

EO-I-C-8

810.1D
EPA Toxic
SUBCOM

40,100

Federal Cases

141 7-15-76

PLAINTIFF'S EXHIBIT

SH-909

Federal Water Pollution Control Act § 307(a)

Toxic Pollutants—List of Toxic Pollutants—Selection Process—Settlement Agreement.—The Administrator of the EPA must, as stipulated in a settlement agreement, regulate effluents containing any of 65 toxic pollutants listed in the agreement through the use of effluent limitations and guidelines and new source performance standards. Regulations applicable to these substances must be issued unless equally or more stringent protection is provided by other regulatory measures, the pollutant is contained in intake waters, the pollutant is not present in discharges or the pollutant is not a threat to treatment works or receiving waters. **Back reference: § 912.**

Federal Water Pollution Control Act §§ 301, 304, 306 and 307

Toxic Pollutants—Effluent Limitations and Guidelines—Pretreatment Standards—Settlement Agreement.—Effluent limitations and guidelines and pretreatment standards for certain toxic pollutants must be issued by the Administrator of the EPA under the terms of a settlement agreement. These regulations must be applicable to twenty-one industrial categories listed in an appendix to the agreement and identified by their respective Standard Industrial Classification Code. **Back references: § 912; 975; 1000.**

(Text of Court's Opinion)

(4) Jurisdiction is retained to effectuate compliance with its terms and conditions.

FINAL ORDER AND DECREE

(Settlement Agreement)

Whereas, the plaintiffs and the federal defendants to the above-captioned cases have agreed to the attached Settlement Agreement which they consider a fair and adequate resolution of the issues involved in each of the above-captioned cases; and

Whereas, the Administrator of the Environmental Protection Agency (hereinafter the "Agency"), defendant in the above-captioned law suits, is empowered under the Federal Water Pollution Control Act, as amended, Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. §§ 1251 *et seq.*, (hereinafter "the Act"), to develop and promulgate regulations establishing effluent limitations and guidelines and new source performance standards based upon considerations of technology and other factors enumerated in the Act, and specifically in Sections 301, 304(b), and 306, for the purpose of controlling the discharge of pollutants from point sources into the navigable waters of the United States; and

Whereas, this court finds and determines that the attached Settlement Agreement represents a just, fair, and equitable resolution of the issues raised in the above-captioned cases; and

Whereas, the attached Settlement Agreement is made a part of this Decree and incorporated herein by reference; and

Whereas, defendant has promulgated a substantial number of regulations pursuant to the aforesaid authority applicable to specified industrial categories and sub-categories of point source discharges, and additional such regulations are expected to be promulgated in the future; and

Whereas, the court takes cognizance that the intervening defendants do not waive any right to pursue in litigation any position inconsistent with this Decree or to challenge on any grounds regulations promulgated pursuant to this Decree; and

Whereas, the court by this Decree expresses no opinion as to whether the actions to be taken by the federal defendants pursuant to this Decree will or will not conform to the statutes and laws of the United States;

Whereas, all such effluent limitations which are designed to require application of "the best available technology economically achievable" under Section 301(b)(2) are required to be reviewed by defendant "at least every five years and, if appropriate, revised" pursuant to Section 301(d) of the Act; and

Now, Therefore, it is *Ordered, Adjudged and Decreed* that:

Whereas, pursuant to Section 307(a) of the Act, defendant is required to publish a list of toxic pollutants and thereafter to

(1) The four above-captioned cases shall be consolidated;

(2) The attached Settlement Agreement is approved;

(3) Compliance with its terms and provisions is directed; and

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propose and promulgate effluent standards for such toxic pollutants which shall take into account "the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms," and which shall provide "an ample margin of safety"; and

Whereas, pursuant to Section 307(b) of the Act, defendant is required to establish "pretreatment standards for introduction of pollutants into treatment works (as defined in Section 212 of the Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works"; and

Whereas, on September 7, 1973, defendant promulgated a list of nine toxic pollutants (namely aldrin/dieldrin, benzidine, cadmium, cyanide, DDT (DDE, DDD), endrin, polychlorinated biphenyls, mercury and toxaphene) and on December 27, 1973, proposed standards for said pollutants; and

Whereas, hearings were held on said proposed standards during April and May, 1974, but final toxic pollutant effluent standards have never been promulgated due to the Agency's belief that the record developed at the hearings would not support final standards; and

Whereas, plaintiffs in Civil Action No. 2153-73 seek an order of this Court directing defendant to add certain substances to the list of toxic pollutants published by the Agency on September 7, 1973 under Section 307(a) and to amend his selection criteria for such substances, which action was dismissed by this Court on May 23, 1974, *Natural Resources Defense Council v. Train*, [1 PCG ¶15,071] 6 ERC 1702 (D.D.C. 1974), and which case was remanded by the United States Court of Appeals for the District of Columbia Circuit to this Court on September 15, 1975, 519 F.2d 287 (D.C. Cir. 1975) [1 PCG ¶15,146] with instructions that the Court consider the entire administrative record and reconsider its decision; and

Whereas, plaintiffs in Civil Actions No. 75-0172 and 75-1698 in their respective complaints seek orders declaring that defendant has a statutory duty to promulgate final toxic pollutant effluent standards for the nine substances on the list promulgated by him on September 7, 1973,

and directing defendant to promulgate such standards; and defendant in Civil Action No. 75-0172 has filed an answer therein admitting certain allegations and denying others; and

Whereas, plaintiff in Civil Action No. 75-1267 seeks an order declaring that defendants have a duty to establish pretreatment standards under Section 307(b) of the Act and directing defendants to promulgate the pretreatment standards required by the Act and as described in said complaint; and

Whereas, the parties to this Agreement believe the agreement as hereinafter set forth constitutes an appropriate resolution of the issues raised by the above-captioned complaints;

Now Therefore, it is hereby Stipulated and Agreed as follows:

A. The Standards of Control

1. In accordance with the Schedule set out in paragraph 7 below, and as further specified in paragraphs 4, 5, and 6 below, the Administrator shall develop and promulgate regulations which shall establish and require achievement at the earliest possible time, but in no case later than June 30, 1983, of effluent limitations and guidelines for classes and categories of point sources which shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharges of all pollutants, including toxic pollutants. These regulations shall establish limitations and guidelines which meet or incorporate the following criteria:

(a) such regulations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to this Agreement and to Sections 308 and 315 of the Act), that such elimination is technologically and economically achievable for a category or class of point sources;

(b) in establishing such effluent limitations and guidelines, the regulations shall identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other

alternatives for each class or category of point sources; and

(c) in establishing such effluent limitations and guidelines, the Administrator shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate.

2. In accordance with the Schedule set out in paragraph 7 below, and as further specified in paragraphs 4, 5 and 6 below, the Administrator shall develop and promulgate regulations which shall establish national standards of performance for classes and categories of new point sources which standards shall reflect for each class or category the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. Such standards shall be developed and applied in the manner specified in Section 306 of the Act.

3. In accordance with the Schedules set out in paragraphs 7 : 4 13 below, and as further specified in paragraphs 4, 5, 6 and 13 below, the Administrator shall develop and promulgate regulations which shall establish pretreatment standards for introduction of pollutants into treatment works (as defined in Section 212 of the Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which interfere with, pass through, or are otherwise incompatible with such works. Such standards shall be developed and applied in the manner specified in Section 307(b) and (c).

B. Specified Pollutants.

4.(a) Except as provided in paragraph 8 below, for each class or category of point sources for which effluent limitations and guidelines and new source standards of performance are developed pursuant to this Agreement, such regulations shall establish effluent limitations and guidelines and new source standards of performance expressly applicable to each of the pollutants listed in Appendix A to this Agreement. Except as provided in paragraph 8 below, for each class

or category of point sources* for which pretreatment standards are developed pursuant to this Agreement, such regulations shall establish pretreatment standards expressly applicable (i) to each of those pollutants listed in Appendix A to this Agreement which pollutants are introduced into treatment works (as defined in Section 212 of the Act) which are publicly owned from point sources within such class or category and which pollutants are not susceptible to treatment by such treatment works or which interfere with, pass through, or are otherwise incompatible with such works and (ii) to such other pollutants which are introduced into such treatment works and which are not susceptible to treatment by such treatment works or which interfere with, pass through, or are otherwise incompatible with such works.

(b) In addition to those pollutants for which regulations must be established pursuant to Subsection (a) of this paragraph 4, the Administrator shall also identify the categories or category of point sources which are discharging into navigable waters or introducing into treatment works (as defined in Section 212 of the Act) which are publicly owned the pollutants listed in Appendix C to this Agreement.

C. The Point Source Categories

5. The regulations developed pursuant to this Agreement shall establish effluent limitations and guidelines, new source standards of performance, and, except as provided in paragraph 8 below, pretreatment standards, for each of the classes or categories (herein referred to as "categories" or "category") of point sources listed in Appendix B to this Agreement. The scope of point source coverage of each listed category is determined by the Standard Industrial Classification (SIC) Code number or numbers which are set forth in Appendix B for each listed industrial category.

D. Point Source Coverage

6.(a) The effluent limitations and guidelines, and standards of performance and, except as provided in subparagraph (b) below, pretreatment standards promulgated for each of the point source categories listed in Appendix B shall cover at least 95 percent of the point sources which are within that category.

(b) The pretreatment standards which shall be developed and promulgated pursuant to the schedule set out in paragraph 13 of this Agreement shall, for each of the point source categories listed in

subparagraph 13(b), cover (i) at least 95 percent of the point sources, as defined in subparagraph (a) above, which are within that category, or (ii) at least 95 percent of the amount of those pollutants introduced into treatment works (as defined in Section 212 of the Act) which are publicly owned by the point sources which comprise each such point source category and which pollutants are not susceptible to treatment by such treatment works or which interfere with, pass through, or are otherwise incompatible with such treatment works.

E. Regulation Development Schedule

7.(a) In developing the data necessary to issue the regulations described above for each of the point source categories listed in Appendix B, the Administrator shall engage the services of such contractors as he deems appropriate to gather and assemble information relating to technology, ecological and public health effects, and economic impact, according to the following time table. Contracts comprehensively covering all matters to be studied shall be executed for three categories not later than June 30, 1976; for another two categories not later than September 30, 1976; for another five categories not later than December 31, 1976; for another six categories not later than June 30, 1977; and for the remaining five categories not later than October 31, 1977. For purposes of compliance with the foregoing the Administrator shall be deemed in compliance with the June 30, 1976, deadline if with respect to the contracts required to be executed by said date he has issued Requests For Proposal which result in the execution of contracts within sixty days following such date. Contractors shall be required to the maximum feasible extent to complete their performance within 12 months or less from the date of execution of such contract, provided, however, that contractors for contracts executed during the period ending October 31, 1977, shall be required to complete their performance on or before October 31, 1978. Notwithstanding the provisions of the foregoing sentence, the parties to this Agreement recognize that contracts for economics studies normally require for their performance a period of time extending approximately three months beyond completion of technology studies, and the Administrator shall not be deemed to be in default of the performance of his obligations under this paragraph if such additional three month period beyond the 12 month (or other) period allowed for technology and ecological and public health studies is

allowed for completion of a related economics study.

