

federal register

Selected Subjects

Air Pollution Control

Environmental Protection Agency

Animal Biologics

Animal and Plant Health Inspection Service

Animal Drugs

Food and Drug Administration

Bees

Customs Service

Customs Duties and Inspection

Customs Service

Employee Benefit Plans

Pension Benefit Guaranty Corporation

Endangered and Threatened Species

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National Oceanic and Atmospheric Administration

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Grant Programs—Education

Education Department

Imports

Animal and Plant Health Inspection Service

Marketing Agreements

Agricultural Marketing Service

Occupational Safety and Health

Occupational Safety and Health Administration

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under **INFORMATION AND ASSISTANCE** in the **READER AIDS** section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 427

[Doc. No. 1863S]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule in the *Federal Register* on Thursday, October 18, 1984, at 49 FR 40777, amending the Oat Crop Insurance Regulations (7 CFR Part 427). The summary of this document contains a typographical error in listing number 5 of the changes with an incorrect date of April 5 instead of April 15. This notice is published to correct that reference.

ADDRESS: Written comments on this correction may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

FR Doc. 84-26599, appearing at page 40777, is corrected in change number 5 of the Summary thereof to read as follows:

* * * (5) dividing Virginia into fall (September 30) and spring (April 15) counties for insurance purposes; * * *

The Authority Citation for 7 CFR Part 427 is:

Authority: Secs. 506, 516, Pub.L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516). Done in Washington, D.C., on December 26, 1964.

Dated: January 2, 1985.

Peter F. Cole,
Secretary Federal Crop Insurance
Corporation.

Approved by:
Merritt Sprague,
Manager.
[FR Doc. 85-600 Filed 1-8-85; 8:45 am]
BILLING CODE 3410-06-M

Federal Grain Inspection Service

7 CFR Part 810

U.S. Standards for Oats

Correction

In FR Doc. 84-33084 beginning on page 49428 in the issue of Thursday, December 20, 1984, make the following correction:

§ 810.256 [Corrected]

On page 49431, second column, in paragraph (b) of the table in § 810.256, tenth line, insert the word "other" between "of" and "animal".

BILLING CODE 1505-01-M

7 CFR Part 810

U.S. Standards for Corn, U.S. Standards for Sorghum, and U.S. Standards for Soybeans

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule correction.

SUMMARY: In FR Doc. 84-24082 beginning on page 35743 in the issue of Wednesday, September 12, 1984, the following correction should be made:

§ 810.353 [Corrected]

On page 35744, in § 810.353(a), in the table, in the second column, the fifth line under "Minimum test weight per bushel (pounds)" should have read "46.0" instead of "45.0"

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

Dated: January 3, 1985.

Kenneth A. Gilles,
Administrator.
[FR Doc. 85-571 Filed 1-8-85; 8:45 am]
BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 611; Navel Orange Reg. 609, Amdt. 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 11-17, 1985, and increases the quantity of such oranges that may be shipped during the period December 28, 1984-January 3, 1985. Such action is needed to provide for the orderly marketing of fresh navel oranges during this period due to the marketing situation confronting the orange industry.

DATE: This regulation (§ 907.911) becomes effective January 11, 1985 and the amendment (§ 907.909) is effective for the period December 28, 1984-January 3, 1985.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been revised under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as

amended (7 U.S.C. 601-674). These actions are based upon the recommendation of and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

These actions are consistent with the marketing policy for 1984-85. The marketing policy was recommended by the committee following discussion at a public meeting on September 25, 1984. The committee met again publicly on December 28, 1984, at Los Angeles, California, and also held a telephone meeting on January 2, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

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

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

1. Section 907.911 is added as follows:

§ 907.911 Navel Orange Regulation 611.

The quantities of navel oranges grown in California and Arizona which may be handled during the time period January 11, 1985, through January 17, 1985, are established as follows:

- (a) District 1: 1,100,000 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: Unlimited cartons;
- (d) District 4: Unlimited cartons.

2. Section 907.909 Navel Orange Regulation 609 is hereby amended to read:

§ 907.909 Navel Orange Regulation 609.

- (1) District 1: 950,000 cartons;
- (2) District 2: Unlimited cartons;
- (3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

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

Dated: January 3, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85-574 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 3015

Department of Agriculture Programs and Activities Covered Under Executive Order 12372

AGENCY: Office of the Secretary, USDA.

ACTION: Rule related notice.

SUMMARY: The purpose of this Notice is to inform State and local governments and other interested persons of those programs and activities being deleted from within the scope of Executive Order 12372, "Intergovernmental Review of Federal Programs;" and indicate new programs being included within the scope of the Order. Further, this Notice is to notify interested parties that the Farmers Home Administration programs do not come under the provisions of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3334. A full understanding of the requirements of the Order may be gained by referring to the final rules published in 7 CFR Part 3015, Subpart V, at 48 FR 29100, published June 24, 1983.

DATE: Effective January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Zimmerman, Supervisory Program Analyst, Office of Finance and Management, USDA, Room 2117, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250. (Telephone (202) 382-1553).

SUPPLEMENTARY INFORMATION: The programs listed below by Catalog of Federal Domestic Assistance Numbers have been deleted from the scope of Executive Order 12372 for the reasons stated.

Farmers Home Administration

- 10.424 Industrial Development Grants—Expiration of Budgetary Authority
- 10.428 Economic Emergency Loans—Expiration of Budgetary Authority
- 10.430 Energy Impacted Area Development Assistance—Expiration of Budgetary Authority
- 10.431 Technical and Supervisory Assistance Grants—Expiration of Budgetary Authority

10.432 Biomass Energy and Alcohol Fuel Loans—Expiration of Budgetary Authority

The following programs were previously included within the scope of the Order as part of other programs listed in the Catalog of Federal Domestic Assistance.

Food and Nutrition Service

10.566 Nutrition Assistance for Puerto Rico—Previously included as part of Catalog of Federal Domestic Assistance Number 10.561.

10.567 Food Distribution Program on Indian Reservations—Previously included as part of Catalog of Federal Domestic Assistance Number 10.550. Only those programs administered through States are within the scope of the Order.

States interested in reviewing these programs under Executive Order 12372 should have their State Single Point of Contact notify the Office of Finance and Management, Financial Management Division, USDA, Room 2117, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250, Attention: Ms. Lyn Zimmerman.

Issued at Washington, D.C., January 3, 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 85-572 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-00-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84-113]

Limited Ports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations in 9 CFR Part 92 by adding St. Petersburg-Clearwater, Florida, to the list of limited ports of entry for animals and animal products (such as animal semen, animal test specimens, hatching eggs, and day old chicks) which do not appear to require restraint and holding inspection facilities. It is necessary to add St. Petersburg-Clearwater, Florida, to this list to reflect the availability of the Veterinary Services inspection facilities and personnel so that importers can make arrangements for the importation of such animals and animal products.

DATES: Effective date of this interim rule is January 9, 1985. Comments must be received on or before March 11, 1985.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in § 92.3 of 9 CFR Part 92 list a large number of ports with inspection stations or quarantine stations maintained by Veterinary Services for the importation of animals and animal products. In addition to air and ocean ports and several other types of ports, § 92.3 lists certain limited ports for the importation of animals and animal products (such as animal semen, animal test specimens, hatching eggs, and day old chicks) which do not appear to require restraint and holding inspection facilities. It has been determined that St. Petersburg-Clearwater, Florida, has Veterinary Services inspection facilities and available inspection personnel for a limited port.

Therefore, it is necessary to amend § 92.3(e) of the regulations to add St. Petersburg-Clearwater, Florida, as a limited port, so that importers can make arrangements for the entry of such animals and animal products.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been classified as not a major rule. The Department had determined that this action will not have a significant effect on the economy; will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that the addition of St. Petersburg-Clearwater, Florida, to the list of limited ports for the importation of animals and animal products which do not appear to require restraint and holding inspection facilities would not cause a substantial change in the number of such animals and animal products entering the United States or in the number of persons importing such animals and animal products.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure are unnecessary and contrary to the public interest with respect to the addition of St. Petersburg-Clearwater, Florida, to the list of limited ports in § 92.3(e), and that good cause is found for making this action effective upon publication in the Federal Register. Comments concerning the addition of St. Petersburg-Clearwater are being solicited for 60 days after publication of the document.

It is necessary to make this rule effective as soon as possible in order to relieve unnecessary restrictions and to reflect the existence of the Veterinary Services facility at St. Petersburg-Clearwater, so that importers of certain animals and animal products can make arrangements to utilize the facility.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS: INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

§ 92.3 [Amended]

Accordingly, in § 92.3(e) of 9 CFR Part 92, the material following the colon is revised to read:

Anchorage, Alaska; San Diego, California; Denver, Colorado; Jacksonville, St. Petersburg-Clearwater, and Tampa, Florida; Chicago, Illinois;

New Orleans, Louisiana; Portland, Maine; Baltimore, Maryland; Boston, Massachusetts; Minneapolis, Minnesota; Great Falls, Montana; Portland, Oregon; San Juan, Puerto Rico; Galveston and Houston, Texas; and Seattle, Spokane, and Tacoma, Washington.

Authority: Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 7 CFR 2.17, 2.51, 371.2(d).

Done at Washington, D.C., this 31st day of December, 1984.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-619 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 113

[Docket No. 84-083]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Live Virus Vaccines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These revisions amend the general testing requirements for live virus vaccines by updating test methods and procedures. New test methods and procedures that increase the precision of test results have been developed. These revisions will update the Standard Requirements by including new methods and by adopting references to new safety tests added to the Standard Requirements since the last revision. This amendment provides manufacturers the use of updated testing procedures and relaxes some of the restrictions currently in effect.

EFFECTIVE DATE: This amendment becomes effective January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, VS, APHIS, USDA, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in

Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as "Nonmajor."

The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities. A small entity is defined as a business which is independently owned and operated and is not dominant in the field of veterinary biologics manufacturing.

Background

The current laboratory test procedures for conducting virus identity tests in the general requirements for live virus vaccines were incorporated in the regulations in 1974. Since these procedures were incorporated, newer test methods have been developed which are more sensitive and allow for greater flexibility in the test methods without affecting the validity of the test results. This amendment revises the detailed fluorescent antibody test procedures in 9 CFR 113.135(c). The revision allows for flexibility in selecting a test system.

Reference to §§ 113.44 and 113.45 is added to 9 CFR 113.135(b). These are safety tests utilizing swine and sheep as test animals. These tests were recently codified in the Standard Requirements and are incorporated to update this section.

When moisture content is maintained at a constant level as stated in the Outline of Production and tested by the method specified in 9 CFR 113.29, this is only one factor in evaluating stability of the product. Methods for adequately determining overall stability of biological products are prescribed in 9 CFR 114.13. Section 113.135(e) (i) and (ii) which duplicates the requirements in those sections is deleted.

Comments Received

On May 31, 1984, a notice of a proposed rulemaking was published in the *Federal Register* at 49 FR 22661 discussing this revision and soliciting

comments. Eight responses were received, six of which favored revising the Standard Requirement as written in the proposed rulemaking. One manufacturer suggested that the requirement to test for moisture, 9 CFR 113.135(e), be deleted. The response suggested that there is no direct relation between moisture and potency, that an exemption is usually granted when moisture exceeds permissible limits, and that moisture requirements are not actively monitored by APHIS. A claim that a product is dehydrated implies that a sufficient amount of water has been removed to protect the stability and, therefore, shelf life of the product. The criteria for moisture levels in the Standard Requirements represent the minimum requirements to protect potency through dating. The Agency must retain the authority to test for moisture particularly when results of the firm testing would suggest the need to do so. This promotes consistency in production. This serves not only the Agency but also the manufacturers. In cases where the moisture content exceeds the limit of the requirements, judgment may be exercised in granting an exemption. The Agency can monitor this requirement by reviewing the firm's results as reported on VS Form 14-8, by reviewing the firm's production during routine inspections, and by doing the test when indicated.

Another response recommended using a mouse safety test instead of a host animal safety test, except in those cases where the vaccine agent is lethal to mice. The host animal safety test is not only a requirement in this general requirement but also in the Standard Requirements for most products. Final product testing does not utilize a large number of animals. The reasons suggested do not justify a change in this requirement. In special cases, an exemption may be authorized to final product testing for safety in host animals in accordance with 9 CFR 113.4. It is the opinion of the Agency that the suggested changes should not be made at this time.

The methods, procedures, and criteria in these amendments have been developed over a period of years in cooperation with interested members of the scientific community and, for the most part, have been utilized by industry either as accepted requirements or as proposals under development. The amendments codify in Part 113 the methods, procedures, and criteria established by Veterinary Services for evaluating biological products to be pure, safe, potent, and efficacious. Codification in the Standard Requirements will make them available

for use by the industry and the general public.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter, Chapter I, Title 9 of the Code of Federal Regulations is hereby adopted.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Section 113.135 (b), (c) and (e) (1) and (2) are revised to read:

§ 113.135 General requirements for live virus vaccines.

(b) *Safety tests.* Samples of each lot of Master Seed Virus and final container samples of completed product from each serial or first subserial of live virus vaccine recommended for animals other than poultry shall be tested for safety in at least one species for which the vaccine is intended using methods prescribed in §§ 113.39, 113.40, 113.41, 113.44, and 113.45 or in a filed Outline of Production. The mouse safety test prescribed in § 113.33(a) shall also be conducted unless the virus or agent in the vaccine is inherently lethal for mice.

(c) *Virus identity test.* At least one of the virus identity tests provided in this paragraph or a suitable identity test prescribed in the filed Outline of Production shall be conducted on the Master Seed Virus and final container samples from each serial or first subserial of biological product.

(1) *Fluorescent antibody test.* The fluorescent antibody test shall be conducted using virus inoculated cells and uninoculated control cells. Cells shall be stained with fluorescein conjugated specific antiserum. Fluorescence typical of the virus concerned shall be demonstrated in the inoculated cells. The control cells shall remain free of such fluorescence.

(2) *Serum neutralization test.* The serum neutralization test shall be conducted using the constant serum-decreasing virus method with specific antiserum. For positive identification, at least 100 ID₅₀ of vaccine virus shall be neutralized by the antiserum.

(d) * * *

(e) *Moisture content.* (1) The maximum moisture content in desiccated vaccines shall be stated in the filed Outline of Production.

(2) Final container samples of completed product from each serial or subserial shall be tested for moisture content in accordance with the test prescribed in § 113.29.

(37 Stat. 832-833 [21 U.S.C. 151-156])

Done at Washington, D.C., this 20th day of December 1984.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-820 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

(No. 85-21)

Technical Corrections to the Regulations for Federal Associations

Dated: January 3, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: On October 19, 1984, the Federal Home Loan Bank Board ("Board") adopted technical corrections and amendments to its final regulations implementing new powers granted to federally chartered savings and loan associations and savings banks ("federal associations") by the Garn-St Germain Depository Institutions Act of 1982 ("DIA") (Pub. L. 97-320, 96 Stat. 1469 (1982)). Board Resolution 84-580 (October 19, 1984), 49 FR 43040 (October 26, 1984).

In adopting the amendments, the Board reinstated the requirement that Board approval be obtained before any activity of the service corporation is performed through one or more joint ventures if a director, officer, or controlling person of any stockholder of the service corporation has a direct beneficial interest in the joint venture. The requirement that any "indirect" beneficial interest in a joint venture if a director, officer or controlling person of any stockholder of the service corporation also receive prior approval was noted in the preamble to the regulation, but was inadvertently omitted from the regulatory language. This action corrects that omission.

The Board is also taking this opportunity to correct a mistake in paragraph numbering in 12 CFR 545.40.

The Board had determined that observance of the notice and public comment procedure requirements of 5 U.S.C. 552(b) and 12 CFR 508.11 and the

delay of effective date provided pursuant to 5 U.S.C. 552(d) and 12 CFR 508.14 are unnecessary and contrary to the public interest. This amendment contains minor, technical corrections and is intended to clarify regulations issued after an opportunity for public comment.

EFFECTIVE DATE: January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Susan McC. van den Toorn, Attorney, (202) 377-6417 or Wendy B. Samuel, Deputy Director, (202) 377-6445, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

List of Subjects in 12 CFR 545

Federal Home Loan Banks, Savings and loan associations.

Accordingly, the Board hereby corrects FR Doc. 84-28270, appearing at 49 FR 43040 *et seq.* in the issue of October 26, 1984, and amends Part 545 of Subchapter C, Chapter V, Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Amend § 545.40 by redesignating paragraphs (1) and (2) as (a) and (b), respectively.

2. Amend § 545.74 by inserting the words "or indirect" after the word "direct" in paragraph (b)(2).

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464))

By the Federal Home Loan Bank Board,
Norman H. Raiden,

General Counsel.

[FR Doc. 85-563 Filed 1-8-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

(T.D. 85-3)

Customs Regulations Amendment Relating to Honeybees and Honeybee Semen

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to honeybees and honeybee semen. The amendment is part of a joint Department

of Agriculture-Treasury proposal to revise current regulations to reflect amendments to the Honeybee Act. This amendment will allow Treasury, through Customs, and in conjunction with Agriculture, through the Animal and Plant Health Inspection Service, to enforce the provisions of the Honeybee Act which now regulates not only the importation of honeybees but also honeybee semen.

EFFECTIVE DATE: February 8, 1985.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

Section 12.32, Customs Regulations (19 CFR 12.32), currently provides that honeybees may be imported into the United States by the Department of Agriculture for experimental or scientific purposes. Importation of honeybees for any other purpose is prohibited unless the Secretary of Agriculture has determined that the importation is from a country in which no diseases dangerous to honeybees exist. Section 12.32 additionally states that the importation of honeybees is to be governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury.

The current Customs Regulations set forth in 19 CFR 12.32 and the U.S. Department of Agriculture (USDA) regulations set forth in 7 CFR Part 322, pertaining to the importation of honeybees, reflect the provisions of the Honeybee Act (7 U.S.C. 281 *et seq.*), before it was amended in 1976 by Pub. L. 94-319. The amended Honeybee Act now regulates not only the importation of honeybees, but also honeybee semen.

In a document published by the USDA in the *Federal Register* on May 14, 1984 (49 FR 20299), a proposal was set forth to revise current Agriculture regulations to reflect amendments to the Honeybee Act. The amended Honeybee Act provides that honeybees may be imported into the U.S. by the USDA for experimental or scientific purposes. Proposed criteria for the importation of honeybees and honeybee semen were set forth as well. The Honeybee Act further allows honeybees and honeybee semen to be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the

Treasury shall prescribe. These joint regulations are enforced by Treasury, through Customs, and in conjunction with the Animal and Plant Health Inspection Service (APHIS) of the USDA.

So that the Customs Regulations conform with those of USDA, by a notice published in the *Federal Register* on May 14, 1984 (49 FR 20305), Customs also proposed an amendment to § 12.32 to regulate not only the importation of honeybees, but also honeybee semen.

Section 12.32, as amended, will provide that honeybee semen may be imported into the U.S. only from countries determined by the Secretary of Agriculture to be free of undesirable honeybees, and which take adequate precautions to prevent the importation of undesirable honeybees and their semen.

Discussion of Comments

Only one comment was received in response to the Customs notice. The comment concerned a matter to be resolved by USDA, not Customs. It has no bearing on the Customs Regulations. Accordingly, after a further review of the matter, Customs has determined to adopt the proposal as described in the notice.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable because the rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605 (b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 12

Bees.

Amendment to the Regulations

Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: December 21, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 12—SPECIAL CLASSES OF MERCHANDISE

Section 12.32 is revised to read as follows. Footnote 19 is unchanged.

§ 12.32 Honeybees and honeybee semen.

(a) Honeybees from any country may be imported into the U.S. by the Department of Agriculture for experimental or scientific purposes. All other importations of honeybees are prohibited except those from a country which the Secretary of Agriculture has determined to be free of diseases dangerous to honeybees.¹⁹

(b) Honeybee semen may be imported into the U.S. only from countries determined by the Secretary of Agriculture to be free of undesirable honeybees, and which take adequate precautions to prevent the importation of undesirable honeybees and their semen.

(c) The importation of honeybees and honeybee semen is governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury published in Treasury Decisions and the *Federal Register* from time to time.

(R.S. 251, as amended, sec. 1, 42 Stat. 833, as amended, 90 Stat. 709, sec. 624, 46 Stat. 759 (7 U.S.C. 281, 19 U.S.C. 66, 1624))

[FR Doc. 85-606 Filed 1-8-85; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 177

[T.D. 85-4]

Tariff Classification of Television Camera Lens Systems

AGENCY: Customs Service, Treasury.
ACTION: Continuation of practice.

SUMMARY: This document advises the public of Customs decision to continue an established and uniform practice of classifying certain television camera lens systems as parts of television cameras in the Tariff Schedules of the United States. The proposed change of practice, which would have resulted in the classification of this merchandise under the tariff provision for optical appliances and instruments at a higher rate of duty, has not been adopted.

Customs has made the decision to continue the current practice based on public comment and pertinent judicial decisions.

EFFECTIVE DATE: January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce N. Shulman, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1982, a notice was published in the *Federal Register* (47 FR 35234), advising the public that Customs was reviewing its current established and uniform practice of classifying certain television camera lens systems under the provision for parts of television cameras in item 685.10, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). Pursuant to Section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)), Customs requested comments on its proposal to reclassify that merchandise under the provision for optical appliances and instruments in item 708.89, TSUS, at a higher rate of duty.

As indicated in the notice, in *Rank Precision Industries, Inc. v. United States*, C.D. 4866 (1980), the United States Customs Court (now the United States Court of International Trade) held that the Varotal 30 optical-electromechanical television camera lens system is specifically provided for as an optical appliance or instrument under item 708.89, TSUS. Subsequently, the United States Court of Customs and Patent Appeals (now the United States Court of Appeals for the Federal Circuit), in *Rank Precision Industries, Inc. v. United States*, C.A.D. 1269 (1981), reversed the Customs Court on other grounds.

Analysis of Comments

Eleven comments were received in response to the notice. All were opposed to the change of practice. The commenters urged that the television camera lens system in question should continue to be classified as parts of television cameras under item 685.10, TSUS, rather than as optical appliances and instruments under item 708.89, TSUS. In support of their contention, the commenters suggest that the subject merchandise is used as a television camera part, not as an optical appliance

or instrument, and that it consists of electrical and mechanical components with no other separate utility.

Furthermore, it is contended that the Customs Court decision in *Rank* relied upon by Customs does not mandate changing the prior practice of classifying the Varotal lens system. The argument is advanced that, inasmuch as the Customs Court was reversed by the Court of Customs and Patent Appeals, there was no basis for Customs decision to change the practice of classifying the subject television camera lens system.

After studying the comments submitted in response to the notice, Customs believes that the lens in question is essential to the operation of large studio-type television cameras. It appears that the Varotal 30 lenses have no use other than with bulky studio-type cameras. It is a well-established rule that a "part" of an article is something necessary to the completion of that article. It is an integral constituent, or component part without which the article to which it is to be joined could not function as such article. *Weite & Sons v. United States*, T.D. 34249 (February 27, 1914). Applying these principles to the instant merchandise, we conclude that the large studio-type television cameras are incomplete and cannot function in their intended purpose without the use of the highly sophisticated electro-mechanical Varotal 30-type lens system as an essential part of the television camera.

Continuation of Practice

After further review of this matter, the Customs proposal to classify Varotal 30 television camera lens systems under the provision for optical appliances and instruments in item 708.89, TSUS, has not been adopted. Accordingly, Customs will continue its established and uniform practice of classifying the camera lens system in question as parts of television cameras under item 685.10, TSUS.

Drafting Information

The principal authors of the document were Todd J. Schneider and Larry Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: January 4, 1985.
William von Raab,
Commissioner of Customs.

[FR Doc. 85-609 Filed 1-8-85; 6:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Oxytetracycline Hydrochloride Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The NADA provides for use of a 500-milligram oxytetracycline hydrochloride tablet for control and treatment of bacterial enteritis and bacterial pneumonia in beef and dairy calves.

EFFECTIVE DATE: January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, has filed a supplement to NADA 11-060 for Terramycin* 500 Scours Tablets. The supplement provides for use of a 500-milligram oxytetracycline hydrochloride tablet for controlling and treating bacterial enteritis and pneumonia in beef and dairy calves. The supplement is approved and the regulations are amended to reflect the approval. The regulations are also editorially revised for clarity.

The firm currently holds approval for use of tablets containing 250 milligrams oxytetracycline. The approval was published in the Federal Register of June 23, 1981 (46 FR 32439). This supplement is for the same conditions of use and its approval does not change the approved conditions of use of the drug. Under the Center for Veterinary Medicine's supplemental approval policy (42 FR 64387; December 23, 1977), this approval has been treated as a category II supplemental NADA which does not require reevaluation of the safety and effectiveness data in the parent application.

The freedom of information summary made available under the provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), which consisted of a summary of safety and effectiveness data and information to support approval of the previous approval for the 250-milligram tablet applies also to this application and may

be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), § 520.1660c is amended by revising paragraphs (a), (c), and (e)(1) and (2) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1660c Oxytetracycline hydrochloride tablets.

(a) *Specifications.* Each tablet contains 250 or 500 milligrams of oxytetracycline hydrochloride.

(c) *NAS/NRC status.* The conditions of use of oxytetracycline hydrochloride in paragraph (e)(2) of this section have been reviewed by NAS/NRC and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter but may require bioequivalency and safety information.

(e) *Conditions of use in beef and dairy cattle—(1)(i) Amount.* 250 milligrams per 100 pounds of body weight every 12 hours (5 milligrams per pound of body weight daily in two doses).

(ii) *Indications for use.* For control of bacterial enteritis caused by *Salmonella typhimurium* and *Escherichia coli* (colibacillosis) and bacterial pneumonia (shipping fever complex, pasteurellosis) caused by *Pasteurella multocida*.

(2)(i) *Amount.* 500 milligrams per 100 pounds of body weight every 12 hours (10 milligrams per pound of body weight daily in two doses).

(ii) *Indications for use.* For treatment of bacterial enteritis caused by *Salmonella typhimurium* and *Escherichia coli* (colibacillosis) and bacterial pneumonia (shipping fever complex, pasteurellosis) caused by *Pasteurella multocida*.

Effective date. January 9, 1985.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 31, 1984.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-558 Filed 1-8-85; 8:45 am]

BILLING CODE 4180-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-103S]

Educational/Scientific Diving

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final Guidelines; Supplemental Statement of Reasons.

SUMMARY: The purpose of this notice is to establish the final guidelines that OSHA will use, in conjunction with the exemption criteria contained in the Final Rule (47 FR 53357), to determine whether a scientific diving program can avail itself of the exemption from the standard for commercial diving operations, 29 CFR Part 1910, Subpart T. The absence of any factor specified in these guidelines or the Final Rule renders a diving program ineligible for the exemption.

EFFECTIVE DATE: These guidelines become effective January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 1982, OSHA exempted scientific diving from coverage under 29 CFR Part 1910, Subpart T, Commercial Diving Operations, provided that the diving meets the Agency's definition of scientific diving and is under the direction and control of a diving program utilizing a safety manual and a diving control board meeting certain

specified criteria (47 FR 53357; § 1910.401(a)(2)(iv)).

Based on the rulemaking proceedings on scientific diving, OSHA concluded that significant differences exist between scientific and commercial diving; that the scientific diving community has been successfully self-regulated for many years based on standards developed by the Scripps Institution of Oceanography; that this successful self-regulation is evidenced by its exemplary safety record; and that an exemption from Subpart T would allow the scientific diving community to perform significant underwater scientific activities while maintaining the safety and health of scientific divers.

In its Final Rule, therefore, OSHA established a narrow exemption from the requirements of Subpart T for scientific diving programs that meet specified conditions.

Under section 6(f) of the Occupational Safety and Health Act of 1970, the United Brotherhood of Carpenters and Joiners (UBCJ) filed a petition for judicial review of the Final Rule with the United States Court of Appeals for the District of Columbia Circuit, challenging the Final Rule's exemption for scientific diving. The Secretary opposed the UBCJ's petition on both procedural and substantive grounds. The Secretary asserted, among other arguments, that the Union lacks standing to challenge the exemption, because the divers it represents are not subject to the exemption.

On April 4, 1984, the Court of Appeals issued a memorandum and order on the question of the Union's standing to maintain its challenge. The Court ordered the Secretary to give the UBCJ "full opportunity, through affidavits or testimony, to make clear the nature of its membership and the diving work that membership performs." The order provided that any evidence submitted by the Union would become a part of the record.

The Court also ordered the Secretary to "authoritatively state guidelines that would indicate how the 'scientific' and 'commercial' classifications will be applied to arguably ambiguous cases." The guidelines were also to become part of the record.

In compliance with the Court's order, OSHA published a notice on July 18, 1984 (49 FR 29105), which reopened the record and gave the UBCJ full opportunity to submit affidavits regarding its membership and the diving work they perform. The notice also explained the interpretive guidelines that OSHA will use in determining which enterprises may avail themselves of the exemption for scientific diving.

Because the Court's order entailed an enlargement of the public rulemaking record, the Agency considered it appropriate to allow the general public, as well as the Union, to comment on the specific aspects of the Final Rule addressed in the notice.

The notice contained guidelines intended to further clarify what scientific programs can be exempt from the commercial diving standard. The notice (49 FR 29105) stated that OSHA will scrutinize, in conjunction with the exemption criteria as specified in the Final Rule, seemingly close cases using the following interpretive guidelines, all of which must be met to qualify as scientific diving:

1. The Diving Control Board consists of a majority of active scientific divers and has autonomous and absolute authority over the scientific diving program's operations.

2. The purpose of the project using scientific diving is the advancement of science; therefore, information and data resulting from the project are non-proprietary.

3. The tasks of a scientific diver are those of an observer and data gatherer. Construction and trouble-shooting tasks traditionally associated with commercial diving are not included within scientific diving.

4. Scientific divers, based on the nature of their activities, must use scientific expertise in studying the underwater environment and, therefore, are scientists or scientists in training.

Summary and Explanation of Final Guidelines

OSHA received more than 40 affidavits; and comments in response to the notice. The UBCJ submitted a comment concerning the guidelines and six affidavits from its membership regarding the issue of standing. Because the final guidelines indicate how OSHA will apply "the 'scientific' and 'commercial' classifications to arguably ambiguous cases," OSHA will here discuss only the UBCJ's comments on the guidelines. OSHA will not address the Union's comments regarding its standing to challenge the Final Rule. The Agency's view on standing, as well as the Union's, are expected to be put before the Court for its determination in the near future.

The Agency also received numerous comments and affidavits from other interested members of the public. These, too, will be addressed to the extent that they concern OSHA's guidelines for distinguishing exempt from non-exempt diving.

The UBCJ and certain other commenters (Ex. 31: 30, 31) argued that OSHA was misguided in distinguishing between scientific and commercial diving because all divers are exposed to the same "inherently hostile environment" (Ex. 31: 30). It is important to note that the purpose of the guidelines and this limited reopening of the record is to establish the factors OSHA will use to identify those diving programs which may avail themselves of the exemption—not to reconsider the merits of the exemption itself.

Nevertheless, OSHA reiterates its conclusion that the narrow exemption created by the Final Rule is appropriate. OSHA has received numerous comments from scientific divers throughout the rulemaking and court proceedings who support this system of effective self-regulation (e.g., Ex. 5: 7; 21; 58; 62; 103; 152; Ex. 31: 1; 3; 7; 9; 10; 15; 29). OSHA agrees with members of the scientific diving community that its system of self-regulation effectively protects the scientific diver. The effectiveness of the program is demonstrated through the scientific diving community's exemplary safety record (47 FR 53361).

Further, in order to assure that programs are in conformance with the Scripps concepts and that they continue to adhere to the effective system of self-regulation, OSHA decided not to issue a blanket exemption for all scientific diving but, instead, placed conditions on the exemption so that scientific divers would continue to experience the high level of safety and health they had experienced in the past. The scientific diving community agreed that conditions placed on the exemption would be beneficial to the scientific diving community in preserving the integrity of its programs (Tr. 46-48, 182, 208, 215-218, 236, 326, 353-353A, 444, 453, 470-472, 519-520, 570, Ex. 25).

One community (Ex. 5: 153) from the scientific diving community noted:

There is no shred of evidence to indicate that the SDC [scientific diving community] has been irresponsible in any way toward the health and safety of its members. Indeed the fact is that the underwater scientists themselves write their own manuals for diving safety using the Scripps standard of practice as a model. They adapt it for their specific programs and update it as experience is gained and technology changes. These manuals for diving safety are the best they can be because the people who live by them are also the curators. The system of peer review, diving scientists reviewing, constructively criticizing and approving project diving protocols is infinitely more sound than regulation without representation. The essence of this system is that the local rules can be modified, changed and molded

on a real time basis, not by persons who are unfamiliar and perhaps even hostile to the requirements of the underwater research environment, but by the underwater scientists themselves who are attuned to the waves, the water and the ever changing nature of this enterprise.

Finally, OSHA has no reason to believe that the experience of the scientific diving community or the safety and health of the scientific diver will not continue. As indicated in the Final Rule by a commenter from the scientific diving community (Ex. 5: 142):

Exemption from OSHA does not mean that the Community will be without safety standards, for the scientific community will continue a long established practice which has resulted in a nearly perfect safety record.

Guidelines

Based on the affidavits and comments and the other data and information in the rulemaking record, OSHA concludes that the guidelines discussed in the July 18 notice (49 FR 29105) and again in this notice, in conjunction with the exemption criteria in the Final Rule, will serve to clearly distinguish between the scientific diving community which should be exempt because of its effective system of self-regulation and all other diving and diving programs. The American Academy of Underwater Sciences (Ex 31: 26), representing the scientific diving community, has stated its belief that the guidelines are well stated and acceptable to the scientific diving community.

OSHA wants to emphasize that a failure of a program to meet any part of the exemption criteria, including the guidelines, will prevent the program from availing itself of the exemption.

It should be noted that the examples contained in the discussions of individual guidelines below are for the purpose of illustrating the application of a single guideline. Programs must meet all of the criteria in the Final Rule as interpreted by the final guidelines to avail themselves of the exemption. While any *single* guideline may be subject to criticism as potentially underinclusive, OSHA believes that an employer's duty to comply with *all* criteria in the Final Rule, as interpreted by *all* the guidelines, assures that the exemption from Subpart T is not only clear to the diving community, but is also narrowly restricted to the group whose exemplary safety record justified the exemption.

1. Organizational Structure

The first guideline concerns organizational structure and states that the Diving Control Board must consist of a majority of active scientific divers and

have autonomous and absolute authority over the scientific diving program's operations.

OSHA believes that the organizational structure of the scientific diving community's consensual standard program is not only vital to the integrity of scientific diving programs, but effectively serves to segregate scientific diving from commercial diving. The Diving Control Board required of scientific diving programs contains several elements that distinguish between commercial diving and the exempt scientific diving programs. These distinctive elements include absolute authority over diving operations, the autonomy inherent in the Board's decision-making powers and responsibilities, and peer review.

In order to assure that the Diving Control Board has control of the diving program and absolute authority over diving, as comments asserted was the practice in the scientific diving community (e.g., Ex. 5: 22; 27; 35), OSHA requires that the Board have the authority to approve and monitor diving projects; review and revise the diving safety manual; assure compliance with the manual; certify the depths to which a diver has been trained; take disciplinary action for unsafe practices; and assure adherence to the buddy system (in which a diver is accompanied by and is in continuous contact with another diver in the water) for SCUBA diving (47 FR 53365;

§ 1910.401(a)(2)(iv)(B)). OSHA's intent was for the Diving Control Board, primarily consisting of the divers themselves, to regulate the diving activities in a manner consistent with that described by the scientific diving community throughout the rulemaking (e.g., Ex. 5: 29A1; 49; 53; Ex. 31: 9; 10; 15). Therefore, OSHA will verify that such Boards have this autonomous and absolute authority over scientific diving operations.

The issue of peer review was discussed thoroughly during the rulemaking and was supported by the majority of commenters. OSHA noted at 47 FR 53360:

The majority of commenters (e.g., Ex. 5: 9; 28; 60; 102; 137; 162) as well as witnesses at the hearing (Tr. 33, 163, 321A, 531) favored this system of self-regulation because it is formulated, monitored, and enforced by the working diver.

OSHA also believes this system of peer review has successfully regulated scientific diving programs and, therefore, OSHA mandates that the majority of members of the Diving Control Board be active divers (§ 1910.401(a)(2)(iv)(B)). OSHA's intent

with respect to this "peer review" was that the active divers required to make up the Board would be *scientists* who actively dive, since at issue was the control of a scientific program. Thus, OSHA will interpret the membership requirement as it was intended in the Final Rule. The "majority of active divers" on the Diving Control Board must also be scientists.

OSHA realizes that some commercial diving companies may have an entity similar to a Diving Control Board, such as a diving safety committee. However, OSHA does not believe that such committees have the same scientific diver representation on the committee, nor the autonomy and authority over diving operations which characterize a scientific diving program's Diving Control Board.

The UBCJ has criticized several aspects of OSHA's organizational criteria for distinguishing between scientific and commercial diving. The Union asserts that OSHA has changed positions by requiring the Diving Control Board to contain a majority of active "scientific" divers; that this change may exclude more experienced persons in other disciplines from the Board; that such a requirement is unnecessary because the Board passes on health and safety aspects, not the science aspects of a project; and that the criteria are defective because they lack a provision ensuring the right of divers to refuse to dive.

OSHA has not changed its position concerning the membership of the Diving Control Board. Commenters discussed the peer nature of the Diving Control Board numerous times throughout the rulemaking and court proceedings (e.g., Ex. 5: 34; 41; 42; 69; 91, Tr. 33, 174, Ex. 31: 1; 4; 9; 27). For example, one commenter (Ex. 5: 35) remarked:

All scientific diving activities, including the certification of divers in our program, are regulated by our Diving Control Board which uses a peer review system.

A witness at the hearing (Tr. 48) stated that "All diving operations shall undergo peer review by committee, which shall include diving scientists, the divers themselves." Another commenter (Ex. 5: 42) remarked:

I feel that it is important to stress the fact that our diving control board is made up of divers themselves, who have effectively self-regulated our diving program for the past 15 years.

The UBCJ's assertion that OSHA has changed its position by requiring a majority of the Diving Control Board to be scientists is based on a misreading of the preamble to the Final Rule. The

UBCJ states that in the Final Rule "OSHA intentionally avoided requirements focusing on the status of personnel as scientists. . . in favor of an approach that would focus on the types of tasks performed and the objectives to be obtained." (Ex. 31: 22, p. 6). Contrary to the UBCJ's assertions, OSHA never deviated from the requirement that the Board have a majority of scientists. The passages referred to by the UBCJ reflect OSHA's rejection of dependence upon fixed credentials (such as the number of published papers) to determine *who* is a scientist, not a rejection of the requirement that scientific divers *be* scientists.

The UBCJ's second objection, that requiring a majority of scientists on the Diving Control Board may exclude more experienced persons in other disciplines, is also unpersuasive. OSHA's requirement does not, by its terms, exclude participation of representatives from other disciplines. On the contrary, OSHA is aware that individuals from other disciplines are members of Diving Control Boards and that such individuals have not been excluded from participating in the functions of the Diving Control Board (e.g., Ex. 5: 11; 143; 163, Tr. 174).

The Union also asserts that scientists need not comprise a majority of the Board because it evaluates health and safety, not science (Ex. 31: 22 pp. 7-8). This assertion ignores the inseparable blending of the scientific purpose of a dive and the way in which the dive is carried out. The "science aspects" of the project directly impinge upon the safety and health of divers just as the "construction aspects" of commercial dives do.

The UBCJ also indicates that the Secretary's criteria are deficient because they do not include a provision ensuring that divers not be forced to dive against their will (Ex. 31: 22, pp. 8-9). The refusal to dive is an accepted factor in scientific diving programs and OSHA concludes that there is no reason why the scientific diving community would eliminate it even though it is not specified in the criteria. Representatives of the scientific diving community indicated the stability of such requirements in their comments to the Agency (e.g., Ex. 5: 111, 153). One representative (Ex. 5: 142) remarked:

Exemption from OSHA does not mean that the community will be without safety standards for the scientific community will continue a long established practice which has resulted in a nearly perfect safety record. (Emphasis added.)

While OSHA considered the use of right to refuse in the criteria at one time,

several commenters during the rulemaking, and in response to the guidelines, indicated that such refusal was not a significant factor in distinguishing scientific from commercial diving (e.g., Ex. 31: 12; 13). For example, one commenter (Ex. 29) stated that:

. . . no legitimate employer forces or requires a diver to compromise safety in any way or would threaten to discharge a diver who opts not to dive on a particular occasion. It is plainly offensive to the union member . . . to suggest that those men are so weak that they would accept "bends" or be pressured to work under unsafe conditions—it is also illegal for an employer to act in this fashion.

Another commenter, the UBCJ (Ex. 26, p. 10), stated:

. . . the institutional proponents of the broad exemption also sought to distinguish scientific from commercial diving on the basis that scientific divers have the right to refuse unsafe work without fear of discrimination. This purported distinction is a false one, and is unjustified on the record. As indicated in the hearings, many of our Union contracts covering commercial operations contain such a provision. Moreover, the Supreme Court's decision in *Whirlpool*, as well as NLRB and court decisions under the NLRA, recognize employees' qualified right to refuse hazardous work. And under Section 11(c) of the Act, OSHA protects workers from discrimination for asserting their rights regarding health and safety.

Indeed, in its comments on the guidelines published on July 18, 1984, the UBCJ itself conceded that the right to refuse to dive does not categorically distinguish scientific diving from commercial diving (Ex. 31: 22, p. 8-9).

Thus OSHA did not adopt the right to refuse as a necessary program element, since it is inherent in scientific diving programs and there was widespread agreement that it was unnecessary to specifically include it in the guidelines.

2. Restricted Purpose

The second guideline concerns the restricted purpose of the project and states that the purpose of the project using scientific diving is the advancement of science; therefore, information and data resulting from the project are non-proprietary.

In part, the definition of scientific diving is "diving performed solely as a necessary part of a scientific, research, or educational activity" (47 FR 53365; § 1910.402). The National Oceanic and Atmospheric Administration Diving Manual has noted that "marine research using diving as a tool has been important in understanding the ocean, its organisms, and its dynamic processes." Such diving includes the study of fish behavior, ecological

surveys and benthic surveys (the aggregate of organisms living on or at the bottom of a body of water).

Scientific diving is an adjunct used in the advancement of underwater science, as was indicated in the proceedings (e.g., Ex. 4: 2, Ex. 5: 19; 24; 153, Tr. 49, 601, 602, Ex. 31: 7; 9; 16). For example, representatives from the scientific diving community noted that "Our objective is to promote the advancement of science and the use of underwater methods" (Tr. 177), that "Research and the furtherance of scientific knowledge are their (the divers) primary goals" (Ex. 31: 16), that results are "shared worldwide" (Ex. 31: 7), and further that coverage of the scientific diving community by Subpart T, Commercial Diving Operations, might cause "irreparable damage to the underwater scientific effort of the United States" (Ex. 5: 153).

Because the exemplary safety record which led OSHA to promulgate the narrow exemption to Subpart T was created by diving with the restricted purpose of advancing science, OSHA has limited the scope of the exemption to diving intended to advance science. OSHA believes that the advancement of science cannot occur unless such studies are made available to contribute to and enhance scientific knowledge. Therefore, OSHA's intent in promulgating the amendment was to restrict the exemption to scientific research dives that result in non-proprietary information, data, knowledge, or other work product.

The UBCJ indicated that OSHA's guideline concerning the non-proprietary nature of the results of scientific diving may need further clarification, apparently because the limitation to non-proprietary results may be perceived as applying only to scientific, not research or educational, activities (Ex. 31: 22, p 10). If such clarification is indeed needed, it is hereby supplied. The requirement that information be non-proprietary applies to scientific, research, and educational activities engaged in by scientific divers.

The UBCJ also indicated that further clarification is needed to indicate whether projects that do not result in published work are proprietary or non-proprietary (Ex. 31: 22, p 9). OSHA regards the distinction as a clear one: Material available to the public for review is non-proprietary, whether or not it is published; material not available for review is proprietary.

The UBCJ also took exception to the use of environmental impact studies as an example of scientific diving. However, OSHA believes that there are circumstances when it may be

necessary to perform scientific diving as a part of an environmental impact study. In certain instances, only underwater scientists may be able to evaluate potential impacts on ecological systems. If the results of such scientific evaluation are made available to the public, and if the numerous other criteria for exemption are met, the scientists conducting that activity would be relieved from compliance with Subpart T.

3. Tasks Performed

The third guideline concerns the tasks performed and states that the tasks of a scientific diver must be those of an observer and data gatherer. Construction and trouble-shooting tasks traditionally associated with commercial diving are not included within scientific diving.

The scientific diving definition in the standard further states that such diving must be done by employees whose sole purpose for diving is to perform scientific research tasks. Also contained in the definition is a list of those tasks that are traditionally considered commercial, with emphasis on construction and the use of construction tools. As OSHA discussed in the final Rule (47 FR 53357), a commercial diver is typically an underwater construction worker, builder and trouble shooter; a scientific diver is an observer of natural phenomena or responses of natural systems, and a gatherer of data for scientific analysis. The tasks performed by the scientific diver are usually light and short in duration; if any handtools are used, they are simple ones. One commenter (Ex. 5: 122) noted:

The common tools of the scientific diver include a small hammer (for chipping off a coral sample), collecting jars, special hand-held measuring devices, plastic core tubes, a hand net, a suction fish collector, a camera, a slate/pencil, and so on. With very few isolated exceptions does a scientific diver encounter a situation which involves working with heavy equipment underwater, using power tools, handling explosives, or using welding or burning equipment. In order to be involved in such heavy work using specialized equipment (common in commercial diving) the diver would have to receive "approved" training and the procedure and personnel involved would have to be "approved" by the diving safety control board. In my opinion, as a diving safety coordinator, I would specify contracting such tasks to qualified commercial divers. (Emphasis added.) I feel that most university diving safety coordinators and diving safety control boards would do likewise.

Another commenter (Ex. 31: 14) remarked:

This institution would not consider having scientific divers perform commercial work because they are not trained for it, insured for it, and the University should not compete with the private sector by using students or staff for such activities. In point of fact, any commercial type diving required by this institution is put out for bid by the State of Texas and it is accomplished by commercial diving contractors.

As indicated in the previous notice (49 FR 29105), an example of task distinction might involve a scientific study of kelp. The construction of the kelp bed used in the project is not scientific diving since construction activities are commercial diving tasks. The consequent studies made of the kelp would be scientific diving tasks.

OSHA will carefully evaluate the tasks of those entities claiming to be performing scientific diving to assure that commercial diving type tasks are not being performed.

OSHA believes that task distinctions do exist between commercial diving and scientific diving and OSHA does not acknowledge, as the UBCJ asserts, that a considerable range of commercial tasks is typical of scientific tasks.

In its comment (Ex. 31: 22), the UBCJ lists a series of examples of diving tasks (such as the lowering of Sea Lab) that the scientific diving community allegedly believed to be scientific diving tasks. OSHA would like to note that the main purpose of the rulemaking was to discuss such issues as what constitutes scientific diving tasks. Based on a thorough discussion of these issues, OSHA determined that the lowering of a large object (such as Sea Lab), even though a part of a scientific project, was not scientific diving. The special skills of an underwater scientist, including observation and data collection skills, were obviously not contributions to the placement of a large object underwater. In fact, OSHA was convinced that this type of task is a typical commercial task, requiring the skills of commercial divers in accomplishing the placement of such an object.

OSHA avoided the possibility of the exemption applying to scientific divers who undertake such tasks while participating in a scientific research project by focusing the definition on the sole purpose of the dive (scientific research tasks), eliminating dives with mixed purposes, and further indicating typical examples of what OSHA considered to be commercial tasks. The scientific diving community has supported this limited definition (Amicus Brief, UBCJ v. OSHA, No. 82-2509 (D.C. Cir.)).

4. Special Qualifications

The fourth guideline concerns special qualifications and states that scientific divers, based on the nature of their activities, must use scientific expertise in studying the underwater environment and, therefore, must be scientists or scientists in training.

As noted above, a scientific diver is an observer and data gatherer involved in studying the underwater environment, its organisms and its dynamic processes in order to promote underwater science. OSHA believes, based on the nature of these activities, that these divers must be able to use scientific expertise in studying and analyzing the underwater environment. Consequently, OSHA will require these divers to be scientists or scientists in training. This guideline is amply supported by descriptions in the rulemaking record and court proceedings of the personnel who participate in scientific dives (e.g., Ex. 4: 2, Ex. 5: 34; 72; 153, Exs. 20, 21, 25, Ex. 31: 3; 4; 7; 15; 19).

For example, a project to map segments of the ocean floor might hire commercial divers to undertake certain mapping tasks. These commercial divers are neither scientists nor scientists in training as prescribed by this guideline and, therefore, would not be eligible for exemption. If, however, scientific expertise were needed to effectively accomplish tasks associated with the mapping (e.g., specialized geological knowledge), and a geologist trained as a diver were hired to perform the special geological tasks associated with the mapping, then such diving tasks would meet this particular criterion. As stated previously, however, all program criteria and guidelines must be met in order for this diving scenario to qualify for the exemption.

The UBCJ asserts that OSHA has changed its position by specifying that only scientists or scientists in training do scientific diving within the meaning of the exemption. The Union further asserts that OSHA rejected personnel status requirements in promulgating the Final Rule (Ex. 31: 22, p 18). As explained above, this assertion misstates OSHA's actions. In promulgating the exemption, OSHA rejected credentialism to determine who is a scientist; the Agency did not reject the limitation that exempted individuals must be scientists. Such a limitation reflects the scientific diving community's underwater activities. In addition, it prevents obvious commercial diving from being construed as scientific diving.

OSHA, therefore, has not changed its position in requiring scientific divers to

be scientists; the nature of their tasks makes this a natural extension to the definition, and, as indicated, is amply supported by the record.

Appendix B

OSHA believes that the final guidelines discussed in this notice should be readily accessible to interested persons. OSHA has therefore determined that the guidelines should be included as an appendix to the standard for commercial diving operations. Therefore, OSHA is adding a new appendix, Appendix B, to 29 CFR Part 1910, Subpart T, Commercial Diving Operations.

Regulatory Assessment

For the reasons stated in the preamble to the Final Rule exempting scientific diving from the commercial diving standard (47 FR 53364), OSHA concludes that this action does not require a regulatory impact analysis pursuant to E.O. 12291 (46 FR 13193) or a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Safety.

Authority

This document was prepared under the direction of Robert A. Rowland, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

PART 1910—[AMENDED]

Accordingly, pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444 as amended; 33 U.S.C. 941), and Secretary of Labor's Order No. 9-83 (48 FR 35736), Part 1910 of Title 29 of the Code of Federal Regulations, is amended by adding a new Appendix B at the end of Subpart T, to read as follows:

Appendix B—Guidelines for Scientific Diving

This appendix contains guidelines that will be used in conjunction with § 1910.401(a)(2)(iv) to determine those scientific diving programs which are exempt from the requirements for commercial diving. The guidelines are as follows:

1. The Diving Control Board consists of a majority of active scientific divers and has autonomous and absolute authority over the scientific diving program's operations.
2. The purpose of the project using scientific diving is the advancement of

science; therefore, information and data resulting from the project are non-proprietary.

3. The tasks of a scientific diver are those of an observer and data gatherer. Construction and trouble-shooting tasks traditionally associated with commercial diving are not included within scientific diving.

4. Scientific divers, based on the nature of their activities, must use scientific expertise in studying the underwater environment and, therefore, are scientists or scientists in training.

Signed at Washington, D.C. this 20th day of December 1984.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-2 Filed 1-8-85; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4F3098/R725; PH-FRL 2749-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revises the established tolerance for residues of the insecticide acephate and its cholinesterase-inhibiting metabolite in or on bell peppers to include all types of peppers. This regulation was requested by the Chevron Chemical Co.

EFFECTIVE DATE: Effective on January 9, 1985.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of December 5, 1984 (49 FR 47550), which announced that the Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, had submitted a pesticide petition (4F3098) to EPA proposing that 40 CFR 180.108 be amended by changing the established tolerance for the combined residues of

the insecticide acephate and its cholinesterase-inhibiting metabolite methamidophos in or on the raw agricultural commodity bell peppers to include all types of peppers.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the regulation include a 2-year dog feeding study with a no-observed-effect level (NOEL) of 30.0 ppm (0.75 mg/kg/day) based on the inhibition of plasma, RBC, and brain cholinesterase activity and a NOEL of 100.0 ppm (2.5 mg/kg/day) for systemic toxicity; a 28-month rat feeding/ oncogenic study with a NOEL of 5.0 ppm (0.25 mg/kg/day) based on the inhibition of cholinesterase activity in plasma, RBC, and brain (no oncogenic effects observed under the conditions of the study); a rabbit teratogenic study with a NOEL of 10.0 mg/kg (no teratogenic effects were observed at dosage levels up to and including 10.0 mg/kg, which was the highest level tested); a rat teratogenic study with a NOEL of 200.0 mg/kg (no teratogenic effects were observed at dosage levels up to and including 200.0 mg/day, which was the highest level tested); a rat metabolism study; and a supplemental acute delayed neurotoxicity study in hens with no effects observed (no leg paralysis) at the 375.0 mg/kg level (highest level tested).

The overall results of *in vitro* mutagenicity studies indicate that acephate can induce gene mutations, DNA repair, and sister chromatid exchanges. However, *in vivo* studies indicate that these effects, and structural chromosome aberrations, are not produced at a detectable level in an intact mammalian system.

Desirable data that are currently lacking include (1) a mouse oncogenicity study, (2) a rat reproduction study, and (3) a delayed neurotoxicity study. (The mouse oncogenic study has been submitted and is currently under evaluation by the Agency.)

The following preliminary findings from the submitted mouse oncogenicity study are noted. The significance of these findings, if any, is now under review by the Agency. Female CD1 mice fed 1,000 ppm of technical acephate (highest level tested) had a higher incidence of hepatocellular carcinomas (HC), 15.8 percent, and hyperplastic nodules (HN), 19.7 percent, than did controls (1.3 percent and 2.7 percent, respectively). All the HC and most of the HN (14.5 percent) were observed at the terminal sacrifice. The incidence of HC in the historical controls (female) ranged

from 0 to 6 percent. The incidence of hepatocellular adenomas was very low in this study.

The available toxicity data are adequate to support the tolerance because the use will not result in an increase in the theoretical maximum residue contribution (TMRC) to the human diet. As stated in the Federal Register of May 11, 1979 (44 FR 27932), the Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less.

Based on the 28-month rat feeding/ oncogenic study with a NOEL of 5.0 ppm (0.25 mg/kg/day) and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.025 mg/kg of body weight per day and the maximum permissible intake (MPI) is 1.500 mg/day for a 60-kg human.

Because the Agency's data on food factors do not distinguish between bell peppers and other varieties of peppers, there is no increase in the TMRC in the human diet from the regulation. Thus, the total percent of the ADI utilized by the existing tolerances and this regulation remains unchanged at 55.06 percent. No feed items are involved; therefore, it is expected that no secondary residues in meat, milk, poultry, and eggs will result from the pesticide's use on peppers.

The metabolism of the insecticide is adequately understood, and an adequate analytical method, gas chromatography with a thermionic detector, is available for enforcement purposes. There are no regulatory actions pending against continued registration of the insecticide, and no other considerations are involved in establishing the tolerance.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the above considerations, it is concluded that the establishment of the tolerance will protect the public health, and it is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 24, 1984.

Steven Schatzow,
Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.108 is amended by revising the entry for peppers, to read as follows:

§ 180.108 Acephate; tolerances for residues.

Commodities	Parts per million
Peppers (of which no more than 1 ppm is O, S-dimethyl phosphoramidothioate)	4.0

[FR Doc. 85-246 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[00000/R730; PH-FRL 2753-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-(4-Chlorophenoxy)-3,3-Dimethyl-1-(1H-1,2,4-Triazol-1-yl)-2-Butanone; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a tolerance for the combined residues of the fungicide 1-[4-chlorophenoxy]-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and its metabolites in or on

chick pea seed (dry). The tolerance is corrected from 1.0 part per million (ppm) to 0.1 ppm.

EFFECTIVE DATE: Effective on January 9, 1985.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Chief, Federal Register Staff (TS-788), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 607, East Tower, 401 M St., SW., Washington, D.C. (202-382-3415).

SUPPLEMENTARY INFORMATION: In FR Doc. 83-2968, appearing in the *Federal Register* of February 9, 1983 (48 FR 5919), EPA added new § 180.410 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone; tolerances for residues (40 CFR 180.410). Chick pea, seed (dry) was listed with a tolerance of 0.1 ppm, based on pesticide petition 1E2459, which published in the *Federal Register* of April 22, 1981 (46 FR 22963).

In FR Doc. 84-7431, appearing in the *Federal Register* of March 21, 1984 (49 FR 10547), EPA revised § 180.410. The listing for chick pea, seed (dry) was inadvertently changed from 0.1 ppm to 1.0 ppm. The correction below rectifies this error.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 31, 1984.

Steven Schatzow,
Director, Office of Pesticide Programs.

§ 180.410 [Corrected]

Therefore, § 180.410 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone; tolerances for residues is corrected in the entry in the table for Chick pea, seed (dry) by changing the entry in the parts-per-million column from 1.0 to 0.1.

[FR Doc. 85-585 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7F1983/R649; PH FRL 2753-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule increases established tolerances for residues of

the insecticide methidathion in or on alfalfa and alfalfa hay, clover and clover hay, and grass and grass hay. It also establishes tolerances for the combined residues of methidathion, its oxygen analog and its sulfoxide and sulfone metabolites in milk; eggs; and fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep. This regulation was requested pursuant to a petition submitted by Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on January 9, 1985.

ADDRESS: Written objections, identified by the document control number [PP 7F1983/R649], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 410 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the *Federal Register* of August 23, 1977 (42 FR 42372), which announced that Ciba-Geigy Corp., P.O. Box 18300,

Greensboro, NC 27419, had submitted pesticide petition 7F1983 to EPA proposing to amend 40 CFR 180.298 by increasing the established tolerances for residues of the insecticide methidathion, (O,O dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl-2-methoxy-1,3,4-thiadiazolin-5-one) in or on alfalfa and alfalfa hay from 6.0 parts per million (ppm) to 12.0 ppm. Ciba-Geigy Corp. subsequently amended the petition by proposing to increase the established tolerances for residues of the parent compound in or on clover and clover hay and grass and grass hay from 6.0 ppm to 12.0 ppm and to establish a tolerance for the combine residues of methidathion, its oxygen analog [S-[(5-methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl)methyl] O,O-dimethyl phosphorothioate), the sulfoxide metabolite (2-methoxy-4-(methylsulfinylmethyl)-1,3,4-thiadiazolin-5-one), and the sulfone metabolite (2-methoxy-4-(methylsulfonylmethyl)-1,3,4-thiadiazolin-5-one) in milk at 0.03 ppm; eggs at 0.05 ppm; and in fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm.

There were no comments received in response to the notice of filing.

On January 13, 1983, the Agency issued the document "Guidance for the

Reregistration of Pesticide Products Containing Methidathion" in which the Agency set forth its comprehensive position on the conditions and requirements for registration of all existing and future products containing this pesticide. This included, after a full assessment of data available to the Agency, a tolerance assessment. The Agency determined that tolerances for residues of methidathion and its metabolites were needed for milk, meat, poultry and eggs as a result of the existing uses of methidathion on crops used as animal feed.

The Agency decided, as stated in that document, that residues of methidathion and its metabolites in milk, meat, poultry and eggs are not expected to exceed the above levels for which Ciba-Geigy Corp. has now petitioned. Further, the Agency concluded that it will move forward to establish these tolerances.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerances included a 2-year dog feeding study with a cholinesterase inhibition and systemic no-observed-effect level (NOEL) of 0.4 milligram (mg)/kilogram (kg) and 0.1 mg/kg, respectively; a 2-year rat feeding study with a cholinesterase inhibition (CHE) NOEL of 0.4 mg/kg; a rat teratology study with a NOEL of 5.0 mg/kg of body weight (bw) per day; and an acute delayed neurotoxicity study in hens which was negative for neurotoxic effects at up to 350 mg/kg (highest dose administered). Studies on mutagenicity showed negative potential. Based on the 2-year dog feeding study with a 0.1 mg/kg NOEL for liver effects and using a 100-fold safety factor, the acceptable daily intake (ADI) for humans is 0.001 mg/kg/day.

In addition to these toxicology data there exists an oncogenicity study in mice which was conducted by Industrial Bio-Test Laboratories. This study indicated statistically significant increases in the frequency of hepatocellular carcinomas and hepatocellular adenomas in male mice at the high dose level (100 ppm). However, upon auditing by the Health Protection Branch, Health Canada, the study was determined to be invalid because of unacceptable methodologies, including partial degradation of methidathion in the diets, low survival of animals, and deficiencies in animal husbandry. This situation was recognized and discussed in the above mentioned Agency document for reregistration, in which the Agency issued the requirement for two

replacement oncogenicity studies, in addition to other chronic and subchronic studies, all to be submitted to the Agency by January 1987. The Agency has been notified that these studies are in progress and will be submitted within the time limit.

Prior to the tolerance reassessment performed for the above reregistration document, the ADI was originally set using a NOEL for cholinesterase of 4 ppm (0.1 mg/kg) from the 2-year dog study. A ten-fold safety factor was used, and the ADI percentage was calculated to be 20.31 percent.

From the tolerance reassessment and reevaluation of the ADI based on the 2-year dog study, the Agency now concludes that the cholinesterase NOEL is 16 ppm. A systemic NOEL for liver effects of 4 ppm has been substantiated and therefore the safety factor is changed to 100-fold. The recalculated ADI is 0.001 mg/kg, with a maximum permissible intake (MPI) of 0.06 mg/kg/day for a 60-kg individual.

To assess these values against the theoretical maximum residue contribution (TMRC), the Agency used the traditional, old tolerance assessment system and the newly developed system. The old system is based on 1965 USDA household surveys for food consumption, in which consumption for each raw agricultural commodity is expressed as a percent of the total diet, on an "average" person of 60-kg of bw with an assumed daily diet of 1.5 kg, also, and it is estimated for the U.S. population only and for the "farm gate" commodity only at the tolerance level.

The new system significantly differs from the former procedures (Tolerance Assessment System, 1984 Overview and Background Document). In this analysis, consumption is based directly on grams of food consumed per kilogram of body weight and each surveyed individual's own body weight is used. Consumption is also estimated for the U.S. population and 22 subgroups (geographic, season of the year, age, sex, ethnic and others) and utilizes consideration of residues in commodity components (i.e., citrus peel versus pulp).

The old method results in a calculated TMRC for established tolerances of 0.1219 mg/day for a 60-kg person with a 1.5-kg diet (or 0.0020 mg/day of bw). This results in a theoretical occupied ADI of 203 percent. However, these calculations are based on the false assumption that people consume whole citrus fruits, including the peel of oranges, grapefruit, and lemons which have tolerances of 2.0 ppm for methidathion. Peel, of which only a very small amount is consumed by humans,

has 1.8 ppm of the tolerance residues and the juice and pulp, which are significant contributors to the diet, have the remaining 0.2 ppm. These factors have a major influence on the TMRC and occupied ADI. To achieve more realistic calculations of the TMRC and occupied ADI, the residue contribution from citrus peel is fractioned out. When this is done the TMRC value is reduced to 0.0319 mg/day (or 0.0005 mg/kg of bw) which is 53 percent of the ADI. The addition of the residues from the meat, milk, poultry and egg tolerances will increase the TMRC to 0.0573 mg/day (or 0.0009 mg/kg of bw) which is 95 percent of the ADI.

Under the new Tolerance Assessment System, the TRMC value for existing tolerances is 0.0051 mg/kg of bw and the TMRC occupied is 510 percent for the U.S. population. However when the citrus peel residues are fractioned out of the calculations the TRMC and occupied ADI are reduced to 0.0008 mg/kg of bw and 80 percent, respectively. The addition of the meat, milk, poultry and egg tolerances increase these values to 0.0013 mg/kg of bw and 128 percent, respectively. Because of differences in diets, the values for certain population subgroups are more or less than those for the average U.S. population; for example, infants and children have higher values (up to 413 percent of the ADI) and adults have lower values (as low as 85 percent of the ADI).

The increase in the alfalfa, clover, and grass tolerances and the establishment of new tolerances for meat, milk, poultry and eggs result in the ADI being exceeded under the new tolerance assessment system; however, the Agency believes this theoretically highest estimate of dietary exposure for the citrus and other crops on which methidathion is used may be exaggerated and could be adjusted to more realistic levels. For example, only about 10 percent of the citrus crop is treated with methidathion and other crops have less than their full acreage treated. Further adjustments would only be an exercise in further refinement and likely reduction to the realistic TMRC and the occupied ADI. While the residue contribution from meat, milk, poultry and eggs is a significant portion of the TMRC, unlike the increase in tolerances for alfalfa, clover, and grass, the Agency has determined that it is necessary to establish these tolerances to adequately reflect the current residue contributions from methidathion's current registered uses and to meet the requirements of section 408 of the Food, Drug, and Cosmetic Act. These increased and new tolerances will not have a real

incremental impact on the current dietary contribution of residues.

Also, in establishing these tolerances the Agency is concerned about the oncogenicity potential of methidathion in light of the single mouse study declared invalid. Further, in addition to the two oncogenicity studies in two species, other lacking chronic toxicology studies include a teratology study (preferably in the albino rabbit) and a two-generation reproduction study. Requirements for these and certain acute and subchronic toxicology studies were presented and discussed in the Agency's guidance document for the continued registration of methidathion products. These studies are required to be submitted to the Agency by January 13, 1987. Ciba-Geigy Corp. has written to the Agency stating their intention of fulfilling these requirements. Further, the Agency concluded in that document that during this interim period these tolerances will be established for a person not to exceed 5 years so that the required oncogenicity studies and entire data base may be reevaluated and a determination made whether or not to continue these tolerances. Also, during this interim period the Agency has decided not to approve new food uses for methidathion unless the incremental residue contribution is insignificant.

The pesticide is considered useful for the purpose for which the tolerances are sought. There are no regulatory actions pending against the continued registration of methidathion. The metabolism of methidathion is adequately understood, and an adequate analytical method, gas chromatography, is available for enforcement purposes.

Based on the information cited above, the Agency has determined that the establishment for residues of the pesticide in or on the commodities will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 31, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.298 is amended by designating the existing text as paragraph (a) and revising the entries for alfalfa and alfalfa hay, clover and clover hay, and grass and grass hay and by adding paragraph (b), to read as follows:

§ 180.298 Methidathion; tolerances for residues.

(a) * * *

Commodities	Parts per million
Alfalfa	12
Alfalfa, hay	12
Clover	12
Clover, hay	12
Grass	12
Grass, hay	12

(b) Tolerances are established for residues of the insecticide methidathion, its oxygen analog (S-[5-methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl]methyl] O,O-dimethyl phosphorothioate), the sulfoxide metabolite [2-methoxy-4-(methylsulfinyl-methyl)-1,3,4-thiadiazolin-5-one], and the sulfone metabolite [2-methoxy-4-(methylsulfonylmethyl)-1,3,4-thiadiazolin-5-one] in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.05
Cattle, meat	0.05

Commodities	Parts per million
Cattle, mbypr	0.05
Eggs	0.05
Goats, fat	0.05
Goats, meat	0.05
Goats, mbypr	0.05
Hogs, fat	0.05
Hogs, meat	0.05
Hogs, mbypr	0.05
Horses, fat	0.05
Horses, meat	0.05
Horses, mbypr	0.05
Milk	0.05
Poultry, fat	0.05
Poultry, meat	0.05
Poultry, mbypr	0.05
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, mbypr	0.05

[FR Doc. 85-586 Filed 1-8-85; 8:45 am]

BILLING CODE 6860-50-M

40 CFR Part 180

[PP2F2590/R735; PH-FRL 2753-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide triforine (N,N-1,4-piperazinediylbis[2,2,2-trichloroethylidene]]bis[formamide]) in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of triforine in or on these commodities was requested by EM Industries, Inc.

EFFECTIVE DATE: Effective on January 9, 1985.

ADDRESS: Written objections, identified by the document control number [PP 2F2590/R735], may be submitted to the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (21), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of December 16, 1981 (46 FR 61331), that EM Industries, Inc., 5 Skyline Drive, Hawthorne, NY 10523, had filed pesticide petition PP2F2590 proposing to amend 40 CFR 180.382 by establishing tolerances for residues of the fungicide triforine (N,N-1,4-

piperazinediylbis[2,2,2-trichloroethylidene]]bis[formamide]) in or on the raw agricultural commodities almonds at 0.01 part per million (ppm) and almond hulls at 0.1 ppm. This petition was subsequently amended (48 FR 52974; November 23, 1983) by raising the tolerance level for almond hulls to 0.2 ppm. The petition was further amended (49 FR 31756; August 8, 1984) by proposing tolerances for the fat, meat, meat byproducts, and milk of cattle, goats, horses, and sheep at 0.01 ppm.

No comments were received in response to these notices of filing.

The data submitted in this petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. Since almond hulls are not considered a poultry feed item, there are no reasonable expectations for residues to occur in eggs or poultry.

The data submitted indicate that there are no reasonable expectation of finite residues in meat, fat, or meat byproducts of livestock from the feeding of almond hulls covered by these tolerances. Therefore, it is concluded that the tolerances for the meat, fat, and meat byproducts of livestock are not required.

The toxicology data considered in support of the tolerances include:

1. A 2-year dog feeding study with a no-observed-effect level (NOEL) of 2.5 mg/kg bodyweight (bw)/day. Systemic effects (siderosis of Kepffer cells and bone marrow) were observed at the 25.0 mg/kg bw/day dose level.

2. A 2-year rat oncogenicity/chronic feeding study with a NOEL of 31.25 mg/kg bw/day. The systemic effect (anemia) was observed at the 156.25 mg/kg bw/day dose level. The chemical was not considered to be oncogenic at any of the doses tested (0, 1.25, 6.25, 31.25, and 156.25 mg/kg bw/day) under the conditions of the study.

3. An 18-month mouse oncogenicity study. Under the conditions of the study, the chemical was not considered to be oncogenic at any of the doses tested (0, 4.3, 21.4, and 107 mg/kg bw/day).

4. A rat teratology study that indicated no teratogenic effects up to 1,600 mg/kg bw (the highest dose tested). The NOEL for fetotoxic effect was at the 800 mg/kg bw under the conditions of the study.

5. A rabbit teratology study that indicated no teratogenic effects up to 125 mg/kg bw (the highest dose tested). The NOEL for fetotoxic effects was 5 mg/kg bw under the conditions of the study.

6. A three-generation rat reproduction study indicated no reproductive effects up to 125 mg/kg bw/day dose level under the conditions of the study.

7. Two rat metabolism studies that adequately identified the major metabolites.

Based on the 2-year dog feeding study, the NOEL is 2.5 mg/kg bw/day. Using a 100-fold safety factor, the acceptable daily intake (ADI) is 0/025 mg/kg bw/day and the maximum permissible intake (MPI) is 1.5 mg/day for a 60-kg person. The maximum theoretical residue contribution from currently established and these added tolerances is 0.19 mg/day and utilizes 12.76 percent of the ADI.

The nature of the residue in almonds is adequately understood. The residue of concern consists of triforine per se. An adequate analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes.

No actions are currently pending against the continued registration of triforine. Other considerations in the registration of triforine include the exemption from the requirement of a tolerance for residues of the inert ingredients, *N*-methylpyrrolidone and dimethylformamide, used in the formulated product.

The tolerances established for almond nutmeats and hulls will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, 30 days after the date of publication of this notice in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(j)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 31, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.382 is amended by adding and alphabetically inserting the following commodities, to read as follows:

§ 180.382 Triforine; tolerances for residues.

Commodities	Parts per million
Almond hulls	0.20
Almond (nutmeats)	0.01

[FR Doc. 85-584 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6581

[W-88021]

Withdrawal for Public Housing; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 5.55 acres of land in which the United States may hereafter acquire interests from settlement, sale, location, or entry under the public land laws, but not the mining laws, for the purpose of protecting the equity of the Department of Housing and Urban Development in the development of public housing. The mineral estate of the land is owned by the State of Wyoming. This withdrawal shall remain in effect for a period of 20 years.

EFFECTIVE DATE: January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Should the United States acquire any interest in the title of the land by operation of the reversionary clause contained in the patent for these lands, Patent No. 49-83-0027, in conformance with the Recreation and Public Purposes Act of June 14, 1926, 43 U.S.C. 869 et seq. (1982), subject to valid existing rights, the following described land is hereby withdrawn from settlement, sale, location, or entry under the public land laws, but not the mining laws, 30 U.S.C. Ch. 2 (1982), and transferred to the jurisdiction of the Department of Housing and Urban Development.

Sixth Principal Meridian, Wyoming

A tract of land, being a portion of Parcel A, Township 50 and 51 North, Range 82 West, 6th P.M., Johnson County, Wyoming, being further described as follows:

Commencing at an existing brass cap which marks the center of Section 34, Township 51 North, Range 82 West, 6th P.M., in Johnson County, Wyoming; thence S. 00°28'00" E. a distance of 79.03 feet to an aluminum capped rebar stamped LS 2335, said aluminum capped rebar being the true point of beginning; thence N. 89°58'15" E. a distance of 331.71 feet to an aluminum capped rebar stamped LS 2335; thence S. 18°59'05" E. a distance of 181.79 feet to an aluminum capped rebar stamped LS 2335; thence S. 79°29'04" E. a distance of 122.52 feet to an aluminum capped rebar stamped LS 2335; thence S. 00°28'00" E. a distance of 328.52 feet to an existing iron pipe; thence S. 89°01'06" W. a distance of 209.65 feet to an existing iron pipe; thence S. 89°04'17" W. a distance of 300.09 feet to an existing iron pipe; thence N. 00°28'00" W. a distance of 531.06 feet to the point of beginning.

Said tract containing 5.55 acres, more or less.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

January 2, 1985.

Robert N. Broadbent,

Assistant Secretary of the Interior.

[FR Doc. 85-601 Filed 1-8-85; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Addition of the Cochito to the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service adds the cochito (Gulf of California harbor porpoise) to the List of Endangered and Threatened Wildlife. This measure, required by Section 4(a)(2)(A) of the Endangered Species Act, corresponds with a determination of endangered status by the National Marine Fisheries Service, which has jurisdiction of the cochito pursuant to the Act.

DATES: The effective date of this rule is February 8, 1985.

ADDRESSES: Questions regarding the Service's role in this matter may be addressed to the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John Z. Spinks, Jr., Chief, Office of Endangered Species, at the above address (703/235-2771 or FTS 235-2771).

SUPPLEMENTARY INFORMATION: Pursuant to the Endangered Species Act of 1973, as amended, and in accordance with Reorganization Plan Number Four of 1970, responsibility for the cochito, or Gulf of California harbor porpoise

(*Phocoena sinus*), as well as most other marine mammals, lies with the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce. Section 4(a)(2)(A) of the Act provides that the NMFS must decide whether species under its jurisdiction should be classified as endangered or threatened. The Fish and Wildlife Service (FWS), however, is responsible for the actual addition of such species to the List of Endangered and Threatened Wildlife in 50 CFR 17.11(h). In the Federal Register of April 25, 1984 (49 FR 17781-17783), the NMFS proposed determination of endangered status for the cochito and requested comments from the public by June 25, 1984. In the Federal Register of June 19, 1984 (49 FR 25017), the comment period was extended until July 25, 1984.

In this issue of the Federal Register, the NMFS is publishing its final determination of endangered status for the cochito (see document in Final Rules section under the Department of Commerce, National Oceanic and Atmospheric Administration). Accordingly, the FWS hereby concurrently adds the cochito, as an endangered species, to the List of Endangered and Threatened Wildlife. Because this FWS action is nondiscretionary, and in view of the public comment period allowed by the NMFS on its proposed determination, the FWS finds that good cause exists to omit the notice and public comment procedures of 5 U.S.C. 553(b) as

unnecessary and impractical with respect to this ministerial rule. The FWS also has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Act. A notice outlining the reasons for this determination was published in the Federal Register of October 25, 1983 (48 FR 49244).

List of subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17--[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h) is amended by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under "MAMMALS:"

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species	Common name	Scientific name	Historic range	Verte-brata population where endangered or threat-ened	Status	When listed	Critical habitat	Special rules
MAMMALS								
	Cochito (—Gulf of California harbor porpoise).	<i>Phocoena sinus</i>	Mexico (Gulf of California)	Entire	E	168	NA	NA

Dated: December 12, 1984.
G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 85-603 Filed 1-8-85; 8:45 am]
BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 222
[Docket No. 41034-4134]
Endangered Fish or Wildlife; Cochito
AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Final rule.

SUMMARY: The NMFS has determined that the cochito (*Phocoena sinus*) should be listed as an endangered species pursuant to the Endangered Species Act of 1973 (ESA) based principally on the presumed low number of animals, the known mortality associated with incidental takings in fisheries for over 40 years, and the continuation of similar fisheries. Since this species does not occur within the jurisdiction of the United States, no critical habitat is being designated. Concurrent with this rule,

the Fish and Wildlife Service, Department of the Interior, is amending the U.S. List of Endangered and Threatened Wildlife by adding the cochito as an endangered species. The intended effect of listing the cochito is to provide it with the protection afforded endangered species under the ESA.

EFFECTIVE DATE: The effective date of this rule is February 8, 1985.

ADDRESS: The complete file for this rule is available for review in the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Patricia Montano, Protected Species Division, Office of Protected Species and Habitat Conservation (202-634-7529).

SUPPLEMENTARY INFORMATION:

Background

On September 5, 1978, the NMFS received a petition from the Defenders of Wildlife to list the cochito (*Phocoena sinus*) as a threatened species under the ESA (16 U.S.C. 1531) for the following reasons:

1. The cochito comprises a single, restricted population.
2. *P. sinus* is vulnerable to gillnet fishing operations.
3. The paucity of biological data and the failure to sight *P. sinus* on extended cruises is evidence of the increasing rarity of the species.

4. The IUCN-SSC Whale Specialist Group recommended that *P. sinus* be listed as vulnerable in the IUCN Red Data Book.

The Assistant Administrator for Fisheries, NMFS, determined that the petition presented substantial information indicating that the petitioned action may be warranted and commenced a review of the status of the cochito to determine whether or not it should be listed under the ESA (June 3, 1983; 48 FR 24903). On April 25, 1984, the NMFS published its proposed determination that the cochito should be listed as endangered (49 FR 17781) and requested comments and information by June 25, 1984. The comment period was extended until July 25, 1984 (49 FR 25017). After a thorough review of all information available, the NMFS has determined that the cochito should be classified as endangered under the terms of the ESA. The list of endangered species under the jurisdiction of the NMFS, Department of Commerce, is contained in 50 CFR 222.23(a), and is amended to reflect this final determination. The Fish and Wildlife Service, Department of the Interior,

maintains the U.S. List of Endangered and Threatened Wildlife (50 CFR Part 17) of all species determined by the NMFS or the FWS to be endangered or threatened. Concurrent with this rule, the FWS is amending the List by adding the cochito as an endangered species (see document in the Final Rules section of this issue under Department of the Interior, Fish and Wildlife Service).

Summary of Comments and Recommendations

The NMFS solicited comments and information concerning the cochito in its notice of status review (June 3, 1983; 48 FR 24903) and proposed rule (April 25, 1984; 49 FR 1181).

The following individuals and organizations provided information and/or comments: Defenders of Wildlife; Dr. Robert Brownell, Jr., U.S. Fish and Wildlife Service; Smithsonian Institution; Marine Mammal Commission; Whale Protection Fund, Center for Environmental Education; Whale Center; Friends of Animals; American Cetacean Society; Conservation Monitoring Centre, IUCN; and Monitor. The Direccion General de Flora y Fauna Silvestres, Government of Mexico also provided information regarding the cochito.

In general, reviewers believed that the apparent small population size and limited range of the cochito make it extremely vulnerable, and recommended that it be listed as either endangered or threatened under the ESA. The following potential threats to the species were cited:

- Incidental capture in gillnet fisheries and shrimp trawling.
- Reduction of the available nutrients in the Gulf of California and possible declines in fish prey abundance as a result of the damming of the Colorado River which has reduced the water flow into the Gulf of California.
- Reduction of the cochito's available food supply from overfishing.
- Increased harassment from the tourboat industry.
- Impacts to the species' habitat from pesticide runoff.

Status Review

The cochito (*Phocoena sinus*), also known as the Gulf of California harbor porpoise or the vaquita, was described by Norris and McFarland in 1958. The size of the population is not known, but is believed to be extremely small. The range of this species is thought to be confined to the northern portion of the Gulf of California, Mexico, and is the smallest known range of any marine mammal. Only 26 confirmed records of this species exist. Since 1978, there have

been only five sightings at sea, the most recent being in 1980.

Little is known about the behavior and food habits and nothing is known about the genetics or physiology of the cochito. Knowledge of food habits is based on the examination of one specimen that contained parts of bronze-striped grunts (*Orthopristis reddingsi*) and Gulf croakers (*Bairdiella icistius*). Both these fish are abundant throughout the upper Gulf of California.

Summary of Factors Affecting the Species

An endangered species is any species that is in danger of extinction throughout all or a significant portion of its range; and, a threatened species is any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(a)(1) of the ESA and implementing regulations (50 CFR Part 424) establish procedures and criteria for listing, delisting or reclassifying species. A species may be determined to be an endangered or threatened species based on the best scientific and commercial data available due to one or more of the five factors described in section 4(a)(1) of the ESA. These factors and their applicability to *P. sinus* are described below:

1. The Present or Threatened Destruction, Modification or Curtailment of Its Habitat or Range

Damming of the Colorado River has reduced the flow of water into the upper Gulf of California. Increased pesticide runoff into the Gulf may also affect the cochito's habitat. However, it is not known how these factors have affected the species.

2. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

There is no evidence that the cochito has ever been utilized for commercial or recreational purposes or taken for scientific or educational purposes. All scientific specimens were obtained from animals found dead.

3. Disease or Predation

There is no information indicating that disease or predation constitutes a threat to the continued welfare of this species.

4. Inadequacy of Existing Regulatory Mechanisms

P. sinus is listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which prohibits trade for commercial purposes of this species.

Although Mexico is not a party to the Convention, these prohibitions would apply to trade with a signatory party to the Convention.

The cochito is also protected under the provisions of the Marine Mammal Protection Act of 1972 (MMPA, 16 U.S.C. 1361) which prohibits the import of marine mammals into the U.S. except for scientific research or public display. Section 108 of the MMPA establishes an international program which directs the Secretary of Commerce, through the Secretary of State, to initiate the development of bilateral or multilateral agreements with other nations for the protection and conservation of marine mammals. Under the authority of this section, the NMFS has informally cooperated with the Government of Mexico in marine mammal scientific research programs that can be continued or expanded.

The Whaling Convention Act of 1949 (WCA, 16 U.S.C. 916) implements the International Convention for the Regulation of Whaling and authorizes U.S. participation in all activities of the International Whaling Commission (IWC). The participation of U.S. scientists in the standing Subcommittee on Small Cetaceans of the IWC's Scientific Committee allows a continuous access to the status reports developed for all species of cetaceans and opportunity to contribute to small cetacean research programs as they develop.

5. Other Natural or Manmade Factors Affecting Its Continued Existence

The cochito was frequently taken incidentally to the gillnet fishery for totoaba (*Cynoscion macdonaldi*). This fishery operated from the late 1940's through 1975 in the northern Gulf of California, Mexico, coinciding with the known range of the cochito. There is no information on the total or annual incidental catch of cochito associated with the fishery, but estimates have been made placing incidental catch at tens to hundreds of animals per year. The Government of Mexico has placed a continuing ban on the totoaba gillnet fishery since 1975. A gillnet fishery for sharks still operates in the Gulf of California as does a shrimp fishery, both with unknown fishing effort and incidental take of smaller cetacean species. All legal measures regarding these fisheries are under the jurisdiction of the Government of Mexico. The

apparent rarity of the cochito and the fact that this species historically has been taken incidentally by gillnet fisheries suggest that the use of this type of fishing gear anywhere within the range of *P. sinus* constitutes a threat to the continued existence of the species.

Discussion

Although there is little information available concerning the abundance, biology, and ecology of *P. sinus*, the biological information available indicates that the species is in danger of extinction. This determination is based upon the presumed small population size, limited range, and the mortality of *P. sinus* associated with the totoaba and other fisheries for over 40 years. This threat continues since some of these fisheries continue in the Gulf of California. The reduction of the population size from past fishing activities combined with continued fishing with an unknown incidental mortality throughout the species' range warrant the listing of *P. sinus* as endangered under the ESA.

Critical Habitat

Section 4(a)(3) of the ESA requires that the maximum extent prudent and determinable the Secretary should designate critical habitat at the time the species is determined to be endangered or threatened. However, the critical habitat provisions do not apply to areas outside the jurisdiction of the United States. This policy is reflected in the regulations implementing section 4 of the ESA (49 FR 38900; October 1, 1984). Because the entire known range of the cochito is located within Mexican territory, no critical habitat has been designated.

Classification

As noted in the Conference Report on the 1982 Amendments to the ESA economic consideration have no relevance to determinations regarding the status of species. Therefore, the NMFS has determined that the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

NOAA has categorically excluded all ESA listing actions from the environmental assessment and environmental impact statement requirements of the National Environmental Policy Act (NOAA Directives Manual 02-10, July 23, 1984;

49 FR 29644) because these actions do not normally have the potential to significantly affect the human environment. Thus, no NEPA document has been prepared for the listing of the cochito as an endangered species.

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List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened wildlife, Exports, Fish, Import, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Dated: October 22, 1984.

William G. Gordon,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

PART 222—ENDANGERED FISH OR WILDLIFE

For the reasons set out in the preamble, Part 222 of Title 50 of the Code of Federal Regulations is amended as follows:

1. The authority citation to Supart C of Part 222 is revised to read as follows:

Authority: 16 U.S.C. 1531-1543.

§ 222.23 [Amended]

2. Section 222.23(a) of Subpart C, is amended by adding the phrase "Cochito (*Phocoena sinus*);" immediately after the phrase "Sperm whale (*Physeter catodon*);" in the second sentence.

[FR Doc. 85-602 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 50, No. 6

Wednesday, January 9, 1985

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

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Passengers on Foreign Vessels Taken on Board and Landed in the U.S.

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: Customs is considering amending its regulations relating to the transportation of passengers by a foreign vessel between ports or places in the U.S. either directly or by way of a foreign port. The proposed amendment provides that, with certain exceptions, such transportation is prohibited when passengers are actually embarked at one port or place in the U.S. and disembarked at another port or place in the U.S. This proposal would more accurately reflect the scope and intent of the coastwise trade passenger statute which contains no provision for exceptions based upon the number of hours a vessel is in port, such as is provided in the current regulation. The prohibition would not apply when passengers are so transported between such ports or places on a voyage touching foreign ports other than nearby foreign ports. The proposed amendment would simplify the administration of the statute for Customs, be of benefit to the economy of certain of the American coastwise ports affected, and in no way erode the statutory protection given to American vessels engaged solely in domestic trade.

DATE: Comments must be received on or before March 11, 1985.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Edward B. Gable, Jr., Director, Carriers, Drawback and Bonds Division, U.S.

Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5732).

SUPPLEMENTARY INFORMATION:

Background

Title 46, United States Code, section 289 provides that no foreign vessel shall transport passengers between ports or places in the U.S., either directly or by way of a foreign port, under a penalty of \$200 for each passenger so transported and landed.

Section 4.80a, Customs Regulations (19 CFR 4.80a), provides that a foreign vessel which takes a passenger on board at a port in the U.S., its territories, or possessions embraced within the coastwise laws ("coastwise port") will be deemed to have landed that passenger in violation of the coastwise laws (46 U.S.C. 289): (1) If the passenger goes ashore, even temporarily, at another coastwise port on a voyage to one or more coastwise ports but touching at a "nearby foreign port or ports" (as defined in § 4.80a(c), Customs Regulations (19 CFR 4.80a(c)), but at no other foreign port, and (2) if during the course of the voyage the vessel remains in the coastwise port (not including the port of embarkation) for more than 24-hours, without regard to whether the passenger ultimately severs his connection with the vessel at the port at which he embarked. The 24-hour rule of § 4.80a(2) does not apply to a trip on which the vessel would at some time touch at a foreign port other than a "nearby foreign port," for example, a port in Europe or in South America.

The essence of the 24-hour rule was originally stated in T.D. 55147(19) of June 3, 1960 (95 Treasury Decisions 297), because it was believed at that time that it was necessary to implement a workable administrative rule of interpretation by which to effectively and efficiently ascertain violations of the coastwise passenger statute, 46 U.S.C. 289.

Customs has been advised that certain American coastwise ports, such as those in Alaska, Florida, and Puerto Rico, are placed in a disadvantageous position in their competition with nearby foreign ports for tourist business due to present § 4.80a(a)(2) and that the net result is to hurt the economy of these American ports by depriving them of revenue. It has been recommended that the 24-hour limit be extended to permit

foreign-flag vessels from U.S. ports to be able to land passengers at other U.S. ports for longer periods.

The references in § 4.80a to a 24-hour rule and nearby foreign ports are the result of attempts by Customs to apply an Attorney General's opinion dated February 26, 1910 (28 O.A.G. 204). In that case, a foreign-vessel transported 615 passengers between New York and San Francisco. However, the Attorney General stated that since the passengers were so transported on a cruise around the world, the primary object of the passengers was to visit various parts of the world on a pleasure tour and then return home via California, not to be transported in domestic commerce, and therefore the transportation was not in violation of 46 U.S.C. 289.

The 1910 Attorney General's opinion was extended to voyages touching at foreign ports other than nearby foreign ports, as defined in § 4.80a(c), Customs Regulations, by T.D. 68-285 (33 FR 16558, November 14, 1968). On the other hand, voyages solely to one or more coastwise ports have always been considered predominately coastwise in their nature and object and therefore passengers on such a voyage temporarily going ashore at a coastwise port have been deemed to have been disembarked in violation of the statute. An example of such a voyage would be one including only coastwise ports in California and Hawaii.

The terms "embark" and "disembark" are trade words of art which normally mean going on board a vessel for the duration of a specific voyage and leaving a vessel at the conclusion of a specific voyage. In this normal context the words do not contemplate temporary shore leave for any specified number of hours during a voyage. It is believed that the use of the terms in the proposal will follow the intent of Congress and clarify the scope of the regulation. That the statutory language "so transported and landed" means the final and permanent disembarking is further shown by 4 Attorney General Opinions as follows:

1. 28 O.A.G. 204, February 26, 1910, citing a statement by the Chairman of the interested House committee at the time that the legislation relates to "the conveyance of passengers between ports of the United States";

2. 29 O.A.G. 318, February 12, 1912, stating that the words of the statute "imply a transportation beginning at one

port or place in the United States and ending at another port therein";

3. 30 O.A.G. 44, February 1, 1913, covering the application of the statute to passengers joining a vessel in a port of the U.S. and "disembarking at the port of New York" and referring to the passengers' "ultimate destination, New York, and landed there"; and

4. 36 O.A.G. 352, August 13, 1930, covering the application of the statute to passengers on a vessel which "would transport them from San Francisco to Honolulu" even though the passengers "later embarked" on another vessel for a foreign country.

To assist Customs in gauging the degree of interest in adjusting the 24-hour rule, an advance notice was published in the *Federal Register* on April 25, 1984 (49 FR 17769), inviting public comment. After consideration of the comments received in response to the notice, which are discussed in this document, it was determined to propose the amendment to § 4.80a, Customs Regulations, set forth below.

Discussion of Comments

As a result of the advance notice, 193 responses were received from national, state, and local government officials; chambers of commerce; port authorities; unions; trade associations; vessel operators; individuals; and various miscellaneous sources. Those responding demonstrated overwhelming support for the proposal, with only 10 negative comments.

Of those opposing the proposal, 8 state that the present 24-hour rule, and/or the proposed liberalization of that time limit, are contrary to the intent of the Congress in enacting the coastwise passenger statute.

As stated in the advance notice, the essence of the 24-hour rule was originally stated in T.D. 55147 (19), June 3, 1960 (95 Treasury Decision 297). Customs is satisfied, after administering the 24-hour rule for a quarter of a century, that it is not contrary to the intent of the statute, which is to reserve for American-flag vessels the transportation of passengers from one U.S. port to another U.S. port. Further, the proposal will not change the present prohibition on the transportation of passengers on foreign vessels solely on voyages between coastwise ports. At present, passengers embarking on a foreign vessel touching nearby foreign ports who go ashore temporarily at a subsequent U.S. port where the vessel remains for more than 24 hours are considered transported in violation of the coastwise laws. In addition to causing administrative problems for Customs, the 24-hour rule hurts the

economy of the subsequent U.S. port since the net result is that passengers temporarily going ashore will spend 24 hours or less in the U.S. port and much more time in the nearby foreign ports visited by the vessel. The proposal is limited to providing that on such a voyage, the passengers going ashore will only be in violation of the coastwise laws if they disembark at the subsequent U.S. port, i.e., do not come back on board the vessel and depart with it when it leaves the port.

One commenter states that while the present 24-hour rule is generally in conformity with the purpose of the statute, adoption of the proposal "will be abandoning a straightforward verifiable regulation and substituting a vague and ambiguous regulation which is not adequately enforceable."

Customs does not believe the proposal is vague and ambiguous, but in an effort to address such concerns, the proposal has been stated in a different format in this document. Passengers who embark at a U.S. port on a foreign vessel touching nearby foreign ports who disembark at a subsequent U.S. port will still be considered to have been transported in violation of the coastwise laws. Passengers who embark at a U.S. port on a foreign vessel touching only U.S. ports who disembark or go ashore temporarily at a subsequent U.S. port will still be considered to have been transported in violation of the coastwise laws. However, passengers who embark at a U.S. port on a foreign vessel touching nearby foreign ports who go ashore temporarily at a subsequent U.S. port but reboard the vessel and leave with it when it leaves the port will not be deemed to have been transported in violation of the coastwise laws. Customs has the ability and the experience to enforce this requirement.

One commenter states that the proposal will yield little in the way of "benefits at local areas", that grave injury would be caused to certain named American-flag vessels, that certain environmental problems would result, and that foreign-flag vessels would not have to observe various regulations applicable to American-flag vessels (e.g., Immigration and Naturalization Service requirements, license fees for musical performances on board, Coast Guard safety standards, public health requirements, gambling regulations, and sewage treatment requirements).

Customs disagrees with the various points made by this commenter. The affirmative comments received from local, state and federal government representatives, chambers of commerce, port authorities, and various

associations, companies and private individuals, make it clear that the proposal will be of major benefit to American interests at U.S. ports. Under the proposal, the U.S.-flag vessels that are named that are engaged in the transportation of passengers on voyages solely between U.S. ports would not be in danger of competition from foreign vessels operating on similar itineraries. The proposal does not relate to passengers being transported on voyages solely between U.S. ports, including passengers so transported who temporarily go ashore at intervening U.S. ports. Such transportation of passengers is reserved to U.S.-built U.S.-flag vessels and this would not be changed under the proposal. Further, under no circumstances does the proposal mean that foreign vessels would not have to comply with all applicable laws and regulations, including those relating to the above-mentioned subjects, including all applicable environmental requirements.

Another commenter states that the proposal would be a radical departure from the statutory intent, citing the legislative history of 46 U.S.C. 289 as evidence that Congress viewed the statutory restriction as "absolutely necessary to enable American vessels to do any of the passenger traffic." The language quoted in the comment is from a statement by Senator Frye of Maine when the U.S. Senate had under consideration an amendment of 46 U.S.C. 289 (31 Cong. Rec. 1610 (1898)). The amendment was solely to increase the statutory penalty from \$2 to \$200. The Senator was pointing out that American vessels could lose business to foreign vessels if foreign vessels could engage in the prohibited coastwise trade of the U.S. by simply paying a \$2 penalty. The Senator said "Canadian vessels would be delighted to pay the United States \$2 for every violation of the law and take our passenger trade." Customs does not believe that the quoted statement of the Senator is the legislative history of Congressional intent regarding the present proposal.

The comment also refers to the Attorney General's opinion of February 26, 1910 (28 O.A.G. 204), cited earlier in this document, which is the authority for considering the primary object of passengers. The comment states that "a 70-year-old opinion . . . should not be persuasive" and that Customs should "effectively overrule 28 O.A.G. 204." Customs agrees with the Attorney General's opinion. Passengers who embark on a foreign vessel at a coastwise port, e.g., San Francisco, and proceed with the vessel on a voyage

touching a distant foreign port, e.g., Yokohama, Japan, and eventually disembark at a coastwise port other than the port of embarkation, e.g., Los Angeles, will not be deemed to have been transported in violation of the coastwise law.

Finally, a commenter states that the proposal totally disregards legislation enacted in 1979 relating to the U.S.-flag vessel UNITED STATES. The legislation referred to is Pub. L. 96-111, November 15, 1979, set forth in a note following 46 U.S.C. 1160. Among other things, it provides that on sale of the vessel by the Secretary of commerce to a qualified operator, the vessel may be operated in the "coastwise commerce of the United States." The legislative history of the statute (Senate Report No. 96-298, August 2, 1979) indicates that, in part, the purpose of the law was to remove a cloud which a Court of Appeals decision has cast over the ability of the vessel to operate in the coastwise trade because it was built with the aid of a construction-differential subsidy. However, the legislative history shows that the Congress specifically considered 46 U.S.C. 289 and, of course, it must be assumed that Congress was aware of the 1910 Attorney General's opinion cited above and was aware of the 24-hour rule set forth in the Customs Regulations. Neither in the statute nor in the legislative history did Congress indicate any intention that foreign vessels could no longer operate under the 1910 Attorney General's opinion or the 24-hour rule because of the legislation relating to the vessel UNITED STATES. There is no indication in the legislative history that the Attorney General's opinion or the 24-hour rule might be contrary to 46 U.S.C. 289. Therefore, Customs does not believe that the 1979 legislation is any indication that the present proposal is contrary to 46 U.S.C. 289.

Another commenter states that a Customs officer would have to be stationed in every port to control foreign entry if the regulation is amended. Customs officers are stationed at all ports of entry.

A commenter states that American employment will be lost under the proposal. The favorable comments indicate that the proposal will generate many employment opportunities for Americans.

While one commenter did not object to the proposal itself, there was concern about the possibility, stated in the advance notice, that T.D. 55193(2), which relates to offshore fishing parties, would no longer be applied. For the reasons stated by the commenter, Customs agrees the T.D. 55193(2) relates

to a unique problem and should be the subject of a separate study. Therefore, if the proposal is adopted, that T.D. will continue to be applied.

The remaining comments, all expressing strong support for the proposal, stated that the proposed change would allow ports encompassed by the coastwise laws to compete favorably with nearby foreign ports for the ever-increasing revenues generated by the cruise ship industry. The point was repeatedly made that substantial employment opportunities could be expected to be generated in U.S. coastwise port localities with adoption of the proposal, and that these beneficial aspects could all be realized without diluting the protection afforded American-flag vessels in the transportation of passengers from one U.S. port to another U.S. port.

After careful consideration of all the comments received in response to the advance notice, Customs had determined to propose amendments to § 4.80a which reflect the essence of those appearing in the advance notice, but in an improved format and with an explanation of the terms "embark" and "disembark" included.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 553), § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291 and Regulatory Flexibility Act

Inasmuch as Customs does not believe that the proposal meets the criteria for a "major rule" within the meaning of § 1(b) of E.O. 12291, a regulatory impact analysis has not been prepared.

Customs has determined that the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601-612). Therefore, a regulatory flexibility analysis is not required.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the

rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Imports.

Authority

This document is issued under the authority of R.S. 251, as amended (19 U.S.C. 86); sections 2, 3, 23 Stat. 118, as amended, 119, as amended (46 U.S.C. 2, 3); section 624, 46 Stat. 759 (19 U.S.C. 1624).

Drafting Information

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

Proposed Amendments to the Regulations

It is proposed to amend Part 4, Customs Regulations (19 CFR Part 4), by revising § 4.80a to read as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.80a Coastwise transportation of passengers.

(a) The applicability of the coastwise law (46 U.S.C. 289) to a foreign vessel which embarks a passenger at a port in the U.S. its territories, or possessions embraced within the coastwise laws ("coastwise port") on a voyage touching at least one other coastwise port is as follows:

(1) If the passenger is on a voyage solely to one or more coastwise ports and the passenger disembarks or goes ashore temporarily at a coastwise port, there is a violation of the coastwise law.

(2) If the passenger is on a voyage to one or more coastwise ports and a nearby foreign port or ports (but at no other foreign port) and the passenger disembarks at a coastwise port other than the port of embarkation, there is a violation of the coastwise law.

(3) If the passenger is on a voyage to one or more coastwise ports and a distant foreign port or ports (whether or not the voyage includes a nearby foreign port or ports) and the passenger disembarks at a coastwise port, there is no violation of the coastwise law provided that the passenger has proceeded with the vessel to a distant foreign port.

(b) For the purposes of this section a nearby foreign port is defined as any

foreign port in North America, Central America, the West Indies (including the Bahama Islands but not including the Leeward Islands of the Netherlands Antilles, i.e., Aruba, Bonaire, and Curacao). A port in the U.S. Virgin Islands shall be treated as a nearby foreign port for the purposes of this section. Any foreign port that is not a nearby foreign port is considered a *distant foreign port*, as that term is used in this section. For the purposes of this section the term *embark* is defined as a passenger going on board a vessel for the duration of a specific voyage and the term *disembark* is defined as passenger leaving a vessel at the conclusion of a specific voyage. The terms *embark* and *disembark* are not applicable to a passenger going ashore temporarily at a coastwise port and then going back on board the vessel and departing with it when it leaves the port. The term *passenger*, as used in this section, is defined in § 4.50(b) of this chapter.

(c) The owner or charterer of a foreign vessel or any other interested person may request from Headquarters, U.S. Customs Service, Attention: Carrier Rulings Branch, and advisory ruling as to whether a contemplated voyage would be considered to be coastwise transportation in violation of 46 U.S.C. 289. Such a request shall be filed in accordance with the provisions of Part 177, Customs Regulations (19 CFR Part 177).

William von Raab,
Commissioner of Customs.

Approved December 21, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.
[FR Doc. 85-605 Filed 1-8-85; 8:45 am]
BILLING CODE 4820-02-M

19 CFR Part 101

Proposed Restatement of the New York Customs Region Geographical Boundaries

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the Customs Service field organization by restating the geographical boundaries of the New York Customs Region. No changes in the boundaries are proposed. The document is part of Customs continuing program to update and establish clear, well-defined geographical boundaries for all of the Customs regions. Interested parties are invited to comment on the matter before a final document is published.

DATE: Comments must be received on or before March 11, 1985.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to update and establish clear, well-defined geographical boundaries for all of Customs regions, Customs is proposing to amend § 101.3(b), Customs Regulations (19 CFR 101.3(b)), by publishing a restatement of the geographical boundaries of the New York Customs Region.

The New York Customs Region is comprised of three administrative areas which were created by T.D. 71-19, published in the *Federal Register* on January 20, 1971 (36 FR 946), namely the Kennedy Airport Area, the Newark Area, and the New York Seaport Area. There have been two changes in these areas since their inception. Richmond County, New York, was transferred from the Newark Area to the New York Seaport Area by T.D. 76-59, published in the *Federal Register* on February 27, 1976 (41 FR 8473). In addition, Morris County, New Jersey, was transferred from the then Region III (Baltimore), to the Newark Area of the New York Region by T.D. 78-130, published in the *Federal Register* on May 9, 1978 (43 FR 19832).

Although there has been no change in the configuration of the New York Region since 1978, a review was recently completed by Customs officials of the geographical limits of these areas. The three purposes for performing the review were to: (1) identify what the present limits are; (2) refine the limits in terms that will assure that any future changes will be within Customs, rather than local government control; and (3) publish the new limits in a final document so that persons doing business in the region would be relieved of the complicated legal research now necessary whenever these limits come into question.

The document confirms and clearly delineates the region's existing boundaries. No changes are proposed. Upon final approval, the list of Customs regions, districts and ports of entry in

§ 101.3(b), Customs Regulations, will be amended accordingly.

Proposed Restatement of the New York Customs Region Geographical Limits

The New York Customs Region includes three administrative areas; the Kennedy Airport Area, the Newark Area, and the New York Seaport Area. The proposed geographical limits of each of these areas are as follows:

Kennedy Airport Area

The geographical limits of the Kennedy Airport Area described in T.D. 71-19, published in the *Federal Register* on January 20, 1971 (36 FR 946), are defined as beginning at a point in the Atlantic Ocean at the foot of Beach 95th Street, Rockaway Beach, and proceeding north along the center line of Cross Bay Boulevard and its continuation, Woodhaven Boulevard, to Atlantic Avenue; then east along the center line of Atlantic Avenue to the Van Wyck Expressway; then north along the center line of the Van Wyck Expressway to Hillside Avenue (Route 24); then east along the center line of Hillside Avenue to 212th Street; then south along the center line of Route 24 (212th Street, Jamaica Avenue, and Hemstead Avenue) to the New York City limits, the boundary line between Queens and Nassau Counties; then along this boundary line to the Atlantic Ocean, and then along the shore line to the point of beginning. In addition, La Guardia Airport and the U.S. Naval Air Station at Floyd Bennett Field are designated as parts of the Kennedy Area. The Area also encompasses a peripheral zone of variable extent (up to several miles in width) to accommodate various related trade facilities, such as container stations, warehouses, etc.

Newark Area

The geographical limits of the Newark Area described in T.D. 71-19, published in the *Federal Register* on January 20, 1971 (36 FR 946), and amended by T.D. 76-59, published in the *Federal Register* on February 27, 1976 (41 FR 8473), and T.D. 78-130, published in the *Federal Register* on May 9, 1978 (43 FR 19832), consist of the counties of Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Sussex, and Union in the State of New Jersey. The port of Perth Amboy, which is located approximately 30 miles south of Regional Headquarters, is organizationally aligned to report to the Newark Area. The port limits of Perth Amboy have been established as coterminous with the boundaries of Middlesex and Monmouth Counties.

New York Seaport Area

The geographical limits of the New York Seaport Area described in T.D. 71-19, published in the *Federal Register* on January 20, 1971 (36 FR 946), and amended by T.D. 76-59, published in the *Federal Register* on February 27, 1976 (41 FR 84373), include all that part of the State of New York not encompassed by the Kennedy Airport Area, the Buffalo-Niagara Falls district, and the Ogdensburg district. The port of Albany, which is located approximately 155 miles north of Regional Headquarters, is organizationally aligned to report to the New York Seaport Area. The port limits of Albany are the corporate limits of the city but also encompass the airport enclave outside the city limits.

To ensure the most efficient utilization of the inspectional complements deployed in the vicinity of New York City and those in Albany, a jurisdictional boundary has been established between New York and Albany activities at 41°42' North Latitude. This is an imaginary line just north of the Mid-Hudson Bridge near Poughkeepsie, N.Y., which extends west to traverse the municipalities of Highland, Ellenville, Greenfield Park, Woodridge, Fallsburg, Harris, Fosterdale, or their immediate vicinities and, in an easterly direction, to the north of Arlington, Moore's Mills, Dover Furnace, or their environs. South of the demarcation line, inspectional coverage is the responsibility of the Chief, Inspection Branch, New York Seaport Area; north of the line, it is the responsibility of the Port Director at Albany. (Manual Supplement II-S-3254, dated December 29, 1978).

Where questions arise as to the concept of "port limits" in respect of Customs transactions under the jurisdiction of the New York Seaport and Newark Areas (exclusive of Albany and Perth Amboy), the port limits are construed to be coextensive with the boundaries of the so-called "Port of New York District" which was created by an agreement between the State of New York and the State of New Jersey, consented to by Congress, and precisely defined in 42 Stat. 175f, approved August 23, 1921 (T.D. 40809, dated April 25, 1925).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6 Treasury Department Regulations (31

CFR 1.6), and § 103.11(b)), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Headquarters, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because the proposed amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291, this proposal is not subject to the Executive Order.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

William von Raab,
Commissioner of Customs.

Approved December 21, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.
[FR Doc. 85-607 Filed 1-8-85; 8:45 am]
BILLING CODE 4820-02-M

19 CFR Part 134

Country of Origin Marking of Pipe and Pipe Fittings of Iron or Steel

AGENCY: Customs Service, Treasury.

ACTION: Solicitation of comments.

SUMMARY: It has been brought to Customs attention that certain pipe and pipe fittings of iron or steel, cannot be marked with the proper country of origin by any of the methods prescribed by the recently enacted Trade and Tariff Act of 1984, without rendering such articles unfit for the purpose for which they are intended or violating industry standards for such articles. This document solicits public comments as to precisely which pipe and pipe fittings of iron or steel cannot be marked by any of the prescribed methods.

DATE: Comments must be received on or before February 25, 1985.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Tom Lindmeier, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Section 304, Tariff Act of 1930, as amended, (19 U.S.C. 1304), provides that every article of foreign origin, or its container, imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article or its container will permit, in such a manner as to indicate to an ultimate purchaser in the U.S. the English name of the country of origin of the article, unless specifically exempted. Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements of 19 U.S.C. 1304.

On October 30, 1984, the President signed Pub. L. 98-573, the Trade and Tariff Act of 1984. Section 207 of this law amends 19 U.S.C. 1304 requiring, without exception, that all pipe and pipe fittings iron or steel be permanently marked to indicate the proper country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

It has been brought to Customs attention that certain pipe and pipe fittings of iron or steel cannot be marked by any of the four prescribed methods without rendering such articles unfit for the purpose for which they are intended

or violating industry standards for such articles.

Under the laws of statutory construction, section 207 and 19 U.S.C. 1304, which it amends, should be read *in pari materia*, so that pipe and pipe fittings which by their nature will not permit marking by any of the four prescribed methods, will not be barred from entering the U.S. Such a construction would allow for alternative methods of marking, such as stenciling or tagging in bundles. Accordingly, this document solicits public comments as to precisely which pipe and pipe fittings of iron or steel cannot be marked by any of the means prescribed in § 207 of the Trade and Tariff Act of 1984 (i.e. die stamping, cast-in-mold lettering, etching, or engraving) without rendering such articles unfit for the purposes for which they were intended or violating industry standards for such articles.

It should be noted that Customs has already taken the position that the new marking requirements will apply to iron or steel pipes, tubes, and blanks therefor, as defined in Headnote 3(e), Schedule 6, Part 2, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), which covers tubular products, including hollow bars and hollow billets, of any cross-sectional configuration, by whatever process made, whether seamless, brazed, or welded, and whether with an open or lock seam or joint, of the kind classifiable under items 610.30-610.58, 688.30, TSUS. However, it does not include hollow drill steel of the kind defined in Headnote 3(e), Schedule 6, Subpart 2B, TSUS, and classifiable under items 607.05-607.09, TSUS. The new marking requirements of section 207 will also apply to pipe and tube fittings of iron or steel (bends, branches, drains, reducers, etc.) of the kind classifiable under items 610.62-620.93, 688.32, TSUS.

Comments

Before taking any further action on this matter, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 134

Customs duties and inspection, Imports.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: December 21, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 85-608 Filed 1-8-85; 8:45 am]

BILLING CODE 4820-02-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation issued a final rule on August 5, 1976, relating to the payment of premiums by administrators of pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974. This proposed amendment to that rule would change the filing and premium payment due date for certain covered plans from the last day of the seventh month following the close of the prior plan year to the last day of the second month following the close of the prior plan year. For plans with 10,000 or more participants, the new due date would be effective for plan years beginning on or after January 1, 1985. For plans with 500 or more (but fewer than 10,000) participants, the new due date would be effective for plan years beginning on or after January 1, 1986. The due date would not be changed for plans with fewer than 500 participants. This amendment is needed to align the PBGC's premium collection procedures with those of other government agencies and the private insurance industry. The effect of this proposed rule would be to accelerate the premium due date for approximately eight percent of the plans covered under Title IV of the Act.

DATES: Comments must be received on or before January 24, 1985.

ADDRESSES: Comments should be addressed to the Director, Corporate

Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, Suite 7300, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection in Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202-254-6476 (202-254-8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Title IV of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. 1001 *et seq.*, (the Act) provides for a comprehensive pension plan insurance program administered by the Pension Benefit Guaranty Corporation (the PBGC). Premium payments collected from pension plans covered by the program are a major source of income available to the PBGC for the administration of the insurance program.

Under section 4007(a) of the Act, premiums imposed for plan years in progress on the date of enactment, September 2, 1974, were due within 30 days after that date, i.e., by October 2, 1974. Premiums for the first plan year beginning on or after September 2, 1974 were due within 30 days after the beginning of the plan year. The Act is silent with respect to premium due dates for later plan years, providing:

Premiums under this title are payable at the time, and on an estimated advance, or other basis, as determined by the [PBGC].

On August 5, 1976, the PBGC issued a final rule on Payment of Premiums, 29 CFR Part 2602 (41 FR 32740, recodified as Part 2610 at 46 FR 32575), providing for the statutory rules set forth above and extending the 30-day due date to all plan years beginning on or after September 2, 1974. Under that regulation, the administrator of a covered pension plan was required to file a premium declaration form and pay the plan's estimated premium no later than 30 days after the beginning of each plan year. This procedure often resulted in additional paperwork by plan administrators because the participant count in a plan was not available on the premium declaration due date. In such a case, the number of participants had to be estimated. Later, when the actual participant count was known, a

reconciliation form had to be filed with the PBGC.

Additional problems arose because of the novelty of the insurance program and the unfamiliarity of plan administrators with these new reporting requirements. The 30-day filing requirement also resulted in an administrative burden for the PBGC, in part due to the problems inherent in designing and implementing the premium collection and control system for this new insurance program.

Because of the confusion and the administrative burdens that occurred, on November 17, 1977 (42 FR 59385) the PBGC amended its regulation to move the premium filing and payment due date from 30 days after the beginning of the plan year to seven months after the close of the prior plan year. The need for filing a reconciliation form was thereby eliminated since the longer time period permitted more accurate participant counts.

The due date was later changed by further amendment to the last day of the seventh month following the close of the prior plan year (46 FR 27328, May 19, 1981), which due date became effective for plan years beginning on or after January 1, 1981 and continues to date. This due date allows a plan administrator to file the premium from (PBGC Form 1) and the premium due at the same time the annual report (Form 5500 series) is due, and reconciliation is still generally unnecessary.

Proposed Amendment—Due Date

At this time, the PBGC has determined that a change in the premium filing and payment due date is necessary to bring its premium collection procedures more in line with the collection practices of other Federal Government programs and typical premium payment procedures in the private sector insurance industry. Payment of insurance premiums at the beginning, or in advance, of the period of coverage is the usual practice for insurance programs. Indeed, Congress recognized this practice by providing that the initial insurance premium under the Title IV insurance program should be paid to the PBGC within 30 days after enactment and that premiums for the first full year of coverage should be paid within 30 days after the beginning of the plan year. The delay in collecting premiums until seven months into a plan year not only runs contrary to the usual practice in the insurance industry, but also results in a substantial loss to the PBGC. It is unreasonable for the PBGC's insurance program to bear this loss, particularly in view of the program's large deficit in the single-employer program (approximately \$520 million at

the end of fiscal year 1983). As was concluded by the *President's Private Sector Survey on Cost Control* (the Grace Commission) in its *Task Force Report on Boards/Commissions—Banking*, submitted to the Subcommittee for Consideration at its Meeting on May 26, 1983, at p. 19:

We believe that the acceleration of premium collection is an easily achieved change which will improve the financial performance of PBGC's revolving fund significantly.

- Acceleration of premium collection is consistent with the collection practices of other Governmental programs, and payment of insurance premiums in advance of the coverage period is a typical insurance industry practice.

- We also believe the private pension community is now sufficiently familiar with the workings of PBGC and the reports and filings required by (the) Employee Retirement Income Security Act (ERISA) that the administrative problems previously encountered should not recur.

- We believe that 60 days is sufficient time to determine the number of plan participants and other information normally reported to PBGC and to file the required information return.

The Grace Commission recommended that "the premium collection schedule be changed as soon as practical to accelerate premium collection to no later than 60 days after the beginning of the plan year." *Id.* at p. 20.

In implementing this recommendation, the PBGC decided to make the new premium due date, which would be the last day of the second month following the close of the prior plan year, applicable only to larger plans. As proposed, the change would become effective for such plans, depending on their size, over a two-year period. Under proposed § 2610.3(a)(5), the new due date would apply to plans with 10,000 or more participants for any plan year beginning on or after January 1, 1985 and before January 1, 1986. Under proposed § 2610.3(a)(6), the accelerated due date would apply to all plans with 500 or more participants starting with plan years that begin on or after January 1, 1986. Thus, the premium form and payment for a plan with 10,000 or more participants, determined as discussed below, and a plan year beginning January 1, 1985 would be due no later than February 28, 1985. However, a plan with 500 or more participants (but fewer than 10,000) and a plan year beginning January 1, 1985 would file its 1985 PBGC Form 1 by July 31, 1985, in accordance with the current rule. Such plan, assuming it continued to meet the "500 or more participants" test, would be required to file its PBGC Form 1 for the plan year beginning January 1, 1986 on

or before February 28, 1986, as would the plan in the first example if it meets the "500 or more participants" test. This two-step implementation takes into consideration the number of plans that would be affected by the proposed amendment and the time needed by the PBGC to make the new procedure fully operational.

Consistent with the aims of the Regulatory Flexibility Act and the Paperwork Reduction Act of 1980, the PBGC proposes to retain the current rule for smaller plans, thereby continuing to relieve these plans of any subsequent reconciliation of the premiums owed. For this purpose, plans with fewer than 500 participants (approximately 92 percent of the plans covered by the insurance program) are considered smaller plans. The current rule is also retained for new plans and plans newly covered by the insurance program.

In order to determine whether a plan has the participant count that would require the filing of its premium form and payment earlier than at present, the proposed rule in § 2610.3(a)(9)(ii) provides that the participant count, for this purpose only, is to be made generally as of the last day of the second preceding plan year. This is the same participant count that is used to determine the amount of premium due for the prior plan year. A special rule for determining the participant count in a plan that has been covered by the insurance program for fewer than two plan years is set forth in § 2610.3(a)(9)(i), since the general rule could not be used by such plans. These two rules should give sufficient time for a plan administrator to determine whether the participant count requires early filing.

Plan administrators should note that the method of determining participant count described in the preceding paragraph will be used *only* to determine the due date of the premium filing. There is no change in the method of determining the amount of premium due. For example, if a calendar year plan had 450 participants on December 31, 1984 and 600 participants on December 31, 1985, its premium filing for 1986 would be due on July 31, 1986 (because the plan had fewer than 500 participants on the last day of the second preceding plan year), but the amount of premium due at that time would be based on a participant count of 600, the count as of the last day of the immediately preceding plan year.

Reconciliation Due Dates

As noted above, reconciliation of premiums has not been required for plan years beginning on or after January 1,

1978, because the due date was moved forward under § 2610.3(a) (3) and (4). Under this proposed rule, those plans that continue to file premium forms and payments on the last day of the seventh month after the close of the prior plan year will continue, in most cases, to have no need for reconciliation. Any request for a refund of premium overpayments will continue to be made by the filing of an amended premium form. For those plans that must file by the accelerated due date, proposed § 2610.3(b) provides that the due date for any reconciliation form is the last day of the seventh month following the close of the prior plan year, which is the date that the PBGC Form 1 is currently due for such plans. The PBGC expects that many large plans will not have to reconcile their premiums because their recordkeeping systems are adequate to produce an exact participant count within two months after the end of the plan year.

Waiver of Late Payment Penalty

Under § 2610.5, plans that will be required to file by the accelerated due date must, as under the current rule, base the amount of their premium on the number of participants in the plan on the last day of the preceding plan year. This may require that the number of participants be estimated, necessitating a later reconciliation with the actual participant count. Under § 2610.8 of the current regulation, late payment penalty charges are imposed for any premium payment not made by the due date specified in § 2610.3. Section 4007(b) of the Act, which authorizes the late payment charge, also authorizes the PBGC to grant waivers. In order to ameliorate the effects of the acceleration of the premium due date in the proposed rule, new § 2610.9(d) of the proposed rule provides for a waiver of late payment penalty charges for a plan required to file earlier than at present if the plan pays at least 90 percent of the premium due for the plan year on or before the due date. Late payment interest charges on underpayments of premiums still will be imposed under § 2610.7, since the PBGC has no statutory authority to waive those charges.

Technical Amendments

This proposed rule also would make certain technical amendments and editorial changes for clarification purposes and to correct typographical errors. These proposed changes are not substantive.

Comments

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Director, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. Each person submitting comments should include his name and address, identify this publication and give reasons for any recommendations. Because the prompt promulgation of this rule will help alleviate the insurance program's deficit, implementation of the accelerated due date for plan years beginning in 1985 is considered important. In order to meet time constraints, the PBGC is requesting that comments be submitted on or before January 24, 1985. In view of the limited time for comments, the PBGC will directly inform the administrators of those plans with 10,000 or more participants, which would be affected by the proposed rule for the plan year beginning in 1985, that the proposed rule has been published and comments are invited.

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 [46 FR 13193], because it will not have an annual effect on the economy of \$100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under Section 605(b) of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601(2)), the PBGC certifies that this regulation will not have a significant economic effect on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. Since this proposed amendment will not change the present rule for plans with fewer than 500 participants, it has no economic effect on small plans. Accordingly, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

OMB Clearance of Information Collection

The collection of information requirements contained in this regulation have been approved by the

Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) for use through January 31, 1985. OMB control number 1212-0009. The PBGC has requested an extension of the expiration date and the approval of any additional paperwork under this proposed amendment. Comments concerning the proposed collection of information under this amendment should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Pension Benefit Guaranty Corporation.

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

PART 2610—[AMENDED]

In consideration of the foregoing, Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for Part 2610 is revised to read as follows:

Authority: Secs. 4002(b)(3), 4007, and 4007, Pub. L. 93-406, 88 Stat. 629, 1004, 1010, and 1013, as amended by secs. 403(1), 105, 402(a)(3), and 403(b), Pub. L. 96-364, 94 Stat. 1208, 1302, 1264, 1298, and 1300 (29 U.S.C. 1302(b)(3), 1306, and 1307).

2. Section 2610.2 is amended by revising the entry for "Act" and adding the entry for "Short Plan Year" to read as follows:

§ 2610.2 Definitions.

For purposes of this part:
"Act" means the Employee Retirement Income Security Act of 1974, as amended.

"Short Plan Year" means a plan year that is less than twelve full months.

3. Paragraphs (a) and (b) of § 2610.3 are revised and a heading for paragraph (c) is added to read as follows:

§ 2610.3 Filing requirement.

(a) *Premium due date.* The plan administrator of each covered plan shall file the form prescribed by this part and any premium payments due, in accordance with the premium declaration instructions accompanying the form. Due dates for new or newly covered plan and plans with short plan years are in paragraphs (a)(7) and (a)(8) of this section. For other plans, the premium form and payments shall be filed no later than the date specified in the applicable paragraph or

subparagraph (a)(1) through (a)(6)(ii) as follows:

(1) For plan years beginning before and in progress on September 2, 1974: October 2, 1974;

(2) For plan years beginning on or after September 2, 1974 up to and including plan years beginning on December 31, 1977: 30 days after the beginning of the plan year;

(3) For plan years beginning on or after January 1, 1978 up to and including plan years beginning on December 31, 1980: seven months after the close of the prior plan year;

(4) For plan years beginning on or after January 1, 1981 up to and including plan years beginning on December 31, 1984: the last day of the seventh month following the close of the prior plan year;

(5) For plan years beginning on or after January 1, 1985 up to and including plan years beginning on December 31, 1985:

(i) If the plan has fewer than 10,000 participants for the plan year, as determined under paragraph (a)(9) of this section, the last day of the seventh month following the close of the prior plan year; or

(ii) If the plan has 10,000 or more participants for the plan year, as determined under paragraph (a)(9) of this section, the last day of the second month following the close of the prior plan year; and

(6) For plan years beginning on or after January 1, 1986:

(i) If the plan has fewer than 500 participants for the plan year, as determined under paragraph (a)(9) of this section, the last day of the seventh month following the close of the prior plan year; or

(ii) If the plan has 500 or more participants for the plan year, as determined under paragraph (a)(9) of this section, the last day of the second month following the close of the prior plan year.

(7) Notwithstanding the provisions of paragraphs (a)(1) through (a)(6) of this section, for any new plan or plan newly covered by section 4021 of the Act, the first premium form and payments due shall be filed on or before the latest of

(i) The last day of the seventh month following the beginning of the plan year;

(ii) 90 days after the date of the plan's adoption;

(iii) 90 days after the date on which the plan became effective for benefit accruals for future service; or

(iv) 90 days after the date on which the plan became covered by section 4021 of the Act.

(8) For any plan that changes its plan year, the premium form and payments for the short plan year are due in accordance with the provision of paragraphs (a)(1) through (a)(6) of this section. