 - Bates, Benton, Carroll, Cass, Clay, Henry, Johnson, Jackson, Lafayette, Pettis, Platte, Ray and Saline Counties

Zone 2 - Andrew, Atchinson, Barry, Barton, Buchanan, Caldwell, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Hickory, Holt, Jasper, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Modaway, Ozark, Polk, St. Clair, Stone, Taney, Vernon, Webster, Worth and Wright Counties

Zone 3 - Crawford, Franklin, Iron, Jefferson,Reynolds, St. Charles, St. Francois, St. Louis and City, Washington, Adair, Audrain, Boone, Callaway, Camden, Carter, Chariton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Howell, Knox, Lewis, Lincoln, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Oregon, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Ripley, Ste. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas and Warren Counties

AREA COVERED BY LINE CONSTRUCTION (CONT'D)

Zone 4 - Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Scott, Stoddard and Wayne Counties

Zone 5 - Atchison, Nodaway, Worth, Harrison, Mercer, Holt, Andrew DeKalb, Davies, Grundy, Buchanan, Clinton, Caldwell, Livingston, Platte, Clay, Ray, Carroll, Jackson, Lafayette, Saline, Cass, Johnson, Pettis, Bates, Henry, Vernon, Benton, St. Clair, Hickory, Barton, Cedar, Polk, Dallas, Laclede, Jasper, Dade, Lawrence, Greene, Webster, Wright, Newton, McDonald, Barry, Stone, Christian, Douglas, Taney, Ozark and Gentry Counties

ZONE 6 - Adair, Audrain, Boone, Callaway, Camden, Carter, Chariton, Clark, Cole, Cooper, Crawford, Dent, Franklin, Gasconade, Howard, Howell, Iron, Jefferson, Knox, Lewis, Lincoln, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Oregon, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Charles, St. Francois, St. Louis and City, Ste. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas, Warren and Washington Counties

ZONE 7 - Atchison, Nodaway, Worth, Harrison, Mercer, Holt, Andrew, DeKalb, Daviess, Grundy, Buchanan, Clinton, Caldwell, Livingston, Platte, Clay, Ray, Carroll, Jackson, Lafayette, Saline, Cass, Johnson, Pettis, Bates, Henry, Benton, Vernon, St. Clair, Hickory, Barton, Cedar, Polk, Dallas, Laclede, Jasper, Dade, Lawrence, Greene, Webster, Wright, Newton, McDonald, Barry, Stone, Christian, Douglas, Taney, Ozark, Gentry Counties

AREA COVERED BY PAINTERS

Zone 1 - Bates, Caldwell, Carroll, Clinton, Cass, Clay, Daviess, Grundy, Henry, Harrison, Jackson, Johnson (excluding Whiteman Air Force Base, Lafayette, Livingston, Mercer, Platte and Ray Counties

Zone 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, Stoddard, Reynolds, Iron,Butler, Carter, Shannon, Wayne, Oregon, Ripley, Ste. Genevieve, St.Francois, Perry, Washington, & Madison Counties

Zone 3 - Camden, Crawford, Dent Laclede, Maries, Miller, Phelps, Pulaski and Texas Counties

Zone 4 - Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties

Zone 5 - Andrew, Atchinson, Buchanan, DeKalb, Gentry, Holt, Nodaway,& Worth Counties

Zone 6 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties

Zone 7 - Adair, Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Linn, Osage Scotland and Randolph Counties

Zone 8 - Jefferson, St. Charles, St. Louis & City, Warren, Lincoln, Pike and Franklin Counties

Zone 9 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Ozark, Polk, Stone, Taney, Webster andWright Counties

Zone 10 - Clark, Lewis, Marion and Ralls Counties

CLASSIFICATION DEFINITIONS

Power Equipment Operators Zone 1

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, alltypes; boilers-2; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator, derrick or derrick-trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader-fork lift; hoisting engineer-2 active drums; locomotive operator, standard guage; mechanics and welders, field; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump-2; pushcat operators; quad-trac; scoop operator- all types; scoops in tandem; self-propelled rotary drill (leroy or equal-not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slipform paver (CMI, REX or Equal); throttle man; truck crane; welding machine maintenance operator-2

Group II - "A" frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader operator; greaser; hoisting engine-1 drum; LaTourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pub mill operator; stump cutting machine; towboat operator; tractor operator-over 50 HP

Group III - Boilers-1; chip spreader (front man); churn drill operator; compressor maintenance operator-1; concrete saws, self-propelled; conveyoroperator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; subgrading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 HP or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator-1

Group IV:
(a) Oilers
(b) Oiler driver, (all types)

FOOTNOTE:
HOURLY PREMIUMS
FOLLOWING CLASSIFICATIONS SHALL RECEIVE $.25) ABOVE GROUP I RATE
Clamshells - 3 yd. capacity or over - crane or rigs, 80 ft. boom or over (including jib) - draglines, 3 yd. capacity or over - piledrivers, 80 ft. of boom or over (including jib) - shovels & backhoes, 3 yd. capacity or over

Power Equipment Operators Zone 2

Group I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric, or other powers); switch boat; whirley

Group II - air tuggerw/air compressor; anchor-placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (jobsite); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer (such as mixermobile); compressors, two, not more than 50 ft. apart; compressor (when operator runs throttle); compressor-generator combination, compressor-pump combination; generators, two 30 KW or over, or any number developing over 30 KW; generator-pump combination; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines,self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers,jackhammers and barco equipment - no engineer required); elevating grader; engineman, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist; concrete and brick (brick cages or concrete skips operating in or on tower, towermobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe cleaning machine; pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant power, generating-job site; pumps, two self-powered over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

Group III - Conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; mixer two or more mixers of one bag capacityor less, air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck; concrete saw, self-propelled;curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist; one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are

Group III - (Cont'd):
used by one employer on job an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); tractor, small wheel type 50 h.p. & under with grader blade & similar equipment
Group III(a) - Truck crane and dredge
Group IV - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardlessof how used; oiler; sweeper, floor
Group IV(a) - Crawler type
Group V - (a) Air pressure, oiler engineer, operating under ten pounds (b) air pressure, oiler engineer operating over ten pounds (c) air pressure engineer operating under ten pounds (d) air pressure engineer operating over ten pounds (e) crane-piledriving and extracting; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds. and over; crane, climbing such as Linden); derrick, diesel, gas or electric hoisting material and erecting steel - 150' or more above ground; hoists, three or more drums; scoop, tandem; tractor, tandem crawler

Crane with boom (including jib), over 100' from pin to pin (add 1¢ per foot to maximum of $2.00) above basic rate for crane

Work in tunnel or tunnel shaft, .50¢ above base rate

Power Equipment Operators Zones 3, 4 and 8

Group I - Asphalt finishing machine & trench widening spreader, asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; boiler - 2; central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline opr.; dredge booster pump ;dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launch-hammer wheel; locomotive operator- standard guage; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel operator
Group II - A-Frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; dredge oiler; elevating grader operator; fork lift; grease fleet; hoisting engine - 1; locomotive operator - narrow guage; multiple compactor; pavement breaker; powerbroom-self-propelled; power shield; rooter; slip-form finishing machine; stumpcutter machine; side discharge concrete spreader; throttleman; tractor operator (over 50 hp); winch truck; asphalt roller operator; crusher operator

Group III - Spreader box operator, self-propelled (not asphalt; tractor operator (50 h.p. or less); boilers - 1; chip spreader (front man); churn drill operator; compressor over 105 CFM 2 - 3 pumps 4" & over; 2-3 light plant 7.5 KWA or any combination thereof; clef plane opr.; compressor maintenance operator 2 or 3; concrete saw operator (self-propelled): curb finishingmachine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; tank car heater (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator; hydrobroom
Group IV - Oiler; grout machine; oiler-driver; compressor over 105 CFM-1; conveyor operator - 1; maintenance operator; pump - 4" & over - 1

FOOTNOTE:
HOURLY PREMIUMS
FOLLOWING CLASSIFICATIONS SHALL RECEIVE ($.25) ABOVE GROUP I RATE
Crane with 3 yds. & over buckets; dragline operator - 3 yds. & over; shovel - 3 yds. & over; piledrivers - all types; clamshell - 3 yds. & over; hoists - each additional active drum over 2 drums

FOLLOWING CLASSIFICATION SHALL RECEIVE ($.50) ABOVE GROUP I RATE
Tandem scoop operator

Crane, rigs over 100 feet (incl. jib) - 1¢ per foot
Power Equipment Operators Zones 5, 6 & 7

Group I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; backhoe; blade operator, - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launch hammer wheel; locomotive operator; - standard guage; mechanics and welder; mucking machine; piledriver operator; sideboom cats; skimmer scoop operators; trenching machine operator; truck crane; scoop operators - all types

Group II - A-frame; asphalt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant man; asphalt plant mixer operator, backfiller operator; barber-greene loader; boat operator (bridges and dams); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow guage; multiple compactor, pavement breaker; power - broom - self-propelled; power shield; rooter; slip form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); winch truck

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POWER EQUIPMENT OPERATORS - ZONES 5,6, & 7 (CONT'D)

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator; (combination boiler & booster); ulmac, ulric, or similar spreader; vibrating machine operator, not hands; tractor operator (50 hp or less)
GROUP IV - Oiler; oiler driver

FOOTNOTE:
HOURLY PREMIUMS
FOLLOWING CLASSIFICATIONS SHALL RECEIVE ($.25) ABOVE GROUP I RATE
DRAGLINE operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' of boom or over (incl. jib.), hoists - each additional active drum over 2 drums

FOLLOWING CLASSIFICATIONS SHALL RECEIVE ($.50) ABOVE GROUP I RATE
Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (incl. jib.)

FOLLOWING CLASSIFICATIONS SHALL RECEIVE ($.75) ABOVE GROUP I RATE
Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib.)

AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties
ZONE 2 - St. Louis City and County
ZONE 3 - Franklin, Jefferson, St. Charles Counties
ZONE 4 - Adair, Audrain, Boillinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gasconade, Howell, Iron, Knox, Lewis, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties
ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties
ZONE 6 - Andrew, Atchinson, Bates, Benton, Caldwell, Carroll, Chariton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties
ZONE 7 - Christian, Greene, Jasper, Lawrence, Taney, Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon, Webster and Wright Counties
ZONE 8 - Lincoln and Warren Counties

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TRUCK DRIVER CLASSIFICATION DEFINITIONS

ZONE 1

Group 1 - Mechanics & Welders-field
Group 2 - A-frame low boy-boom truck driver

Group 3 - Insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace: euclids and similar excavating equipment material trucks, tandem two teams; semi-trailers; winch-truck-fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers, tandem or semi
Group 4 - One team; station wagons; pickup truck; material trucks, single axle, tank wagon drivers, single axle
Group 5 - Oilers and greasers-field

ZONES 2, 3, 4, 5 & 6

Group 1 - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle
Group 2 - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle
Group 3 - Semi and/or pole trailers; winch fork and steel trucks; Insley wagons, dumpsters, half tracks, speedace, euclids, and other similar equipment, a-frame and derrick trucks, float or low boy distributor drivers and operators, tank wagon, semi-trailer
Group 4 - Agitator and transit mix truck
Group 5 - Warehousemen

AREA COVERED BY TRUCK DRIVER ZONES

ZONE 1 - Clay, Jackson, Platte & Ray Counties
ZONE 2 - Franklin, Jefferson and St. Charles Counties
ZONE 3 - Lincoln and Warren Counties
ZONE 4 - Buchanan, Cass, Johnson and Lafayette Counties
ZONE 5 - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Gasconade, Greene, Henry, Hickory, Howard, Iron, Jasper, Laclede, Lawrence, Linn, Livingston, Macon, Maidson, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgran, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Saline, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster and Wright Counties
ZONE 6 - Adair, Atchinson, Perry, Butler, Clark, Dunklin, Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer, Nodaway, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney and Worth Counties
ZONE 7 - St. Louis City and County

[FR Doc. 84-20351 Filed 8-2-84; 8:45 am]

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federal register

Friday
August 3, 1984

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 2880

Rights-of-Way Under the Mineral Leasing Act; Amendment Relating to Reimbursement of Costs; Temporary Final Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

[Circular No. 2550]

Rights-of-Way Under the Mineral Leasing Act; Amendment Relating to Reimbursement of Costs

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary final rulemaking.

SUMMARY: This temporary final rulemaking will reaffirm and clarify the Department of the Interior's authority to recover costs from Alyeska Pipeline Service Company, for monitoring Alyeska's operation, maintenance and eventual termination of its right-of-way for the Trans-Alaska Pipeline System and ensure the enforcement of various environmental stipulations agreed to by Alyeska.

EFFECTIVE DATE: August 3, 1984.

ADDRESS: Suggestions and inquiries should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Theodore Bingham, (202) 343-5441.

SUPPLEMENTARY INFORMATION: The purposes of this temporary final rulemaking are twofold: (1) It reaffirms and clarifies the authority of the Department of the Interior to recover costs from Alyeska Pipeline Service Company associated with monitoring Alyeska's operation, maintenance and eventual termination of its right-of-away for the Trans-Alaska Pipeline System; and (2) it ensures that various environmental stipulations agreed to by Alyeska can be enforced by the Department.

On January 23, 1974, the Department of the Interior and Alyeska Pipeline Service Company entered into an Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System. Under the Agreement, Alyeska received a grant of a right-of-way subject to numerous environmental stipulations concerning construction, operation, maintenance and termination of the pipeline and related facilities. The Department undertook the responsibility of monitoring these activities as required by law (See 30 U.S.C. 185). In the Agreement, Alyeska also agreed to reimburse the Department for costs associated with monitoring these activities, as required by law (See 30 U.S.C. 185(1)).

Alyeska reimbursed the Department of the Interior for incurred monitoring costs from the time of the grant of the right-of-way until September 1983. Beginning with Fiscal Year 1984, Alyeska has not reimbursed costs incurred in monitoring the right-of-way on the grounds that the Department's existing cost reimbursement regulations for oil and gas pipeline rights-of-way do not apply to it and that the Independent Offices Appropriation Act requires the promulgation of regulations assessing such fees before they can be recovered (See *Alyeska* v. *United States*, 224 Ct. Cl. 240, 624 F. 2nd 1005 (1980)).

Under the Department of the Interior's Appropriation Act for Fiscal Year 1984 (Pub. L. 98-146), the Department's monitoring efforts are to be funded from fees paid by Alyeska. Without payment of these fees, the Department's ability to monitor Alyeska's activities concerning the Trans-Alaska Pipeline System is greatly impeded. For the past nine months, the Department has attempted to negotiate the ongoing dispute with Alyeska and to reach a satisfactory resolution. Meanwhile, Alyeska's failure to reimburse costs has affected other accounts. All available money from appropriated accounts has been depleted. If not remedied, the Department can no longer enforce environmental stipulations and may be required to terminate the right-of-way to prevent environmental harm. In order to remove Alyeska's procedural objection to reimbursement of monitoring costs, this temporary final rulemaking expressly provides the Secretary of the Interior with the authority to collect such fees from Alyeska and the means to proceed with the monitoring of the Trans-Alaska Pipeline System and the protection of the environment.

The Department of the Interior waives notice and comment on this temporary final rulemaking under the Administrative Procedures Act to allow immediate collection of reimburseable costs for its monitoring of the Trans-Alaska Pipeline System, thereby meeting its monitoring responsibility under the law and ensuring adequate protection of the environment. To do otherwise would be contrary to the public interest. Moreover, Alyeska is the only entity affected by this temporary final rulemaking and it agreed in 1974 to pay the precise costs that are the subject of this temporary final rulemaking. In the proposed rulemaking section of this edition of the **Federal Register**, the language of this temporary final rulemaking is being published as a proposed rulemaking with the public being provided an opportunity to comment on the provisions. All comments will be reviewed and any changes will be reflected in the publication of the final rulemaking finalizing the provisions contained in this temporary final rulemaking and the proposed rulemaking on this same subject. Any changes in the final rulemaking which might result in different payments by Alyeska in the period between the effective date of this temporary final rulemaking and the final rulemaking will be applied. In other words, any reimbursement paid by Alyeska under this temporary final rulemaking will be recalculated under the provisions of the final rulemaking. This could result in either a refund or credit or a supplemental billing to Alyeska.

The Department of the Interior also finds that it is in the public interest to make this temporary final rulemaking effective upon publication in order to begin immediate collection of the reimbursable fees. Because of the depletion of those accounts that can be used to pay for the monitoring of the Trans-Alaska Pipeline System, the Department cannot ensure enforcement of the environmental stipulations contained in the Agreement for at least another 30 days without this immediate reimbursement. This could lead to possible damage to permafrost, wildlife and other environmental values along the right-of-way for the Trans-Alaska Pipeline System. Furthermore, the inability to enforce the environmental stipulations in the Agreement could require termination of the right-of-way in order to provide adequate protection to the environment. Such termination would not be in the public interest because of the important energy, economic and national security benefits of the Trans-Alaska Pipeline.

Nothing in this temporary final rulemaking is intended as a waiver of any right of the United States to be reimbursed for costs incurred on behalf of Alyeska or as a concession of any position taken by the United States in any litigation with Alyeska, including administrative appeals within the Department of the Interior.

The principal authors of this temporary final rulemaking are Paul Smyth, Office of the Solicitor, and Eleanor R. Schwartz, Bureau of Land Management, both of the Department of the Interior.

It is hereby determined that this temporary final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

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

The amendment made by this temporary final rulemaking will impact only one entity, the Alyeska Pipeline Service Company, which is a large entity.

The information collection requirements in this temporary final rulemaking do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than 10 respondents per year.

List of Subjects in 43 CFR Part 2880

Administrative practice and procedure, Common carrier, Oil and gas industry, Pipelines, Public lands—rights-of-way.

PART 2880—[AMENDED]

Under the authority of section 28 of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), section 203 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 95-153) and the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), Part 2880, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: July 12, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

§ 2880.0-7 [Amended]

1. Section 2880.0-7(b) is amended by adding at the end thereof the sentence "Further, the permits, grants and other authorizations heretofore and hereafter issued by the Secretary or his delegate in connection with the Trans-Alaska Pipeline System are subject to § 2883.1-1 of this title.

2. Section 2883.1-1 is revised to read:

§ 2883.1-1 Reimbursement of costs.

(a) Reimbursement of costs for application processing and administration of right-of-way grants and temporary use permits, except applications and authorizations pertaining to the Trans-Alaska Pipeline System, shall be made in accordance with § 2803.1-1 of this title.

(b) Reimbursement of costs for application processing and administration of right-of-way grants and temporary use permits pertaining to the Trans-Alaska Pipeline System shall be made by payment of such sums as the Secretary determines to be required to reimburse the Department of the Interior for the actual costs of these services. In processing applications and administering right-of-way grants and temporary use permits relating to the Trans-Alaska Pipeline System, the Department of the Interior shall avoid unnecessary employment of personnel and needless expenditure of funds as determined by the Secretary. Reimbursement of costs shall be made for each quarter ending on the last day of March, June, September and December. On or before the 16th day after the close of each quarter, the authorized officer shall submit to the permittee a written statement of costs incurred during that quarter which are reimbursable.

[FR Doc. 84-20437 Filed 8-2-84; 8:45 am]

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Friday
August 3, 1984

Part IV

Environmental Protection Agency

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40 CFR Part 403

General Pretreatment Regulations for Existing and New Sources; Removal Credits; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[FRL 2557-7]

General Pretreatment Regulations for Existing and New Sources; Removal Credits

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On September 28, 1982, the Environmental Protection Agency (EPA) proposed extensive revisions to the removal credits section of the General Pretreatment Regulations (40 CFR Part 403). EPA proposed these changes to make the removal credits provision simpler and more workable. After considering all significant comments submitted on the proposed changes, EPA is today promulgating in final form the revised removal credits section of the pretreatment regulations.

DATES: This regulation shall become effective September 17, 1984. For purposes of judicial review, this regulation is issued at 1:00 PM eastern time on August 19, 1984.

FOR FURTHER INFORMATION CONTACT: Craig Jakubowics, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 426-4793.

SUPPLEMENTARY INFORMATION:

I. Background

On June 26, 1978, EPA promulgated, in 40 CFR Part 403, the General Pretreatment Regulations which established mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly owned treatment works (POTWs) (43 FR 27736). Following promulgation, several parties brought actions in Federal court challenging these regulations. Pursuant to the terms of a settlement agreement entered into by EPA and some of the parties to the litigation, the Agency promulgated amendments to the General Pretreatment Regulations for Existing and New Sources on January 28, 1981 (46 FR 9404). These amendments were originally scheduled to take effect on March 13, 1981. However, acting under the President's memorandum of January 29, 1981, EPA postponed the effective date until March 30, 1981 (46 FR 11972, February 12, 1981). On March 27, 1981, the Agency indefinitely suspended the effective date of the amendments pursuant to Executive Order 12291 (46 FR 19936, April 2, 1981).

On October 13, 1981, EPA terminated the indefinite postponement of the January 1981 amendments and established January 31, 1982, as their effective date (46 FR 50502). On the same day, EPA invited comment on a proposal that the effective date of the amendments be further postponed (46 FR 50503). Most of the 1981 amendments were allowed to go into effect on January 31, 1982. However, a few of the amendments, including the removal credits provision, were further postponed (47 FR 4518, February 1, 1982). On July 8, 1982, the United States Court of Appeals for the Third Circuit held that EPA's original indefinite suspension violated the Administrative Procedure Act, and directed EPA to put all the pretreatment amendments, including the removal credits section, into effect retroactive to March 30, 1981 (*Natural Resources Defense Council* v. *EPA*, 683 F. 2d 752 (3d Cir. 1982)).

An important part of the June 1978 General Pretreatment Regulations and the January 1981 amendments was the section governing removal credits (section 403.7). That section was designed to implement a 1977 amendment to section 307(b)(1) of the Clean Water Act (CWA), which allows a POTW to provide industrial users with a "credit" (in the form of reduced pretreatment requirements) for removal of pollutants by the POTW. Industrial users which qualify for such a credit are allowed to discharge larger quantities of regulated pollutants to the POTW than would otherwise be allowed by the applicable categorical pretreatment standard. The removal credits section established the conditions under which POTWs would obtain authority to grant removal credits and provided the means by which these removal credits should be determined.

Notwithstanding the streamlining included in the 1981 amendments, the removal credits provision was still criticized by some as being so burdensome and unworkable as to discourage POTWs from applying for removal credit authority. In fact, this removal credit rule was one of the provisions of the General Pretreatment Regulations challenged, albeit unsuccessfully, in the pretreatment litigation (*National Association of Metal Finishers (NAMF) et al.* v. *EPA*, 719 F. 2d 624 (3d Cir. 1983)). In addition to the general allegation of unworkability, several specific aspects of the regulation were attacked. Industry groups and some POTWs were critical of the requirement that a POTW have an approved pretreatment program, arguing that this condition for removal credit authority went beyond any requirement specified in § 307(b)(1) of the Clean Water Act. These groups also asserted that unless a POTW maintained its initially approved removal rates, the ongoing POTW monitoring and reporting of its removals could result in a change of its removal rates and the industries adjusted discharge limits every six months, thus creating a "moving target" that would make continuing compliance for industrial users difficult, if not impossible, to achieve. The overflow requirements also were objected to as impossible to comply with. All these arguments were rejected by the U.S. Court of Appeals for the Third Circuit in upholding the 1981 removal credits provision.

In response to the criticisms of past removal credits rules, on September 28, 1982, EPA proposed further modifications to the removal credits section to create a clearer, more flexible and workable provision. EPA today is promulgating in final form a revised removal credit regulation, incorporating some of the modifications proposed in September 1982.

II. National Removal Rates

The most controversial proposed change to the removal credits section was the provision for "national removal rates." This would have permitted a qualified POTW to rely on national removal rates developed by EPA, rather than on rates established through the collection of data by the POTW to demonstrate its actual removal performance. Some commenters responding to the September 28, 1982, proposal supported the proposed national removal rates. Some of these commenters contended that the proposed national credits concept was too restrictive in its application because it only applied to certain eligible POTWs (i.e., those achieving secondary treatment levels and fulfilling certain other requirements). Other commenters argued that the proposed national rates were too low, and thus would not grant adequate relief to a POTW's industrial users. Another group of commenters argued that the proposed national removal credits approach was illegal. These commenters also argued that the national credits concept was unsound as a matter of policy because the proposed removal rates exceeded the actual removal capability at approximately 50% of the eligible POTWs.

Because of the controversy over the national removal credits policy issue and the challenge to the legality of this approach, EPA has reevaluated the national removal credits concept. The Agency has concluded, upon reconsideration, that Congress intended that a removal credit be granted for a particular pollutant only to the extent that a particular POTW can demonstrate that it removes the pollutant. The language of the statute, buttressed by the legislative history, indicates that removal credits are to be based upon case-by-case removal determinations, rather than upon a nationally determined rate. Moreover, EPA has concluded upon reconsideration that, on balance, policy considerations in implementing the pretreatment program envisioned by Congress favor the case-by-case determination of removal credits rather than reliance upon national credits.

Under section 307 (b) and (c) of the CWA, EPA is required to promulgate pretreatment standards for the introduction of toxic pollutants into a POTW. These standards must be designed to prevent the discharge of any pollutant which interferes with, passes through or otherwise is incompatible with a POTW.

In 1977, Congress amended section 307(b)(1) of the CWA to specifically provide for removal credits. The relevant language of section 307(b)(1) is as follows:

> If, in the case of any toxic pollutant * * * introduced by a source into a [POTW], the treatment *by such works* removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a [POTW], and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutants *into such [POTW]*, may be revised by the owner or operator *of such works* to reflect the removal of such toxic pollutant *by such works*.

(Emphasis added). As the highlighted language indicates, Congress intended that a removal credit be granted only where some removal, whether by treatment or incidentally, by a particular POTW is actually achieved at the POTW.

A clear indication of this statutory intent is found in the legislative history of the Clean Water Act. In the House debate on the conference report accompanying the Act, Congressman Roberts stated that any credit to an industrial user of a POTW must "reflect the degree reduction of * * * [a] pollutant achieved by the treatment works." (*A Legislative History of the Clean Water Act of 1977* (hereinafter cited as *Legis. Hist.*, vol. 3, p. 343)). Furthermore, in the Senate debate on the Conference report, Senator Muskie stated that "EPA and the permitting States may approve case-by-case modifications of the national pretreatment standards—or local credits—for documented pollutant removals attained by a [POTW]." (*Ligis. Hist.*, vol. 3, p. 461). In fact, Congress rejected the idea of establishing a national credit due to the variability among POTWs' abilities to remove a particular pollutant. As stated in the Senate report on the 1977 proposed amendments to the Act:

> Another reason for minimizing the consideration of removals in the development of national pretreatment standards is that the performance of treatment works on industrial waste, except in those few cases where the system is specifically designed to treat a certain type of industrial waste, is extremely variable. Data that have been presented to this committee indicate that secondary treatment removal efficiency for metals varies between 10 and 70 percent. Variability of such magnitude makes the assumption of specific levels of removal, when setting national standards, almost impossible. (*Legis. Hist.*, vol. 4, p. 691).

Finally, in the recent decision of the United States Court of Appeals for the Third Circuit in the pretreatment litigation (*NAMF et al.* v. *EPA*, supra), the court stated that section 307 (b) (1) of the Act allows for a removal credit only in those instances in which a POTW is actually removing a pollutant. The court also cited and assigned significance to the legislative history discussed above in support of its reading of the statute. Based on the statutory language, legislative history, and recent court decision just discussed, EPA believes it lacks legal authority to establish national removal credits.

Equally important, EPA has carefully reconsidered national removal credits in light of the statutory policy underlying the general requirements to promulgate pretreatment standards to prevent interference, pass through and sludge problems. While EPA continues to recognize the administrative advantage inherent in the use of national removal credits, the Agency believes that case-by-case determinations of actual POTW removals is the only reliable means to assure that credits granted are consistent with actual POTW removals. This in turn will assure that removal credits will not result in a net reduction of treatment by the POTW and its regulated industrial users.

Based upon all the above consideration, EPA has decided not to promulgate national removal credits. EPA has retained the basic regulatory approach embodied in previous removal credits provisions that authorize POTWs to apply for removal credits based upon case-by-case demonstrations. However, as discussed below, the Agency has modified the regulation in some respects to make the program more efficient and to grant as much certainty as possible to POTWs that are granted removal credit authority and industrial users that rely upon removal credits.

III. Discussion of the Final Removal Credit Provision

Today's final rule requires POTWs to demonstrate consistent removal by sampling their actual individual plant performance, as was required under the 1978 and 1981 regulations. However, POTWs may use historical sampling data or use sampling schemes other than the 12 month sampling scheme generally prescribed. Important changes to the regulation are the elimination of the complicated adjustment for combined sewer overflows and the simplification of approval procedures, including the addition of a provision that allows a POTW to apply for removal credit authority at any time. A detailed discussion of all the changes is provided below.

Section 403.7(a)—Introduction

This introductory paragraph remains almost the same as in the September 28, 1982, proposal. For the reasons discussed above, however, the provisions pertaining to POTWs applying for the national removal rates have been omitted. In addition, the definition of "Sludge Requirements" in § 403.7(a)(1)(ii) now includes a reference to the Marine Protection, Research and Sanctuaries Act (MPRSA), which was inadvertently omitted in the proposal. Otherwise, the introduction is the same as at proposal.

Section 403.7(a) sets out the definitions and ground rules under which POTWs can obtain authorization to give removal credits. Paragraph (a)(2) makes it clear that the POTW has complete discretion in deciding whether to award removal credits. A POTW qualifying for removal credit authority may decline to give removal credits at all to a certain industrial category or to one or more industrial users in a category, or it may award a lower removal credit than it is authorized to give. In addition, paragraph (a)(2) now stipulates that once a POTW has been authorized to grant removal credits and has extended those credits to the appropriate industrial users, it will be the industrial users that actually will calculate their revised discharge limits. As proposed, the POTW was obligated to perform this task for all its industrial users receiving removal credits. Because calculating revised limits merely requires inserting the authorized removal credit and applicable categorical pretreatment standard into the mathematical formula specified at paragraph (a)(4) of the regulation, the Agency believes that it will be simpler and less administratively burdensome if each affected industrial user performs this function for itself rather than relying on its POTW to do so. This also applies if, at some future time, the removal credits a POTW is authorized to grant are modified.

Paragraph (a)(3) outlines the five prerequisites for a POTW to obtain authorization to give removal credits. The POTW must: (1) Apply for and receive authorization to grant removal credits; (2) demonstrate consistent removal; (3) have an approved local pretreatment program or qualify for the exception to this requirement; (4) meet all applicable sludge requirements; and (5) continue to comply with all its NPDES permit limits and conditions. Paragraph (a)(4) identifies the basic equation from which one calculates the revised discharge limits. This equation is the same as the one contained in the 1978 regulations and the 1981 amendments.

Paragraph (a)(3)(iv) also advises POTWs that if granting removal credits forces them to incur greater sludge management costs than they would incur in the absence of granting removal credits and the POTW is eligible for Federal construction grant funding under the Clean Water Act, EPA will not pay for the additional sludge management costs. The final removal credits section, like the 1981 amendments, also provides that the POTW must remain in compliance with local, state and Federal requirements applicable to the sludge management method employed by the POTW after granting removal credits. The following table, reprinted from the September 28, 1982, proposal, summarizes the EPA regulations which potentially apply, at present, to sludge disposal.

MAJOR FEDERAL REGULATIONS RELATING TO SEWAGE SLUDGE DISPOSAL

Sludge disposal	Regulation	Date of promulgation; authority
1. Landspreading:		
a. Food-chain application	40 CFR Part 257	9/79 RCRA/CWA.
b. Non-food chain application	40 CFR Part 257	9/79 RCRA/CWA.
2. Land disposal:		
a. Solid wastes (nonhazardous)	40 CFR Part 257	9/79 RCRA/CWA.
b. Hazardous wastes	40 CFR Parts 260 et seq.	5/80 RCRA.
c. PCB's disposal	40 CFR Part 761	5/79 TSCA.
3. Incineration:		
a. New stationary sources of air emissions	40 CFR Part 60	10/75 CAA.
b. Hazardous pollutants	40 CFR Part 61	10/75 CAA.
c. Hazardous wastes	40 CFR Parts 260 et seq.	5/80, 1/81 RCRA.
d. PCB's disposal	40 CFR Part 761	5/79 TSCA.
4. Ocean Dumping	40 CFR Part 220 et seq.	1/77 MPRSA.

Key:
RCRA=Resource Conservation and Recovery Act.
CWA=Clean Water Act.
TSCA=Toxic Substances Control Act.
CAA=Clean Air Act.
MPRSA=Marine Protection, Research, and Sanctuaries Act.

Only rarely will POTW sludge be considered a hazardous waste subject to the requirements of 40 CFR Part 260, *et seq.* or exhibit a sufficiently high concentration of PCBs to become subject to the requirements of 40 CFR Part 761. EPA anticipates, therefore, that POTWs applying for removal credits will usually by subject only to the landspreading and land application requirements of 40 CFR Part 257; the sludge incineration requirements of 40 CFR Parts 60 and 61; or the ocean disposal requirements of 40 CFR Part 220 *et seq.* (in addition to State and local requirements).

Also included in the final regulation, at § 403.7(a)(3)(iv), is a provision designed to accommodate POTWs that are not presently in compliance with sludge requirements applicable to their chosen sludge disposal practice but will be in compliance when the industrial users install the technology needed to comply with their categorical pretreatment standard(s) (as adjusted by the removal credit). The provision is intended to benefit industrial users who otherwise would be unable to get a removal credit until after they had already installed the technology necessary to meet the full pretreatment standard. A POTW that can demonstrate that it will be compliance with any applicable sludge requirements when the industrial users meet the applicable pretreatment standard (as modified by the removal credit) will be deemed to have satisfied the sludge requirements provision.

Section 403.7(a)(3)(v) of the final rule also requires, as a prerequisite to removal credit authorization, that the POTW remain in compliance with its NPDES permit limits and conditions after giving removal credits. As proposed, a POTW was only required to maintain compliance with any toxic limits in its permit for which it is granting a removal credit. Today's final rule clarifies the Agency's intent that removal credit authority not be granted if a violation of the POTW's permit limitations or conditions would result.

For example, if a POTW's section 301(h) waiver application has been approved, the POTW's NPDES permit may contain conditions to assure that the POTW maintains water quality that protects a balanced indigenous population of aquatic biota. If the Approval Authority determines that granting removal credits would cause such permit conditions to be violated, then the removal credit application must be denied.

Section 403.7(a)(3)(v) can also be satisfied in a manner analogous to that provided in § 403.7(a)(3)(iv). That is, the POTW can demonstrate that it will be in compliance with its permit limitations and conditions when industrial users comply with their categorical pretreatment standards, as modified by the removal credit.

Section 403.7(a)(3)(iii) and (d)—Local Pretreatment Program Requirement and Exception Thereto

Paragraph (a)(3)(iii) of the final rule is the same as proposed on September 28, 1982, and for the most part similar to its counterpart in the 1981 general pretreatment amendment. It provides that a POTW must develop a local pretreatment program as a prerequisite to obtaining removal credit authorization unless development of such a program is not required by Part 403.

Paragraph (d) provides that a POTW can grant "conditional" removal credits prior to approval of its local program if the POTW submitted a complete application for pretreatment program approval, meeting all the requirements of §§ 403.8 and 403.9 of the General Pretreatment Regulations, in accordance with the compliance schedule in its NPDES permit or by July 1, 1983, where no permit deadline exists. All industrial users who wish to receive conditional removal credits must supply the POTW with the baseline monitoring report information required by § 403.12(b) (1)–(7) (except for new or modified industrial users who must only submit the information required by § 403.12(b) (1)–(6)). Finally, the POTW must make a demonstration of its consistent removals, in accordance with the requirements specified in § 403.7(b) of the regulation, submit a complete application and comply with all the other conditions for receiving removal credit authority as specified in the regulation.

Conditional removal credits are available in only a limited number of cases. Only a POTW that submitted a complete program application in accordance with the compliance schedule in its permit, or by July 1, 1983, where no schedule deadline existed, and the Approval Authority has not yet formally acted upon that application, would the POTW be eligible for conditional removal credits authority. If a POTW failed to submit its program in such a timely manner, it is not eligible for conditional credit authority. In addition, a POTW is ineligible for conditional removal credit authority if it is on a new compliance schedule by virtue of an administrative order or some other enforcement mechanism, and a date beyond July 1, 1983, has been established as the deadline for submission of a complete, approvable program. For a POTW that did submit its application on time and had been granted conditional credit authority, but upon review its program submission is determined non-approvable, such a POTW's conditional credit authority will be withdrawn.

Section 403.7(b)—Demonstrated Consistent Removal

The primary criticism of the removal credits provisions in the past was that the requirements for demonstrating a POTW's consistent removals were unworkable. National removal credits were proposed by EPA as one way to address this concern. Although national credits cannot be promulgated for the reasons discussed above, the Agency anticipates that the demonstration procedures finalized today will adequately address some of the concerns that would have been addressed by the national removal rates.

Generally, a POTW will collect 12 influent and effluent samples at approximately equal intervals throughout one full year, analyze these samples for the appropriate pollutants and calculate its consistent removal. In lieu of or as a supplement to this sampling, a POTW may use a historical data base or an alternative sampling design to demonstrate its consistent removals. EPA recognizes, however, that there might be problems with this approach in some cases. Under some circumstances, a pollutant known to be contributed to a POTW's system may not be detectable in either the influent or effluent sample, or both. There are several possible explanations for this result. In some cases, a pollutant will be undetectable in the influent because the industrial discharges to a POTW will be diluted by all the other wastewaters contributed to the POTW's system. In other cases a pollutant will be degraded or will volatilize in the sewer system. In still other instances, installation of pretreatment technology by industries discharging to a POTW may have reduced pollutant loadings to such low levels that pollutants cannot be detected.

If a pollutant is measurable in some influent and effluent samples, or is measurable in some influent samples but not measurable in any effluent samples, § 403.7(b)(4) specifies that all of the samples are to be used to demonstrate a POTW's consistent removal. Influent and effluent observations below the level of detectability are to be set at a value equal to the detectability limit.

If a POTW cannot measure a pollutant in some of its influent and/or effluent samples and it chooses not to utilize any sampling data, or if it is unable to measure a pollutant in any of its influent samples, § 403.7(b)(4) specifies that a POTW may make some other alternative showing to demonstrate its removal capability. For example, a POTW may rely on treatability studies from POTW's with similar characteristics (e.g., comparable categorical industrial dischargers; comparable industrial/non-domestic and domestic wastewater flows; comparable POTW treatment systems). The Approval Authority must approve of the POTW's alternative demonstration.

In addition to these provisions, two other features finalized today make a demonstration of actual consistent removal easier and more flexible. First, instead of taking the average of the lowest 50 percent of measured removals as was required under the 1981 amended regulations, consistent removal is calculated in the final rule as the difference between the average influent and effluent concentrations in all of the sample data. This method, which does not exclude sample observations, provides a more accurate and equitable estimate of the actual removal generally achieved than the method employed in the 1981 regulation. Second, rather than prescribe rigorously the manner in which the samples are to be collected, the final rule describes these sampling procedures in an appendix as guidance.

Although the options discussed above may reduce the problem of non-detectability in a number of cases, EPA recognizes that there may be occasional instances in which a POTW will be unable to satisfy any of the demonstration requirements. This potentially could create an inequity between certain POTW's. A POTW with a high concentration of pollutants in its influent can measure and thus demonstrate removals. A POTW with a low concentration of pollutants in its influent may be unable to detect incoming pollutants, even though some are known to be discharged to its system. Unless such a POTW can make an alternative demonstration, as provided for in the removal credits regulation, it will be ineligible for removal credit authority. EPA acknowledges that if national removal rates were made available, some POTW's with low levels of pollutants in their influent would be eligible for removal credit authority. However, in view of Congress' intention that a POTW's removal rates be case-specific based on demonstrated actual removals, as discussed in detail above, EPA believes that prohibiting a grant of removal credit authority is justified when a POTW is unable through any means to show any removal of a regulated pollutant.

Section 403.7(c)—Provisional Removal Credits

Ordinarily, removal credits will be sought for pollutants which are being discharged currently in measurable concentrations into a POTW. Occasionally, however, a new or modified industrial facility will want a removal credit for a pollutant which is not being discharged at measurable concentrations into the POTW from any facility. The POTW is obviously incapable of demonstrating actual removal prior to the discharge of the pollutant into the POTW treatment system. Therefore, the final rule provides at paragraph (c) that consistent removal may be provisionally demonstrated using data from treatability studies, provided that actual consistent removal is demonstrated in the conventional manner within 18 months of the commencement of the discharge.

Procedures for modifying or withdrawing provisional removal credits were not included in the proposed removal credits provision. Today's final rule includes such procedures. The process is the same as for withdrawal of conditional removal credits.

Section 403.7(e)—POTW Application for Authorization To Give Removal Credits and Approval Authority Review

The provisions governing removal credits applications are the same as proposed on September 28, 1982, and are considerably more streamlined than their counterparts in the 1981 amendments. Basically all that has to be submitted in a list of the pollutants for which removal credits are sought; data demonstrating actual consistent removal; the proposed new limits; a certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement; a description of the POTW's current method of managing its sludge; and a certification that granting removal credits will not cause the POTW to violate applicable sludge requirements and NPDES permit limits and conditions. In contrast with the 1981 amendments, which restricted the submission of applications to certain times, the revised section provides that qualified POTW's can submit applications at any time. The Approval Authority is required to review the POTW's application in accordance with the procedures in § 403.11, which provide for completion of review within 90 days from public notice of the application unless a public hearing is held or the public comment period extended, in which case the Approval Authority may have up to another 90 days.

Section 403.7(f)—Continuation or Withdrawal/Modification of Authorization To Grant Removal Credits

The final rule, like the September 28, 1982, proposal, states that once a POTW has received authorization to give removal credits for a pollutant regulated in a categorical pretreatment standard, the POTW may automatically extend that removal credit to the same pollutant when regulated in other categorical standards unless granting the removal credit will cause the POTW to violate any applicable sludge requirements or permit conditions. This provision makes explicit what was never expressly stated in the January 1981 amendments; that is, once removal credit authorization is received for a particular pollutant, the POTW may, without reapplication, give the same credit for that pollutant when regulated in other categorical standards. The POTW may, of course, elect not to extend the removal credit for a particular pollutant to other categorical standards or particular facilities in an industry category.

Upon being granted removal credit authority, the removal credits will be included in the POTW's NPDES permit. Because the procedures to initially authorize a POTW to grant removal credits are essentially the same as those to modify or revoke and reissue a POTW's permit to incorporate the removal credits (i.e., notice, comment and opportunity for a public hearing), the Approval Authority should consider commencement of the process to amend the POTW's permit simultaneously with the formal review of a complete application for removal credit authority. This would reduce the administrative burden of acting separately on the removal credits application and permit change.

As a condition of continued authorization to give removal credits, the POTW must continue to comply with all the requirements of paragraph (a)(3)(iii)–(v). Compliance with these requirements may be examined by the Approval Authority at any time, but at the very least, must be ascertained upon reissuance of the NPDES permit. The penalty for failure to comply with the paragraph (a)(3) requirements is withdrawal or modification of the removal credits. The regulation specifies the procedures to be followed when initiating an action to modify or withdraw.

Today's final removal credits regulation does differ considerably in one aspect from that which was proposed. Prior removal credits rules were criticized as unworkable in part because of the potential uncertainty they created. POTWs were required to submit periodic compliance reports that included sampling data to indicate whether or not they were maintaining their approved consistent removal rates. Failure to maintain that removal rate could potentially result in an immediate adjustment of its approved removal rates to reflect the change. In turn, the industrial users applicable categorical pretreatment standards reflecting the removal credit would also have to be readjusted to reflect the POTW's new removal rates.

The final rule promulgated today diminishes the uncertainty of changing removal credits and shifting industrial discharge limits. Once a POTW satisfies the demonstration requirements and does not violate the criteria specified in paragraph (a)(iii)–(v), the removal credits will generally remain set for the term the POTW's NPDES permit. The removal credits could be modified or withdrawn during the permit term only in the case of consistently and substantially poor POTW performance. As a means of monitoring for occurrences of those circumstances in which a readjustment would be necessary, POTWs are required to submit compliance reports at least annually to the Approval Authority for its review that include sampling data to indicate their removal capability. A minimum of one sample per month during the reporting period is required and all the sampling data must be included in the report. As the POTW's removal performance will be reevaluated when its permit expires, sampling data included in these compliance reports also can be used to justify continuation of the removal credits or to calculate its new removal capability at the end of the permit term.

A removal credit determination is based on the removal efficiency (i.e., percent removal) of a pollutant at the POTW. Variability in removal efficiency is inherent in any treatment system, even those that are specifically designed to remove particular pollutants. POTWs, however, are generally designed to remove suspended solids and biodegradable organic materials, not heavy metals, cyanide or non-biodegradable toxic organics. The removals of toxic pollutants are for the most part incidental to the secondary treatment employed by POTWs.

In addition to the design of the POTW, there are a number of other factors that contribute towards the variability in removal efficiency. These include the state of the pollutant (whether soluble or insoluble); pollutant concentrations in the influent; dilution of the raw wastewater; or the detection limit of a particular pollutant. Because of the combined effect of these factors and site-specific conditions at a POTW, it is impossible to determine the expected varibility on a pollutant-by-pollutant basis across all POTWs.

The Agency recognizes that some variability will exist and that nothing can be done to totally eliminate it. Recognizing this variability factor, the Agency strongly believes that a fair balance must be struck between ensuring continued consistent removal of a pollutant which formed the basis for the removal credit and the need of POTWs and their industrial users to have a degree of certainty in the removal credit and the adjusted categorical pretreatment standards reflecting the credit. To obtain this balance, the Agency has established a criterion for making a finding that a POTW is no longer achieving proper removals of a given pollutant.

Before the Approval Authority begins a proceeding to modify or withdraw the removal credits prior to permit expiration, it must make a finding that "the POTW's consistent removal rate is consistently and substantially lower than the removal credit specified in the POTW's NPDES permit." This criterion is established so that a POTW does not lose its removal credit authority during the permit term because of minor problems at the POTW or situations outside of the POTW's control that temporarily reduce its originally demonstrated removal efficiency. However, if it is determined that the POTW's consistent removal rate is consistently and substantially lower than the removal credit, this indicates serious problems at the POTW and justifies invocation of the modification or withdrawal provisions of the regulation. This regulatory approach, assuming that initially established removal credits will be effective for the life of the POTW's NPDES permit absent substantially worsened POTW performance or a violation of the conditions specified in paragraph (a)(3) of the rule, should provide the desired balance of consistent removals and POTW/industry certainty.

The "consistently and substantially lower" criterion was purposefully adopted to allow all the relevant facts of any particular situation to be considered in deciding whether removal credits should be modified. A more specific criterion (e.g., designating a particular percent reduction in a POTW's removal rates as substantial) would be technically inappropriate, since the degree of unavoidable variability in a POTW's removal rate is likely to vary from plant to plant. It is thus more appropriate that the Approval Authority make a decision, on a case-specific basis, whether a POTW's removals have substantially worsened on a consistent basis. If the Approval Authority initiates the procedures to modify or withdraw the credit based upon such a decision, the affected POTW and its industrial users would have an opportunity at that time to challenge the decision and demonstrate that the POTW's removals have not consistently and substantially worsened.

While the averaging of 12 monthly samples will tend to stabilize the POTW's removal rate, it should be noted that some variations in the yearly rates must be expected. Key to the impact of this yearly variation on both POTW's and industry is the magnitude of the credit a POTW is considering to grant. The following table shows the effluent limits that an electroplater would have to meet, depending on the removal credit granted to the POTW.

Removal credit (percent)	Cadmium (mg/l)	Zinc (mg/l)
0	1.2	4.2
20	1.5	5.25
30	1.71	6.0
40	2.0	7.0
50	2.4	8.4
60	3.0	10.5
70	4.0	14.0
80	6.0	21.0
90	12.0	42.0

The granting of a removal credit anywhere in the range of 40 and 60 percent results in a range of industrial effluent limits which can probably be met by the same industrial treatment technology—2.0 to 3.0 mg/l for cadmium and 7.0 to 10.5 mg/l for zinc. The impact of a reduced removal credit on an industrial user would be small since the same technology would have been employed. However, this is not the case for those POTW's that intend to grant credits in the 80-to-90 percent range. Removal credits from 80 to 90 percent would allow industrial users to install little or no technology to meet the limits. The failure of the POTW to demonstrate these high removals will have major impacts on the industrial users which may be required to install additional technology if the removal credit is reduced. POTW operators should be aware that the demonstration of high removals (75–90 percent) is difficult and should be thoroughly evaluated to provide their industrial users long-term and stable effluent limits.

Another difference between today's final rule and the September 28, 1982, proposal are the procedures for modifying or withdrawing removal credits when circumstances arise that warrant a change. As proposed, if a POTW failed to maintain its consistent removal rate or violated some other eligibility criteria (e.g., violated sludge requirements or its permit limits), the POTW had to notify the Approval Authority, return to compliance within six months and satisfy the Approval Authority that the problem would not be likely to recur. If, at the end of this six-month period, the POTW did not return to compliance or satisfy the Approval Authority that the problem is non-recurring in nature, the Approval Authority would have had to revoke or modify the removal credits. The Approval Authority could, however, have extended the time for compliance for up to one year if the POTW demonstrated good faith efforts to return to compliance. Where the removal rates were modified or withdrawn, industries would have had to comply with the modified discharge limits or original categorical standard, whichever was the case, within 18 months.

After reevaluating this proposed change, taking into account public comments received, EPA has decided not to finalize the procedures as proposed. Instead, the modification/withdrawal procedures in today's final rule are more similar to those specified in the 1981 removal credits provision. The significant difference is that the procedures promulgated today provide for notice and comment before the removal credits are modified or a POTW's authority to grant removal credits is withdrawn. The Agency believes the process adopted by the final rule better serves the requirements of adequate due process.

Under the final rule, the Approval Authority is required to make a preliminary determination that a POTW is in violation of any of the eligibility criteria specified in paragraph (a)(3)(iii)–(v), or that its ongoing removals are substantially and consistently lower than the removal credits. The Approval Authority shall then, in accordance with the procedures found in § 403.11(b) (1) and (2) of the General Pretreatment Regulations, issue a public notice of its intent to modify or withdraw, and provide for public comment and an opportunity for a public hearing on the matter. It is during this time that a POTW, its industrial users or any interested party can present a case against modification or withdrawal. At the close of the public comment period and after a public hearing (if one is held), the Approval Authority will make its final decision based on all available information, including that received in comments and at the hearing. If the removal credits are to be modified or removal credit authority withdrawn, the POTW and its industrial users must be notified and apprised in writing of the reasons for the modification or withdrawal. Where the removal credits are modified, the affected industrial users will be required to comply with the readjusted discharge limits, or, in the case of withdrawal of removal credit authority, with the original limits prescribed by the applicable categorical pretreatment standards. Compliance with these limits must be achieved within a reasonable time following modification or withdrawal. The amount of time allowed for compliance from the date that the removal credit is modified or withdrawn must be no greater than the amount of time allowed for compliance in the applicable categorical standard. For example, if a pretreatment standard provided for a compliance period of three years from the date of promulgation, an industrial user affected by the modification or withdrawal of a removal credit could be granted a maximum compliance period of three years from the date of modification or withdrawal. Of course, the Approval Authority could establish a shorter period for compliance after considering the necessary adjustment to existing treatment technology or the amount of additional treatment that must be installed.

IV. Summary of Public Participation

Numerous governmental agencies, individuals, industries, and trade associations provided comments on the proposed removal credit rule published in the **Federal Register** on September 28, 1982. The following parties provided comments: Detroit Water and Sewerage District; Caterpillar Tractor Company; Air Products and Chemicals, Inc.; South Carolina Department of Health and Environmental Control; Howard M. Cohen; Village of Sauget, IL; League of Women Voters of Maryland, Inc.; Barge, Waggoner, Summer and Cannon; Midland-Rose Corp.; Great Lakes Tomorrow, M/M Gordon V. Bond; General Motors Corp.; American Iron and Steel Institute; Natural Resources Defense Council; National Association of Metal Finishers; American Paper Institute/National Forest Products Association; Steven H. Bigelow; Conoco, Inc.; The Standard Oil Company (Ohio); Bausch and Lomb; Anne W. Amacher, Ph.D.; Chemical Manufacturers Association; Texaco, Inc.; League of Women Voters of South Carolina; The League of Women Voters of Kentucky; Monsanto Company; Babcock and Wilcox; Metropolitan Denver Sewage Disposal District No. 1; Standard Oil Company (Indiana); League of Women Voters of Marion County, GA; County Sanitation Districts of Los Angeles County; League of Women Voters of Findlay, OH; and the Chicago Association of Commerce and Industry.

Comment: The majority of comments received addressed various aspects of the national removal credits concept, including the legality of national removal credits, the method of calculating the national removal rates, national credits for non-toxic pollutants and the procedures a POTW must follow to obtain and maintain removal credit authority when utilizing national credits.

Response: The comments regarding the legal basis of national removal credits have been addressed in the comprehensive discussion regarding this issue in the preamble. Since national credits have not been retained in the final rule, comments regarding certain technical aspects (e.g., selection of 25th percentile, the broad definition of POTW "compliance" with secondary treatment, the impact of negative removal rates in calculating the national removal rates) have become irrelevant. Similarly, those comments addressing the procedures and preconditions for utilizing national credits have also become irrelevant.

Comment: One commenter suggested that the removal credit regulation provide POTWs the option of substituting their local standards applicable to indirect dischargers for the national categorical pretreatment standards when these local standards are based on local receiving water quality or sludge disposal criteria.

Response: The removal credit concept established in section 307(b) of the Clean Water Act, provides for a credit against a national categorical pretreatment standard equal to or less than the demonstrated removal by a POTW for a specific pollutant. If a POTW can demonstrate that its actual removal rate would allow an adjustment to the categorical pretreatment standard that results in a standard less stringent than the POTW's current local standard for a particular pollutant, then the POTW may impose its local standard. If, however, the adjusted categorical standard remains more stringent than the local standard, then the adjusted categorical pretreatment standard must be applied.

Comment: One commenter objected to the procedure whereby a POTW self-certifies that it complies with applicable sludge requirements, limits and conditions in the POTW's NPDES permit, and that it has an approved pretreatment program. The objection concerned the amount of discretion given the POTW to determine independently the complex factual matters on which initial and continuing qualification for removal credit depends.

Response: The final regulation provides that a POTW must certify that it has an approved pretreatment program and that by granting removal credits it will not violate any permit limits or conditions, or applicable Federal, State and local sludge requirements. The Agency retains the authority to review the certifications and independently verify their accuracy. Information regarding the status of the local pretreatment program and compliance with NPDES permits is readily available. In many instances, the Agency staff making the initial review of the removal credit authority application are also responsible for tracking the POTW's performance in the other two areas. Similarly, compliance with sludge requirements can be easily corroborated either by communicating within the Agency or by contacting the appropriate State or local agency. Additionally, the applicant must describe its sludge management plan. In those instances where the information is not sufficient to determine whether the POTW will continue to be in compliance with sludge requirements, the Agency may request more information.

Comment: Many comments questioned the Agency's basis for imposing additional conditions for obtaining removal credit authority that are not specifically provided in section 307(b) of the CWA. Specifically, the comments concerned the requirement that: (a) A POTW have an approved pretreatment program; (b) comply with all applicable Federal, State and local sludge management and disposal requirements; and (c) be in compliance with its NPDES permit discharge limits for the toxic pollutant(s) for which removal credits are sought. The comments suggested that the Agency could only impose those criteria explicitly mentioned in section 307(b) (i.e., that a POTW remove all or any part of the toxic pollutant, that the discharge from the POTW does not violate the effluent limitation or standard which would be applicable if the pollutant were discharged by the source other than through the POTW and that the POTW's sludge use or management be in compliance with the requirements established under section 405 of the Clean Water Act).

Response: The Agency believes that the imposition of these preconditions to removal credit authority is not only a logical exercise of its discretion, but is directed by the statute and congressional intent. This response will address each of the three conditions separately since each condition is based on different premises.

The "compliance with toxic limits" requirement in section 403.7(a)(3)(v) of the removal credit rule was first imposed as a regulatory requirement as proposed in September 1982. This provision has been changed in the final rule, for the reasons previously discussed, to require the POTW to maintain compliance with all limits and conditions in its NPDES permit after granting removal credits. This requirement is consistent with the broad purposes of section 307(b) that discharges from industrial users of POTWs not interfere with a POTW's ability to comply with its NPDES permit.

The second requirement is that a POTW have an approved pretreatment program. The Agency believes that the imposition of this requirement is a proper exercise of the Agency's authority to ensure that a POTW minimizes the potential of pass through of pollutants or interference with the POTW and was contemplated by Congress when it amended the Federal Water Pollution Control Act in 1977 (the Clean Water Act). The statutory language and the legislative history, when read together, provide the requisite authority to require a pretreatment program as a precondition to a POTW's authority to grant removal credits.

The 1977 amendments added two new provisions relating to pretreatment. One provision, section 402(b)(8), imposes on POTWs that receive discharges from industries subject to categorical pretreatment standards a requirement to develop a local pretreatment program. The second provision, in section 307(b)(1), allows POTWs to adjust categorical standards to reflect the POTW's ability to remove any or all of the regulated pollutant. These two provisions are given meaning when read in light of the legislative history which clearly shows that Congress intended that removal credits be integrally tied to an approval pretreatment program.

The Senate, when debating the conference report, addressed this connection between removal credits (discussed as "local credits") and local pretreatment programs:

> Where a local compliance program is approved, EPA and the permitting States may approve case-by-case modifications of the national pretreatment standards—or local credits—for documented pollutant removals attained by a publicly owned treatment works. To receive a local credit there must be a demonstration that the pollutant is degraded or treated; credits will not be given for dilution * * *. Tying local credits to local compliance programs not only provides an incentive for local participation, but more importantly, it provides assurance that the removal levels which justified the local credits will be maintained by a publicly owned treatment works committed to operating a sound pretreatment program. (*Legis. Hist.*, Vol. 3, p. 461–462).

The House similarly discussed the relationship between the two provisions in its debate of the conference report:

> Under the amendment to section 307(b) the Administrator would establish national pretreatment standards for toxic pollutants based on the best available technology economically achievable, or any more stringent effluent standards under section 307(A). *Then in applying these pretreatment standards through its pretreatment programs,* the owner or operator of a municipal treatment works could modify the requirements applicable to individual classes of sources introducing that pollutant into the treatment works to reflect the degree of reduction of that pollutant achieved by the treatment works (emphasis added). (*Legis. Hist.*, Vol. 3, p. 342–343.)

It is apparent that the Agency has effectuated Congressional intent by imposing this precondition for removal credit authority. Moreover, the Agency believes that it has adequate authority to impose such a requirement to accomplish the goal of avoiding the potential for pass through or interference under its broad rulemaking authority to section 501 of the CWA.

The Agency's position was judicially sanctioned in a recent decision by the U.S. Court of Appeals for the Third Circuit in *National Association of Metal Finishers (NAMF) et al.* v. *EPA*, 719 F. 2d 624 (3d Cir. 1983). Petitioners in that case specifically challenged the local pretreatment program requirement claiming that the Agency acted without authority in imposing this precondition to granting removal credits. The court disagreed with petitioners and adopted the reasoning set out above as the basis of the agency's authority.

The third requirement, that the POTW maintain compliance with all applicable Federal, State, and local sludge disposal requirements after granting removal credits, was also challenged by commenters as being contrary to the statute. The Agency maintains the position it presented in the regulations promulgated on January 28, 1981, which included the current provision regarding compliance with sludge disposal requirements. Essentially, the Agency continues to believe that it is acting within its authority granted by sections 307(b) and 405 of the CWA in conditioning removal credit allowances on continued compliance with applicable requirements established under the Solid Waste Disposal Act (including Title II of this Act, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)), the Clean Air Act, the Toxic Substances Control Act (TSCA), the Marine Protection, Research and Sanctuaries Act (MPRSA), and State regulations developed under Subtitle D of RCRA. (For a more detailed discussion of this issue, see 46 *Fed. Reg.* at 9428.) In addition, it should be noted that these sludge requirements were contained in the 1981 General Pretreatment Regulations upheld by the Third Circuit in *NAMF et al.* v. *EPA*, *supra*.

Comment: Several comments were received which supported the exclusion of the combined sewer overflow (CSO) compensation factor when calculating the revised categorical standard. Several comments were received which argued that the CSO factor should have been retained.

Response: EPA has analyzed the relationship of CSOs and removal credits in two different ways. The first approach examined the amount of time CSO events occur. In 1978, 15 POTWs were surveyed to determine the frequency of rainfall-triggered overflows. The Agency determined that the average POTW will incur combined sewer overflow only 7.3 percent of the time. Even assuming that no treatment occurs during an overflow situation, the measurable effect on the revised categorical standard is not significant. Therefore, compensation for CSOs on the basis of time is not necessary. (For a detailed example of the effect CSOs can have on the revised standard based on the time CSO events occur, see the proposed removal credits rule in the September 28, 1982 **Federal Register** (47 FR at 42701)).

The second approach examined the amount of pollutants that escaped treatment during CSO events. This involved the toxic pollutants discharged by industry which are not treated at the POTW during CSO events and which settle in the sewer system during normal dry conditions, and are resuspended during CSO events. Recent EPA data indicate that approximately 30 percent of the toxic metals in a combined sewer flow (i.e., during wet weather conditions sufficient to produce an overflow event) are due to the problem of resuspension. The concern relative to removal credits is that toxics resuspended under wet weather conditions are carried out the overflow point. As a result, a portion of the toxic pollutants contributed by industrial users never reach the POTW and is therefore not removed.

EPA analyzed the data collected on heavy metals to determine the amount of pollutants resuspended. The amount of resuspension was then included in a mass balance to determine the amount of untreated heavy metals discharged during a CSO event. This analysis indicated that, on average, eight percent of the metals bypassed the POTW and were thus not treated. After applying this eight percent bypass factor to several sample removal rates, the Agency concluded that its effect on the adjusted industrial discharge limit would be minimal. Thus, neither the frequency of CSO events nor the amount of toxics discharged during such events warrant a regulatory provision requiring CSOs to be factored into the formula for determining a removal credit.

Comment: Two comments suggested that POTWs must have an affirmative obligation to seek removal credit authority. Giving POTWs the discretion to seek or not seek removal credits could frustrate the intent of the provision and may result in unnecessary treatment.

Response: The statute provides that a POTW "may" seek removal credit authority. EPA is not empowered to require a POTW to seek removal credit authority.

Comment: Several commenters raised the issue of a POTW's "compliance" with a stated removal rate and the grounds for withdrawal or modification of removal credits. This comment involves two concerns. The first is the POTW's concern for some degree of latitude before a POTW is considered to be out of compliance with its demonstrated removal rate. The second is the concern of industrial users who, having obtained removal credits and designed treatment facilities to meet a stated standard, desire to have some reasonable period without any change to their discharge standards. Industrial users are essentially seeking some degree of certainty in their limits for planning purposes.

Response: As discussed above in detail, the Agency strongly believes that a fair balance must be struck between ensuring continued consistent removal of a pollutant which formed the basis for the removal credit and the need of industrial users to have some guarantee of certainty, for a reasonable period of time, as to their discharge limits. To obtain this balance, the Agency has developed a criterion to determine when the POTW is no longer achieving consistent removal for a given pollutant.

Comment: Many commenters questioned the Agency's procedure for handling influent and effluent samples when the pollutant is not detectable. Most commenters suggested that for effluent samples the appropriate procedure is to assign the samples a concentration value of zero and not to assume that the concentration is at the level of detectability for that pollutant. Otherwise, they argued, the procedure may fail to reflect the full extent of the actual removal efficiency.

Response: The Agency believes that, in general, the use of the detection limit as an estimate of immeasurable concentrations in an effluent, where the influent was detectable, will provide a better approximation of actual removals than will the use of a zero value. Using zero as a measure of the effluent concentration necessarily results in a conclusion that the pollutant is experiencing a 100% removal by the POTW. Such a result is theoretically unlikely and inconsistent with the Agency's POTW removal data collected from 50 well-operated secondary treatment plants. The use of the detection limit is likely to produce a somewhat conservative estimate of removals. However, in most cases, the calculated removal should not be much lower than the actual removal and generally should be more accurate (and more environmentally protective) than that calculated by assuming a zero discharge effluent. In any event, in cases of non-detectability, the POTW has the option of making an alternative demonstration to qualify for removal credit authority.

Comment: One commenter questioned the proposed procedure for addressing violations by the POTW of its removal rate and the sanctions available. The commenter argued that the procedure may allow the violation to persist too long and represent an unnecessary endangerment to the environment because of interference, pass through and sludge contamination.

Response: The Agency agrees that the proposed procedure which could allow up to 12 months before withdrawal or modification procedures are instituted provided too much latitude to a POTW which is experiencing problems. Consequently, the Agency is amending this provision. As discussed above, today's final rule recognizes that some variability in a POTW's removal rates can be expected. However, if a POTW's removal capability does consistently and substantially worsen, indicating that a serious problem exists and requiring long-term corrective measures be taken, or it violates any other precondition of its removal credit authority, the Approval Authority will initiate the process to withdraw a POTW's authority to grant removal credits or to modify those credits. Public notice of this action will be given, and a comment period and opportunity for a hearing provided for. The Agency believes that once grounds for modification or withdrawal do arise, the procedures in the final rule allow for prompt action by the Approval Authority. In addition, these procedures more adequately satisfy due process requirements than past procedures.

Comment: Some commenters objected to the 18 month time limit for industrial users to comply with the pretreatment standard once a removal credit has been modified or withdrawn. They argued that the time limit should be three years.

Response: The Agency partially agrees with this argument. The Agency has revised this part of the regulation to provide that the time period for compliance be no longer than the time allowed in the pretreatment standard or such shorter time as determined after considering the amount of additional treatment that must be installed. This time period is the same as was allowed under the 1981 revised removal credit regulation.

Comment: Some commenters questioned the adequacy of the compliance reporting requirements. They believed that one annual report will not be sufficient to detect quickly any drops in removal efficiencies.

Response: The Agency disagrees with this contention. A POTW's initially demonstrated removal rates were based on 12 representative samples taken over the course of one full year. Requiring one compliance report per year that includes a similar sampling requirement (i.e., 12 representative samples taken at equal intervals over that year) provides an accurate means of comparing a POTW's ongoing performance with its originally approved demonstrated removal efficiency. These reports will be reviewed by the Approval Authority. Furthermore, while the new regulations will minimally only require one annual report, there are several other sources of information which can augment the removal rate compliance reporting. In addition to this report, a POTW will be providing other reports as part of their NPDES permit and pretreatment program. POTWs will also be subject to pretreatment program audits and inspections which can be used to investigate a POTW's compliance with its removal rates.

Comment: Many commenters questioned the provision in the proposed rule which provides that the removal rates demonstrated by the POTW that formed the basis for removal credits become enforceable conditions of the POTWs NPDES permit. The commenters suggested that the provision would discourage POTW's from applying for removal credit authority.

Response: Incorporating the removal credits as an enforceable condition into the POTW's NPDES permit was clearly intended by Congress when section 307(b) was passed. The House debate on the conference report contained the following statement: "Any effluent reduction attained by the treatment works and used to justify a modification of pretreatment requirements must be a permit condition enforceable against the owner or operator of the treatment works" (*Legis. Hist.*, Vol. 3, p. 343).

Thus, it is clear that this requirement was contemplated by the Congress. The argument that this will act as an impediment to POTWs seeking removal credit authority does not militate against the requirement. It only assures that the POTW will strive to maintain its consistent removal rates. It should also prove to be an incentive for industrial users enjoying the benefit of removal credits to take greater interest in the POTW's operation and pretreatment program.

Comment: One comment raised the issue of whether the proposed method for calculating the removal rate is appropriate. The commenter argued that the technique of averaging all the influent and effluent samples will mask variability and may result in a distortion of the removal efficiency.

Response: As the Agency stated in the proposed rule, the technique of averaging the influent and effluent data will provide a more reliable estimate of the actual removal generally achieved than the method used in the 1981 regulations. No sample observations will be excluded from the calculation.

Miscellaneous

In the September 28, 1982 proposal, several sections of the General Pretreatment Regulations were proposed to be amended because they referenced the removal credits provision. Today's action finalizes those changes to conform to the new removal credits section.

In addition to these changes, § 403.8(e) also is being revised. Section 403.8(e) specifies specific circumstances for modifying or revoking and reissuing a POTW's permit. These grounds include, among others, incorporation of a compliance schedule for development of a POTW's pretreatment program, section 301(h) and section 301(i) permit conditions and an approved POTW pretreatment program. By today's action, § 403.8(e) is revised to specify that incorporation of the removal credits granted by a POTW is cause for modifying or revoking and reissuing a POTW's permit. Amending § 403.8(e) in this way is consistent with Congress' intent, as discussed above, that the removal credits be placed in the POTW's permit and thus be an enforceable permit condition. In addition, past removal credit provisions and the September 28, 1982, removal credit proposal required incorporation of removal rates into the permit.

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. This regulation simplifies existing requirements and will have the ultimate effect of reducing pollution control costs. It is not a major regulation because it does not meet the criteria set forth in the Executive Order.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of entities. I hereby certify, pursuant to 5 U.S.C. § 605(b), that today's final action will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 403

Confidential business information; Reporting and recordkeeping requirements; Waste treatment and disposal; Water pollution control.

Dated: July 27, 1984.

William D. Ruckelshaus,
Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

For the reasons set out in the preamble, 40 CFR Part 403 is amended as follows:

1. The authority citation for 40 CFR Part 403 is as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95-217), sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92-500), as amended by the Clean Water Act of 1977.

2. 40 CFR 403.7 is revised to read as follows:

§ 403.7 Removal credits.

(a) *Introduction*—(1) *Definitions.* For the purpose of this section:

(i) "Removal" means a reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this subpart shall not mean dilution of a pollutant in the POTW.

(ii) "Sludge Requirements" shall mean the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) (including Title II more commonly referred to as the Resource Conservation Recovery Act (RCRA) and State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(2) *General.* Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard(s) applies may, at its discretion and subject to the conditions of this section, grant removal credits to reflect removal by the POTW of pollutants specified in the categorical Pretreatment Standard(s). The POTW may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected Industrial User shall calculate its revised discharge limits in accordance with subparagraph (4) of this paragraph. Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

(3) *Conditions for authorization to give removal credits.* A POTW is authorized to give removal credits only if the following conditions are met:

(i) *Application.* The POTW applies for, and receives, authorization from the Approval Authority to give a removal credit in accordance with the requirements and procedures specified in paragraph (e) of this section.

(ii) *Consistent removal determination.* The POTW demonstrates and continues to achieve consistent removal of the pollutant in accordance with paragraph (b) of this section.

(iii) *POTW local pretreatment program.* The POTW has an approved pretreatment program in accordance with and to the extent required by Part 403; provided, however, a POTW which does not have an approved pretreatment program may, pending approval of such a program, conditionally give credits as provided in paragraph (d) of this section.

(iv) *Sludge requirements.* The granting of removal credits will not cause the POTW to violate the local, State and Federal Sludge Requirements which apply to the sludge management method chosen by the POTW. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Sludge Requirements, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical Pretreatment Standard(s) as modified by the removal credit. If granting removal credits forces a POTW to incur greater sludge management costs than would be incurred in the absence of granting removal credits, the additional sludge management costs will not be eligible for EPA grant assistance.

(v) *NPDES permit limitations.* The granting of removal credits will not cause a violation of the POTW's permit limitations or conditions. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable limitations and conditions in its NPDES permit, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical Pretreatment Standard(s), as modified by the removal credit provision.

(4) *Calculation of revised discharge limits.* Revised discharge limits for a specific pollutant shall be derived by use of the following formula:

$$y=\frac{x}{1-r}$$

where:

x=pollutant discharge limit specified in the applicable categorical Pretreatment Standard

r=removal credit for that pollutant as established under paragraph (b) of this section (percentage removal expressed as a proportion, i.e., a number between 0 and 1)

y=revised discharge limit for the specified pollutant (expressed in same units as x)

(b) *Establishment of Removal Credit; Demonstration of Consistent Removal.* A POTW may be authorized to grant a removal credit that does not exceed its consistent removal rate. In order to demonstrate consistent removal, the POTW shall, for each pollutant with respect to which removal credit authorization is sought, collect influent and effluent data and calculate consistent removal in accordance with the following requirements. As a condition of retaining removal credit authorization, the POTW's consistent removal must continue to be equal to or greater than the removal credit.

(1) *Number of samples.* At least twelve representative samples of influent and effluent shall be taken at approximately equal intervals throughout one full year. Upon concurrence of the Approval Authority, a POTW may utilize an historical data base either in lieu of or as a supplement to these twelve samples. In order to be approved, the historical data base must be representative of the yearly and seasonal conditions to which the POTW is subject and be representative of the POTW's performance for at least one year. As an alternative to the above, a POTW, upon concurrence of the Approval Authority, may utilize an alternative sampling design, as long as the alternative design provides for samples to be taken at times which are representative of the POTW's normal operating conditions and the different seasonal conditions to which the POTW is subject.

(2) *Method of Sampling.* The POTW must use the composite sampling method unless the grab sampling method is more appropriate. A description of these methods and suggestions on when each method should be used are included in Appendix E as guidance.

(3) *Method of Analysis for Pollutants.* The POTW shall analyze the samples for pollutants in accordance with the analytical techniques prescribed in 40 CFR Part 136. If 40 CFR Part 136 does not contain analytical techniques for the pollutant in question, or if the Approval Authority determines that Part 136 analytical techniques are inappropriate, the analysis shall be performed using validated analytical methods or any other applicable analytical procedures approved by the Approval Authority, including procedures suggested by the POTW.

(4) *Calculation of Consistent Removal.* (i) The consistent removal, denoted by r, for a specific pollutant shall be the difference between the average concentrations of the pollutant in the influent of the POTW, denoted by I, and the average concentrations of the pollutant in the effluent of the POTW, denoted by E, divided by the average concentrations of the pollutant in the influent, denoted by I, as follows:

$$r=\frac{I-E}{I}$$

The average concentrations of the pollutant in the influent and effluent shall be calculated by taking the arithmetic average of all influent and effluent data, respectively. In calculating consistent removal under the subparagraph, all sample data must be used.

(ii) If a pollutant is only measurable in some of the influent and effluent samples (including the situation where it is not measurable in any effluent samples) and the POTW elects to calculate consistent removal in accordance with paragraph (b)(4)(i), influent and effluent observations below the limit of detectability should be assigned a value equal to the limit of detectability. In calculating consistent removal under paragraph (b)(4)(i), all sample data, including those set at the limit of detectability, must be used.

(iii) If a pollutant is only measurable in some influent and effluent samples (including the situation where it is not measurable in any effluent samples) and the POTW elects not to calculate consistent removal in accordance with paragraph (b)(4)(i), or if a pollutant is not measurable in any of the influent samples (in which case the sample data may not be used to calculate consistent removal in accordance with paragraph (b)(4)(i)), the POTW may (A) use historical data as provided in paragraph (b)(1) of this section to calculate consistent removal, or (B) upon the concurrence of the Approval Authority, the POTW may use data from treatability studies, demonstrated removal at similar treatment facilities or provide some other alternative means to demonstrate its consistent removal.

(iv) For purposes of this paragraph, "measurable" refers to the ability of the analytical method to quantify as well as identify the presence of the pollutant in question. "Limit of detectability" refers to the lowest limit at which the analytical method can quantify the pollutant in question.

(c) *Provisional credits.* For pollutants which are not being discharged currently (i.e., new or modified facilities, or production changes) the POTW may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal shall be based provisionally on data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of influent are similar. Within 18 months after the commencement of discharge of pollutants in question, consistent removal must be demonstrated pursuant to the requirements of paragraph (b). If, within 18 months after the commencement of the discharge of the pollutant in question, the POTW cannot demonstrate consistent removal pursuant to the requirements of paragraph (b) of this section, the authority to grant provisional removal credits shall be terminated by the Approval Authority and all Industrial Users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority.

(d) *Exception to POTW Pretreatment Program Requirement.* A POTW required to develop a local pretreatment program by § 403.8 may conditionally give removal credits pending approval of such a program in accordance with the following terms and conditions:

(1) All Industrial Users who are currently subject to a categorical Pretreatment Standard and who wish conditionally to receive a removal credit must submit to the POTW the information required in § 403.12(b)(1)–(7) (except new or modified industrial users must only submit the information required by § 403.12(b)(1)–(6)), pertaining to the categorical Pretreatment Standard as modified by the removal credit. The Industrial Users shall indicate what aditional technology, if any, will be needed to comply with the categorical Pretreatment Standard(s) as modified by the removal credit;

(2) The POTW must have submitted to the Approval Authority an application for pretreatment program approval meeting the requirements of §§ 403.8 and 403.9 in a timely manner, not to exceed the time limitation set forth in a compliance schedule for development of a pretreatment program included in the POTW's NPDES permit, but in not case later than July 1, 1983, where no permit deadline exists;

(3) The POTW must:

(i) Compile and submit data demonstrating its consistent removal in accordance with paragraph (b) of this section;

(ii) Comply with the conditions specified in paragraph (a)(3) of this section; and

(iii) Submit a complete application for removal credit authority in accordance with paragraph (e) of this section;

(4) If a POTW receives authority to grant conditional removal credits and the Approval Authority subsequently makes a final determination, after appropriate notice, that the POTW failed to comply with the conditions in paragraphs (d)(2) and (3) of this section, the authority to grant conditional removal credits shall be terminated by the Approval Authority and all Industrial Users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority.

(5) If a POTW grants conditional removal credits and the POTW or the Approval Authority subsequently makes a final determination, after appropriate notice, that the Industrial User(s) failed to comply with the conditions in paragraph (d)(1) of this section, the conditional credit shall be terminated by the POTW or the Approval Authority for the non-complying Industrial User(s) and the Industrial User(s) to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority. The conditional credit shall not be terminated where a violation of the provisions of this paragraph results from causes entirely outside of the control of the Industrial User(s) or the Industrial User(s) had demonstrated substantial compliance.

(6) The Approval Authority may elect not to review an application for conditional removal credit authority upon receipt of such application, in which case the conditionally revised discharge limits will remain in effect until reviewed by the Approval Authority. This review may occur at any time in accordance with the procedures of § 403.11, but in no event later than the time of any pretreatment program approval or any NPDES permit reissuance thereunder.

(e) *POTW application for authorization to give removal credits and Approval Authority review*—(1) *Who must apply.* Any POTW that wants to give a removal credit must apply for authorization from the Approval Authority.

(2) *To whom application made.* An application for authorization to give removal credits (or modify existing ones) shall be submitted by the POTW to the Approval Authority.

(3) *When to apply.* A POTW may apply for authorization to give or modify removal credits at any time.

(4) *Contents of the Application.* An application for authorization to give removal credits must be supported by the following information:

(i) *List of pollutants.* A list of pollutants for which removal credits are proposed.

(ii) *Consistent Removal Data.* The data required pursuant to paragraph (b).

(iii) *Calculation of revised discharge limits.* Proposed revised discharge limits for each affected subcategory of Industrial Users calculated in accordance with paragraph (a)(4) of this section.

(iv) *Local Pretreatment Program Certification.* A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement found at paragraph (d) of this section.

(v) *Sludge Management Certification.* A specific description of the POTW's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements identified in paragraph (a)(3)(iv) of this section.

(vi) *NPDES Permit Limit Certification.* A certification that the granting of removal credits will not cause a violation of the POTW's NPDES permit limits and conditions as required in paragraph (a)(3)(v) of this section.

(5) *Approval Authority Review.* The Approval Authority shall review the POTW's application for authorization to give or modify removal credits in accordance with the procedures of § 403.11 and shall, in no event, have more that 180 days from public notice of an application to complete review.

(6) *EPA review of State removal credit approvals.* Where the NPDES State has an approved pretreatment program, the Regional Administrator may agree in the Memorandum of Agreement under 40 CFR 123.24(d) to waive the right to review and object to submissions for authority to grant removal credits. Such an agreement shall not restrict the Regional Administrator's right to comment upon or object to permits issued to POTW's except to the extent 40 CFR 123.24(d) allows such restriction.

(7) Nothing in these regulations precludes an Industrial User or other interested party from assisting the POTW in preparing and presenting the information necessary to apply for authorization.

(f) *Continuation and withdrawal of authorization*—(1) *Effect of* *authorization.* (i) Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical Pretreatment Standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in (a)(3)(iv) of this section or its NPDES permit limits and conditions as required by (a)(3)(v). If a POTW elects at a later time to extend removal credits to a certain categorical Pretreatment Standard, industrial subcategory or one or more Industrial Users that initially were not granted removal credits, it must notify the Approval Authority.

(2) *Inclusion in POTW permit.* Once authority is granted, the removal credits shall be included in the POTW's NPDES Permit as soon as possible and shall become an enforceable requirement of the POTW's NPDES permit. The removal credits will remain in effect for the term of the POTW's NPDES permit, provided the POTW maintains compliance with the conditions specified in subparagraph (4) of this paragraph.

(3) *Compliance monitoring.* Following authorization to give removal credits, a POTW shall continue to monitor and report on (at such intervals as may be specified by the Approval Authority, but in no case less than once per year) the POTW's removal capabilities. A minimum of one representative sample per month during the reporting period is required, and all sampling data must be included in the POTW's compliance report.

(4) *Modification or withdrawal of removal credits.* (i) Compliance with the conditions in paragraph (a)(3)(iii)–(v) of this section may be examined by the Approval Authority whenever it elects and must, at the very least, be examined whenever the POTW's NPDES permit is reissued. If the Approval Authority determines, on the basis of compliance monitoring reports or other information available to it, that the conditions specified in paragraphs (a)(3)(iii)–(v) of this section are not being met, the Approval Authority shall withdraw the POTW's authority to grant removal credits or modify those credits in accordance with the procedures specified in subparagraph (iii) below.

(ii) If, during the term of the POTW's NPDES permit, the Approval Authority determines that the POTW's consistent removal rate is consistently and substantially lower than the removal credit specified in the POTW's NPDES permit, the Approval Authority shall either withdraw the POTW's authority to grant removal credits or modify those credits in accordance with the procedures specified in subparagraph (iii) below.

(iii) If the Approval Authority tentatively determines, under subparagraphs (i) or (ii) above, that the withdrawal of a POTW's authority to grant removal credits or modification of those credits is warranted, the Approval Authority shall, in accordance with the procedures specified in § 403.11(b) (1) and (2) of this section, issue a public notice, provide a public comment period of at least 30 days and provide an opportunity for interested persons to request a public hearing. The mailing list for the public notice shall include, at a minimum, the POTW and Industrial Users to whom revised discharge limits have been applied. If the Approval Authority finally determines to withdraw the POTW's authority to grant removal credits or to modify those removal credits the POTW is authorized to grant, it shall notify the POTW, all Industrial Users to whom revised limits have been applied and each person who has requested individual notice of its decision and the basis for that decision. Notice shall also be published in the same newspaper as the original notice of the tentative determination was published. Following such notice and modification or withdrawal, all Industrial Users to whom revised discharge limits have been applied shall be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical Pretreatment Standard(s), as appropriate, and shall achieve compliance with such limits within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority.

(g) *Removal credits in State-run pretreatment programs under § 403.10(e).* Where an NPDES State with an approved pretreatment program elects to implement a local pretreatment program in lieu or requiring the POTW to develop such a program (as provided in § 403.10(e)), the POTW will not be required to develop a pretreatment program as a precondition to obtaining authorization to give removal credits. The POTW will, however, be required to comply with the other conditions of paragraph (a)(3) of this section.

3. 40 CFR 403.6(a)(2)(ii) is revised to read as follows:

§ 403.6 National Pretreatment Standards: Categorical Standards.

* * * * *

(a) * * *

(2) * * *

(ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Each such statement shall contain an oath stating that the facts contained therein are true on the basis of the applicant's personal knowledge or to the best of his information and belief.

* * * * *

4. In 40 CFR 403.8, paragraph (a) is revised and paragraph (e)(6) is added to read as follows:

§ 403.8 POTW pretreatment programs: Development by POTW.

(a) POTWs required to develop a pretreatment program. Any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program unless the NPDES State exercises its option to assume local responsibilities as provided for in § 403.10(e). The Regional Administrator or Director may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if he or she finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the POTW or Pass Through.

* * * * *

(e) * * *

(6) incorporate the removal credits (established under § 403.7) in the POTW permit.

* * * * *

5. In 40 CFR 403.11, the introductory text, paragraph (a), and the introductory text of paragraph (b) are all revised. Paragraph (b)(3) is removed.

§ 403.11 Approval procedures for POTW pretreatment programs and POTW granting of removal credits.

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization:

(a) *Deadline for review of submission.* The Approval Authority shall have 90 days from the date of public notice of any Submission complying with the requirements of § 403.9(b) and, where removal credit authorization is sought with §§ 403.7(d) and 403.9(d), to review the Submission. The Approval Authority shall review the Submission to determine compliance with the requirements of § 403.8 (b) and (f), and, where removal credit authorization is sought, with § 403.7. The Approval Authority may have up to an additional 90 days to complete the evaluation of the Submission if the public comment period provided for in paragraph (b)(1)(ii) of this section is extended beyond 30 days or if a public hearing is held as provided for in paragraph (b)(2) of this section. In no event, however, shall the time for evaluation of the Submission exceed a total of 180 days from the date of public notice of a Submission meeting the requirements of § 403.9(b) and, in the case of a removal credit application, §§ 403.7(d) and 403.9(b).

(b) *Public notice and opportunity for hearing.* Upon receipt of a Submission the Approval Authority shall commence its review. Within 5 days after making a determination that a Submission meets the requirements of § 403.9(b), and, where removal credit authorization is sought, §§ 403.7(d) and 403.9(d), the Approval Authority shall:

* * * * *

§ 403.12 [Amended]

6. 40 CFR 403.12 is amended by removing paragraphs (i) and (j) and redesignating the remaining paragraphs (k)–(n) as (i)–(l) accordingly.

7. A new Appendix E is added to 40 CFR Part 403 and reads as follows:

Appendix E—Sampling Procedures

I. Composite Method

A. It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

B. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample is taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

II. Grab Method

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

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