(b) The regulations required to be developed under this Agreement for each category shall be proposed by publication in the *Federal Register* not later than 6 months following the completion of performance of the contract or contracts issued for each such category, and shall be finally promulgated for such category not later than 6 months following proposal. Proposed regulations for five categories shall be published in the *Federal Register* not later than September 30, 1978; proposed regulations for another five categories shall be published in the *Federal Register* not later than December 31, 1978; proposed regulations for another six categories shall be published in the *Federal Register* not later than March 31, 1979; and proposed regulations for the remaining five categories shall be published in the *Federal Register* not later than June 30, 1979. Final regulations for five categories shall be promulgated not later than March 31, 1979; final regulations for another five categories shall be promulgated not later than June 30, 1979; final regulations for another six categories shall be promulgated not later than September 30, 1979; and final regulations for the remaining five categories shall be promulgated not later than December 31, 1979.

(c) In determining the order or priority in which such category-by-category contracts are issued, the Administrator shall follow the prioritization set forth in Appendix B, except that where information comes to the attention of the Administrator indicating that the goals and purposes of the Act can be better served by changing the prioritization of any one or more categories, he may do so and shall promptly advise the parties to the captioned cases in writing of his decision to do so; the parties to this Agreement intend, however, that such changes shall be few in number. In no event, however, shall a change in priority result in promulgation of fewer regulations than are required on a cumulative basis by subparagraphs (a) and (b) above.

(d) Compliance with the dates for publication of proposed regulations and for promulgation of final regulations shall be deemed satisfied if the Administrator signs the regulations for each listed category of point sources on or before the date specified in the Schedule. The Administrator shall use his best efforts to obtain the earliest possible *Federal Register* publication following his signature of each proposed and

final regulation. The regulations shall be effective not later than 30 days following their publication in the *Federal Register*.

F. Exclusion Of Point Source Categories And Exclusion Of Substances From Specific Point Source Categories Or Subcategories

8.(a) Upon completion of the technology, economic, and public health and ecological data gathering, including contracts, for a point source category listed in Appendix B and prior to publication of proposed regulations for such point source category, the Administrator may exclude from regulation under the effluent limitations and guidelines, standards of performance, and/or pretreatment standards contemplated by this Agreement for such category a specific pollutant for any of the following reasons, based upon information available to him:

(i) Equally or more stringent protection is already provided by an effluent, new source performance, or pretreatment standard or by an effluent limitation and guideline promulgated pursuant to Section(s) 301, 304, 306, 307(a), 307(b) or 307(c) of the Act.

(ii) Except for pretreatment standards, the specific pollutant is present in the effluent discharge solely as a result of its presence in intake waters taken from the same body of water into which it is discharged and, for pretreatment standards, the specific pollutant is present in the effluent which is introduced into treatment works (as defined in Section 212 of the Act) which are publicly owned solely as a result of its presence in the point source's intake waters, *provided however*, that such point source may be subject to an appropriate effluent limitation for such pollutant pursuant to the requirements of Section 307; or

(iii) the specific pollutant is either not present in the discharge or in the effluent which is introduced into treatment works (as defined in Section 212 of the Act) which are publicly owned or is present only in trace amounts and is neither causing, nor likely to cause, toxic effects with respect to any identifiable organisms affected or likely to be affected by such discharge or effluent.

Such exclusions may also be made following proposal or promulgation of standards whenever information comes to the attention of the Administrator indicating that exclusion for any of the foregoing reasons is warranted.

(b) Upon completion of the technology, economic, and public health and ecological

data gathering, including contracts, for a point source category listed in Appendix B and prior to publication of proposed regulations for such point source category, the Administrator may exclude from regulation under the pretreatment standards contemplated by this Agreement all point sources within a point source category or point source subcategory:

(i) if 95 percent or more of all point sources in the point source category or subcategory introduce into treatment works (as defined in Section 212 of the Act) which are publicly owned only pollutants which are susceptible to treatment by such treatment works and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works, or

(ii) if

(A) the amount of pollutants introduced by such point sources into treatment works (as defined in Section 212 of the Act) which are publicly owned which pollutants are not susceptible to treatment by such treatment works or interfere with, pass through, or are otherwise incompatible with such treatment works and

(B) the toxicity of such pollutants taken together is so insignificant as not to justify developing a pretreatment regulation in accordance with the schedules set out in paragraphs 7 and 13 of this Agreement.

(c) Whenever the Administrator decides to exclude a point source category or a specific pollutant from coverage pursuant to this section of this Agreement, he shall promptly serve upon the parties to the captioned cases, or their designated representative or attorney, a statement under oath designating the point source category or subcategory or specific pollutant to be excluded together with the reasons therefore. Such statement shall detail the reasons for the Administrator's exclusion, and shall set forth the data and information forming the basis for the exclusion. Proposed regulations for each point source category or subcategory shall identify each such exclusion, shall summarize the Administrator's statement, and shall invite public comments on such exclusion.

G. Progress Reports

9. The Administrator shall provide the parties to the captioned cases quarterly oral briefings which shall discuss in reasonable detail the progress of the Agency and its contractors in the development and promulgation of the regulations required by

this Agreement, and as appropriate shall provide the parties to the captioned cases with pertinent documents and written materials supporting such progress reports.

H. Application Of Regulations To Point Sources

10. The regulations developed pursuant to this Agreement shall be applied and shall be required to be applied by the Administrator to the full extent of his authority as expeditiously as possible to all point sources covered by such regulations. Such application:

- (a) shall where applicable be accomplished by issuance or modification of an NPDES permit; with respect to any NPDES permit issued pursuant to Section 402(a) and (b) of the Act for any point source within a point source category listed in Appendix B which is issued or renewed on or after January 1, 1978, but prior to promulgation of the applicable regulations required hereunder, the Administrator shall require a provision in the permit that such permit shall be revised or modified so as to require compliance with any more stringent effluent limitation, guideline, or standard which may be established for such point source category pursuant to this Agreement;
- (b) shall require achievement of any effluent limitation or guideline or pretreatment standard at the earliest possible time but in no case later than June 30, 1983; and
- (c) shall apply new source performance standards and pretreatment standards in the manner specified in Sections 306 and 307 of the Act.

I. Additional Protection Of Public Health

11. Not later than June 30, 1978, after opportunity for public comment, the Administrator shall publish under Section 304(a) of the Act water quality criteria accurately reflecting the latest scientific knowledge on the kind and extent of all identifiable effects on aquatic organisms and human health of each of the pollutants listed in Appendix A. Such water quality criteria shall state, *inter alia*, for each of the pollutants listed in Appendix A, the recommended maximum permissible concentrations (including where appropriate zero) consistent with the protection of aquatic organisms, human health, and recreational activities.

12. Whenever in the judgment of the Administrator the discharge of any pollutant

listed in Appendix A by a point source or group of point sources would, with application of effluent limitations, guidelines and standards otherwise mandated under this Agreement, interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, the Administrator shall forthwith establish more stringent effluent limitations and guidelines (including alternative effluent control strategies) for such point source or sources pursuant to his authority under Section 302, or at his discretion under Sections 301/303 or 307(a). * * Not later than June 30, 1978, the Administrator shall establish a specific and substantial program with the objective and capability of determining whether more stringent effluent limitations, guidelines, and standards are necessary under this Paragraph 12.

J. Promulgation Of Pretreatment Regulations For Specific Point Source Categories

13.(a) In accordance with the Schedule set out in subparagraph (b) below, the Administrator shall develop and promulgate regulations which shall establish pretreatment standards for introduction of pollutants into treatment works (as defined in Section 212 of the Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which interfere with, pass through or are otherwise incompatible with such works. Such standards shall be developed and applied in the manner specified in Section 307(b) and (c) of the Act. Limitations regarding point source coverage shall be consistent with the requirements of paragraph 6 of this Agreement. The parties to this Agreement agree that the pretreatment standards promulgated pursuant to the schedule set out in this paragraph shall be generally analogous to best practicable control technology currently available as set out in Sections 301(b)(1)(A) and 304(b)(1) of the Act as distinguished from the pretreatment standards promulgated pursuant to paragraph 7 above to which both technological standards set out in Sections 301(b)(1)(A) and 301(b)(2)(A) and 304(b) shall apply.

(b) Pretreatment regulations as provided in subparagraph (a) above shall be

promulgated according to the following schedule:

<i>Point Source Category</i> [* * *]	<i>Promulgation Date</i>
Timber Products Processing	Oct. 15, 1976
Nonferrous Metals Manufacturing	Oct. 15, 1976
Leather Tanning & Finishing	Feb. 15, 1977
Petroleum Refining	Feb. 15, 1977
Steam Electric Power Plants	Feb. 15, 1977
Electroplating	May 15, 1977
Textile Mills	May 15, 1977
Inorganic Chemicals Manufacturing	May 15, 1977

Compliance with the dates for promulgation of final regulations as established by this paragraph shall be deemed satisfied if the Administrator signs the regulations for each listed category of point sources on or before the date specified above. The Administrator shall use his best efforts to obtain the earliest possible *Federal Register* publication following his signature of each final regulation. The regulations shall be effective not later than 30 days following their publication in the *Federal Register*.

K. Standards Under Section 307(a)

14. The Administrator shall propose standards pursuant to Section 307(a) of the Act for aldrin/dieldrin, DDT (DDD, DDE), endrin, and toxaphene on or before May 31, 1976; and for benzidine on or before June 22, 1976; and for polychlorinated biphenyls (PCB's) on or before July 14, 1976. Not later than six months following proposal of each set of such standards, the Administrator shall promulgate final standards for each of such pollutants.

L. General Provisions

15. Section and Paragraph Headings

The headings and titles of the various sections and paragraphs of this Agreement are intended for purposes of identification and convenience only and are not to be construed as imparting or affecting any substantive rights or obligations under this Agreement.

16. Complete Agreement

This Agreement, together with the Appendices attached hereto and identified herein, constitute the entire agreement between the parties to this Agreement concerning the rights and obligations herein discussed, and shall become effective upon its approval and incorporation into an

appropriate order by the United States District Court for the District of Columbia.

17. Notice to Parties, Designation

Any notice or modification required to be served upon any of the parties to this Agreement under any of the terms of this Agreement shall be given as follows:

If to defendants Russell E. Train, James I. Agee, or Environmental Protection Agency:

General Counsel
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460
Thomas A. Pursley, III, Esq.
Land & Natural Resources Division
Department of Justice
9th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530

If to plaintiff Natural Resources Defense Council, Inc.:

Director, Project On Clean Water
Natural Resources Defense Council, Inc.
917 15th Street, N.W.
Washington, D.C. 20005

If to plaintiff Environmental Defense Fund, Inc.:

Dr. Robert Harris
Environmental Defense Fund, Inc.
1525 18th Street, N.W.
Washington, D.C. 20036
Ronald J. Wilson, Esq.
810 18th Street, N.W.
Washington, D.C. 20006

If to plaintiff Businessmen for the Public Interest, Inc.:

David D. Comey
Director, Environmental Research
Business and Professional People for the Public Interest
129 North Dearborn Street
Chicago, Illinois 60606

If to plaintiff National Audubon Society, Inc.:

Louis R. Proyect, Esq.
Gifford, Woody, Carter & Hays
One Wall Street

New York, New York 10005

If to plaintiffs Citizens for a Better Environment or Dennis L. Adamczyk:

Sherwood L. Levin, Esq.
188 W. Randolph Street
Chicago, Illinois 60601

If to intervening defendants National Coal Association and member companies:

Robert F. Stauffer
General Counsel
National Coal Association
1130 17th Street, N.W.
Washington, D.C. 20036

Any party to this Agreement may change his designee for notice by sending written notice of such change to each of the other such parties.

18. By executing this Agreement, any intervening defendant signatory does not waive any right to pursue in litigation any position inconsistent with this Decree or to challenge on any grounds regulations promulgated pursuant to this Decree;

In Witness Whereof, the parties to this Agreement have executed this Settlement Agreement this 7th day of June, 1976.

— Footnotes —

* As used in this Agreement, the term "point sources" applies both to discharges of pollutants into navigable waters and to the introduction of pollutants into treatment works (as defined in Section 212 of the Act) which are publicly owned.

** This reference to the various Sections of the Act reflects the agreement of the parties hereto that under this Agreement the Administrator may act under Sections 301/303 (water quality standards), Section 307(a), or Section 302 in establishing such more stringent limitations. It does not reflect any agreement among the parties to this Agreement as to whether the Administrator must act under more than one of these authorities.

*** SIC Code Classifications for each of the above point source categories are set forth in Appendix B attached hereto.

Appendix A

Acenaphthene
Acrolein
Acrylonitrile
Aldrin/Dieldrin
Antimony and compounds*
Arsenic and compounds
Asbestos

Pollution Control Guide

Benzene
Benzidine
Beryllium and compounds
Cadmium and compounds
Carbon tetrachloride
Chlordane (technical mixture and metabolites)
Chlorinated benzenes (other than dichlorobenzenes)
Chlorinated ethanes (including 1,2-dichloroethane, 1,1,1-trichloroethane, and hexachloroethane)
Chloroalkyl ethers (chloromethyl, chloroethyl, and mixed ethers)
Chlorinated naphthalene
Chlorinated phenols (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols)
Chloroform
2-chlorophenol
Chromium and compounds
Copper and compounds
Cyanides
DDT and metabolites
Dichlorobenzenes (1,2-, 1,3-, and 1,4-dichlorobenzenes)
Dichlorobenzidine
Dichloroethylenes (1,1- and 1,2-dichloroethylene)
2,4-dichlorophenol
Dichloropropane and dichloropropene
2,4-dimethylphenol
Dinitrotoluene
Diphenylhydrazine
Endosulfan and metabolites
Endrin and metabolites
Ethylbenzene
Fluoranthene
Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis(dichloroisopropyl) ether, bis-(chloroethoxy) methane and polychlorinated diphenyl ethers)
Halomethanes (other than those listed elsewhere; includes methylene chloride, methylchloride, methyl bromide, bromoform, dichlorobromomethane, trichlorofluoromethane, dichlorodifluoromethane)
Heptachlor and metabolites
Hexachlorobutadiene
Hexachlorocyclohexane (all isomers)
Hexachlorocyclopentadiene
Isophorone
Lead and compounds

¶ 40,012

LAM 016615

DPMC-13335

Mercury and compounds
 Naphthalene
 Nickel and compounds
 Nitrobenzene
 Nitrophenols (Including 2,4-dinitrophenol, dinitroresol)
 Nitrosamines
 Pentachlorophenol
 Phenol
 Phthalate esters
 Polychlorinated biphenyls (PCBs)
 Polynuclear aromatic hydrocarbons (including benzantracenes, benzopyrenes, benzofluoranthene, chrysenes, dibenzanthracenes, and indenopyrenes)
 Selenium and compounds
 Silver and compounds
 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
 Tetrachloroethylene
 Thallium and compounds
 Toluene
 Toxaphene
 Trichloroethylene
 Vinyl chloride
 Zinc and compounds

Appendix B

The scope of coverage for the point source categories listed below is as set forth in Paragraphs 5 and 6 of the Agreement

Point Source Categories

1. Timber Products Processing

SIC 2411—Logging Camps and Logging Contractors (Camps Only)
 SIC 2421—Saw Mills and Planing Mills, General
 SIC 2426—Hardwood Dimension and Flooring Mills
 SIC 2429—Special Purpose Sawmills, Not Elsewhere Classified
 SIC 2431—Millwork
 SIC 2434—Wood Kitchen Cabinets
 SIC 2435—Hardwood Veneer and Plywood
 SIC 2436—Softwood Veneer and Plywood
 SIC 2439—Structural Wood Members, Not Elsewhere Classified
 SIC 2491—Wood Preserving
 SIC 2499—Wood Products, Not Elsewhere Classified (Furniture Mills)
 SIC 2661—Building Paper and Building Board Mills (Hardboard Only)

2. *Steam Electric Power Plants*
 SIC 4911—Electric Services (Limited to Steam-Electric Power Plants)

3. *Leather Tanning and Finishing*

SIC 31—Leather and Leather Products

4. *Iron and Steel Manufacturing*

SIC 3312—Blast Furnaces (Including Coke Ovens), Steel Works and Rolling Mills.

SIC 3313—Electrometallurgical Products.

SIC 3315—Steel Wire Drawing and Steel Nails and Spikes.

SIC 3316—Cold Rolled Steel Sheet, Strip and Bars.

SIC 3317—Steel Pipe and Tubes.

5. *Petroleum Refining*

SIC 2911—Petroleum Refining (Including 1) Topping Plant; 2) Topping and Cracking Plants; 3) Topping, Cracking and Petro-chemical Plants; 4) Integrated Plants; and 5) Integrated and Petro-chemical Plants)

6. *Inorganic Chemicals Manufacturing*

SIC 2812—Alkalies and Chlorine

SIC 2813—Industrial Gases

SIC 2816—Inorganic Pigments

SIC 2819—Industrial Inorganic Chemicals, Not Elsewhere Classified

7. *Textile Mills*

SIC 22—Textile Mill Products

SIC 23—Apparel and Other Finished Products Made from Fabrics and Similar Materials

8. *Organic Chemicals Manufacturing*

SIC 2865—Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners)

SIC 2869—Industrial Organic Chemicals, Not Elsewhere Classified

9. *Nonferrous Metals Manufacturing*

SIC 2819—Industrial Inorganic Chemicals, Not Elsewhere Classified (Bauxite Refining Only)

SIC 3331—Primary Smelting and Refining of Copper

SIC 3332—Primary Smelting and Refining of Lead

SIC 3333—Primary Smelting and Refining of Zinc

SIC 3334—Primary Production of Aluminum

SIC 3339—Primary Smelting and Refining of Nonferrous Metals, Not Elsewhere Classified

SIC 3341—Secondary Smelting and Refining of Nonferrous Metals

10. *Paving and Roofing Materials (Tars and Asphalt)*

SIC 2951—Paving Mixtures and Blocks

SIC 2952—Asphalt Felts and Coatings

SIC 3996—Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, Not Elsewhere Classified

11. Paint and Ink Formulation and Printing

SIC 2711—Newspapers: Publishing, Publishing and Printing

SIC 2721—Periodicals: Publishing, Publishing and Printing

SIC 2731—Books: Publishing, Publishing and Printing

SIC 2732—Book Printing

SIC 2741—Miscellaneous Publishing

SIC 2751—Commercial Printing, Letterpress and Screen

SIC 2752—Commercial Printing, Letterpress and Lithographic

SIC 2753—Engraving and Plate Printing

SIC 2754—Commercial Printing, Gravure

SIC 2761—Mainfold Business Forms

SIC 2771—Greeting Card Publishing

SIC 2793—Photoengraving

SIC 2794—Electrotyping and Stereotyping

SIC 2795—Lithographic Platemaking and Related Services

SIC 2851—Paints, Varnishes, Lacquers, Enamels, and Allied Products

SIC 2893—Printing Ink

SIC 3951—Pens, Mechanical Pencils, and Parts and Stamp Pads (Inked Materials Only)

SIC 3952—Lead Pencils, Crayons, and Artists' Materials

SIC 3955—Carbon Paper and Inked Ribbons

12. Soap and Detergent Manufacturing

SIC 2841—Soap and Other Detergents, except Specialty Cleaners

13. Auto and Other Laundries

SIC 7211—Power Laundries, Family and Commercial

SIC 7213—Linen Supply

SIC 7214—Diaper Service

SIC 7215—Coin-operated Laundries and Dry Cleaning

SIC 7216—Dry Cleaning Plants, Except Rug Cleaning

SIC 7217—Carpet and Upholstery Cleaning

SIC 7218—Industrial Laundries

SIC 7219—Laundry and Garment Services, Not Elsewhere Classified

None—Auto Wash Establishments

Pollution Control Guide

14. Plastic and Synthetic Materials Manufacturing

SIC 282—Plastic Materials and Synthetic Resins, Synthetic and Other Manmade Fibers, except Glass

15. Pulp and Paperboard Mills; and Converted Paper Products

SIC 2611—Pulp Mills

SIC 2621—Paper Mills, except Building Paper Mills

SIC 2631—Paperboard Mills

SIC 2641—Paper Coating and Glazing

SIC 2642—Envelopes

SIC 2643—Bags, Except Textile Bags

SIC 2645—Die-Cut Paper and Paperboard and Cardboard

SIC 2646—Pressed and Molded Pulp Goods

SIC 2647—Sanitary Paper Products

SIC 2648—Stationery, Tablets, and Related Products

SIC 2649—Converted Paper and Paperboard Products, Not Elsewhere Classified

SIC 2651—Folding Paperboard Boxes

SIC 2652—Set-up Paperboard Boxes

SIC 2653—Corrugated and Solid Fiber Boxes

SIC 2654—Sanitary Food Containers

SIC 2655—Fiber Cans, Tubes, Drums, and Similar Products

SIC 2661—Building Paper and Building Board Mills

SIC 2782—Blankbooks, Looseleaf Binders and Devices

16. Rubber Processing

SIC 2822—Synthetic Rubber (Vulcanizable Elastomers)

SIC 2891—Rubber Cement

SIC 3011—Tires and Inner Tubes

SIC 3021—Rubber and Plastics Footwear (Rubber Only)

SIC 3031—Reclaimed Rubber

SIC 3041—Rubber and Plastics Hose and Belting (Rubber Only)

SIC 3069—Fabricated Rubber Products, Not Elsewhere Classified

SIC 3293—Gaskets, Packing, and Sealing Devices (Rubber Packing Only)

17. Miscellaneous Chemicals

SIC 2831—Biological Products

SIC 2833—Medicinal Chemicals and Botanical Products

SIC 2834—Pharmaceutical Preparations

SIC 2861—Gum and Wood Chemicals

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SIC 2879—Pesticides and Agricultural Chemicals, Not Elsewhere Classified

SIC 2891—Adhesive and Sealants

SIC 2892—Explosives

SIC 2895—Carbon Black

SIC 2899—Chemicals and Chemical Preparation, Not Elsewhere Classified

SIC 3861—Photographic Equipment and Supplies

18. Machinery and Mechanical Products Manufacturing

SIC 3021—Rubber and Plastics Footwear (Balance)

SIC 3041—Rubber and Plastics Hose and Belting (Balance)

SIC 3079—Miscellaneous Plastics Products

SIC 3293—Gaskets, Packing, and Sealing Devices (Balance)

SIC 3321—Gray Iron Foundries

SIC 3322—Malleable Iron Foundries

SIC 3324—Steel Investment Foundries

SIC 3325—Steel Foundries, Not Elsewhere Classified

SIC 3351—Rolling, Drawing, and Extruding of Copper

SIC 3353—Aluminum Sheet, Plate, and Foil

SIC 3354—Aluminum Extruded Products

SIC 3355—Aluminum Rolling and Drawing, Not Elsewhere Classified

SIC 3356—Rolling, Drawing, and Extruding of Nonferrous Metals, except Copper and Aluminum

SIC 3357—Drawing and Insulating of Nonferrous Wire

SIC 3361—Aluminum Foundries (Castings)

SIC 3362—Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings)

SIC 3369—Nonferrous Foundries (Castings), Not Elsewhere Classified

SIC 3398—Metal Heat Treating

SIC 3399—Primary Metal Products, Not Elsewhere Classified

SIC 3411—Metal Cans

SIC 3412—Metal Shipping Barrels, Drums, Kegs, and Pails

SIC 3421—Cutlery

SIC 3423—Hand and Edge Tools, Except Machine Tools and Hand Saws

SIC 3425—Hand Saws and Saw Blades

SIC 3429—Hardware, Not Elsewhere Classified

SIC 3431—Enameled Iron and Metal Sanitary Ware

SIC 3432—Plumbing Fixture Fittings and Trim (Brass Goods)

SIC 3433—Heating Equipment, Except Electric and Warm Air Furnaces

SIC 3441—Fabricated Structural Metal

SIC 3442—Metal Doors, Sash, Frames, Molding, and Trim

SIC 3443—Fabricated Platework (Boiler Shops)

SIC 3444—Sheet Metal Work

SIC 3446—Architectural and Ornamental Metal Work

SIC 3448—Prefabricated Metal Buildings and Components

SIC 3449—Miscellaneous Metal Work

SIC 3451—Screw Machine Products

SIC 3452—Bolts, Nuts, Screws, Rivets, and Washers

SIC 3462—Iron and Steel Forgings

SIC 3463—Nonferrous Forgings

SIC 3465—Automotive Stampings

SIC 3466—Crowns and Closures

SIC 3469—Metal Stampings, Not Elsewhere Classified

SIC 3482—Small Arms Ammunition

SIC 3483—Ammunition, Except for Small Arms, Not Elsewhere Classified

SIC 3484—Small Arms

SIC 3489—Ordnance and Accessories, Not Elsewhere Classified

SIC 3493—Steel Springs, Except Wire

SIC 3494—Valves and Pipe Fittings, Except Plumbers' Brass Goods

SIC 3495—Wire Springs

SIC 3496—Miscellaneous Fabricated Wire Products

SIC 3497—Metal Foil and Leaf

SIC 3498—Fabricated Pipe and Fabricated Pipe Fittings

SIC 3499—Fabricated Metal Products, Not Elsewhere Classified

SIC 3511—Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Units

SIC 3519—Internal Combustion Engines, Not Elsewhere Classified

SIC 3523—Farm Machinery and Equipment

SIC 3524—Garden Tractors and Lawn and Garden Equipment

SIC 3531—Construction Machinery and Equipment

SIC 3532—Mining Machinery and Equipment, Except Oil Field Machinery and Equipment

SIC 3533—Oil Field Machinery and Equipment

SIC 3534—Elevators and Moving Stairways

SIC 3535—Conveyors and Conveying Equipment

- SIC 3536—Hoists, Industrial Cranes, and Monorail Systems
- SIC 3537—Industrial Trucks, Tractors, Trailers, and Stackers
- SIC 3541—Machine Tools, Metal Cutting Types
- SIC 3542—Machine Tools, Metal Forming Types
- SIC 3544—Special Dies and Tools, Die Sets, Jigs and Fixtures and Industrial Molds
- SIC 3545—Machine Tool Accessories and Measuring Devices
- SIC 354—Power Driven Hand Tools
- SIC 3547—Rolling Mill Machinery and Equipment
- SIC 3549—Metalworking Machinery, Not Elsewhere Classified
- SIC 3551—Food Products Machinery
- SIC 3552—Textile Machinery
- SIC 3553—Woodworking Machinery
- SIC 3554—Paper Industries Machinery
- SIC 3555—Printing Trades Machinery and Equipment
- SIC 3559—Special Industry Machinery, Not Elsewhere Classified
- SIC 3561—Pumps and Pumping Equipment
- SIC 3562—Ball and Roller Bearings
- SIC 3563—Air and Gas Compressors
- SIC 3564—Blowers and Exhaust and Ventilation Fans
- SIC 3565—Industrial Patterns
- SIC 3566—Speed Changers, Industrial High Speed Drives, and Gears
- SIC 3567—Industrial Process Furnaces and Ovens
- SIC 3568—Mechanical Power Transmission Equipment, Not Elsewhere Classified
- SIC 3569—General Industrial Machinery and Equipment, Not Elsewhere Classified
- SIC 3572—Typewriters
- SIC 3573—Electronic Computing Equipment
- SIC 3574—Calculating and Accounting Machines, Except Electronic Computing Equipment
- SIC 3576—Scales and Balances, Except Laboratory
- SIC 3579—Office Machines, Not Elsewhere Classified
- SIC 3581—Automatic Merchandising Machines
- SIC 3582—Commercial Laundry, Dry Cleaning, and Pressing Machines
- SIC 3585—Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment
- SIC 3586—Measuring and Dispensing Pumps
- SIC 3589—Service Industry Machines, Not Elsewhere Classified
- SIC 3592—Carburetors, Piston, Piston Rings, and Valves
- SIC 3599—Machinery, Except Electrical, Not Elsewhere Classified
- SIC 3612—Power, Distribution, and Specialty Transformers
- SIC 3613—Switchgear and Switchboard Apparatus
- SIC 3621—Motors and Generators
- SIC 3622—Industrial Controls
- SIC 3623—Welding Apparatus, Electric
- SIC 3624—Carbon and Graphite Products
- SIC 3629—Electrical Industrial Apparatus, Not Elsewhere Classified
- SIC 3631—Household Cooking Equipment
- SIC 3632—Household Refrigerators and Home and Farm Freezers
- SIC 3633—Household Laundry Equipment
- SIC 3634—Electric Housewares and Fans
- SIC 3635—Household Vacuum Cleaners
- SIC 3639—Household Appliances, Not Elsewhere Classified
- SIC 3641—Electric Lamps
- SIC 3643—Current-Carrying Wiring Devices
- SIC 3644—Noncurrent-Carrying Wiring Devices
- SIC 3645—Residential Electric Lighting Fixtures
- SIC 3646—Commercial, Industrial, and Institutional Electric Lighting Fixtures
- SIC 3647—Vehicular Lighting Equipment
- SIC 3648—Lighting Equipment, Not Elsewhere Classified
- SIC 3651—Radio and Television Receiving Sets, Except Communication Types
- SIC 3652—Phonograph Records and Pre-recorded Magnetic Tape
- SIC 3661—Telephone and Telegraph Apparatus
- SIC 3662—Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus
- SIC 3671—Radio and Television Receiving Type Electron Tubes, Except Cathode Ray
- SIC 3672—Cathode Ray Television Picture Tubes
- SIC 3673—Transmitting, Industrial, and Special Purpose Electron Tubes
- SIC 3674—Semiconductors and Related Devices
- SIC 3675—Electronic Capacitors
- SIC 3676—Resistors, for Electronic Applications
- SIC 3677—Electronic Coils, Transformers and Other Inductors
- SIC 3678—Connectors, for Electronic Applications
- SIC 3679—Electronic Components, Not Elsewhere Classified
- SIC 3691—Storage Batteries

SIC 3692—Primary Batteries, Dry and Wet

SIC 3693—Radiographic X-ray, Fluoroscopic X-ray, Therapeutic X-ray, and Other X-ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus

SIC 3694—Electrical Equipment for Internal Combustion Engines

SIC 3699—Electrical Machinery, Equipment, and Supplies, Not Elsewhere Classified

SIC 3711—Motor Vehicles and Passenger Car Bodies

SIC 3713—Truck and Bus Bodies

SIC 3714—Motor Vehicle Parts and Accessories

SIC 3715—Truck Trailers

SIC 3721—Aircraft

SIC 3724—Aircraft Engines and Engine Parts

SIC 3728—Aircraft Parts and Auxiliary Equipment, Not Elsewhere Classified

SIC 3731—Ship Building and Repairing

SIC 3732—Boat Building and Repairing

SIC 3743—Railroad Equipment

SIC 3751—Motorcycles, Bicycles, and Parts

SIC 3761—Guided Missiles and Space Vehicles

SIC 3764—Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts

SIC 3769—Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified

SIC 3792—Travel Trailers and Campers

SIC 3795—Tanks and Tank Components

SIC 3799—Transportation Equipment, Not Elsewhere Classified

SIC 3811—Engineering, Laboratory, Scientific, and Research Instruments and Associated Equipment

SIC 3822—Automatic Controls for Regulating Residential and Commercial Environments and Appliances

SIC 3823—Industrial Instruments for Measurement, Display and Control of Process Variables; and Related Products

SIC 3824—Totalizing Fluid Meters and Counting Devices

SIC 3825—Instruments for Measuring and Testing of Electricity and Electrical Signals

SIC 3829—Measuring and Controlling Devices, Not Elsewhere Classified

SIC 3832—Optical Instruments and Lenses

SIC 3841—Surgical and Medical Instruments and Apparatus

SIC 3842—Orthopedic, Prosthetic, and Surgical Appliances and Supplies

SIC 3843—Dental Equipment and Supplies

SIC 3851—Ophthalmic Goods

SIC 3873—Watches, Clocks, Clockwork Operated Devices and Parts

SIC 3911—Jewelry, Precious Metal

SIC 3914—Silverware, Plated Ware, and Stainless Steel Ware

SIC 3915—Jewelers' Findings and Materials, and Lapidary Work

SIC 3931—Musical Instruments

SIC 3942—Dolls

SIC 3944—Games, Toys, and Children's Vehicles; Except Dolls and Bicycles

SIC 3949—Sporting and Athletic Goods, Not Elsewhere Classified

SIC 3951—Pens, Mechanical Pencils, and Parts (Balance)

SIC 3961—Costume Jewelry and Costume Novelties, Except Precious Metal

SIC 3991—Brooms and Brushes

SIC 3993—Signs and Advertising Displays

SIC 3995—Burial Caskets

19. *Electroplating*

SIC 347—Coating, Engraving, and Allied Services

20. *Ore Mining and Dressing*

SIC 1011—Iron Ores

SIC 1021—Copper Ores

SIC 1031—Lead and Zinc Ores

SIC 1041—Gold Ores

SIC 1044—Silver Ores

SIC 1051—Bauxite and Other Aluminum Ores

SIC 1061—Ferroalloy Ores, Except Vanadium

SIC 1092—Mercury Ores

SIC 1094—Uranium-Radium-Vanadium Ores

SIC 1099—Metal Ores, Not Elsewhere Classified

21. *Coal Mining*

SIC 1111—Anthracite

SIC 1112—Anthracite Mining Services

SIC 1211—Bituminous Coal and Lignite

SIC 1213—Bituminous Coal and Lignite Mining Services

— Footnote —

*As used throughout this Appendix A the term "compounds" shall include organic and inorganic compounds.

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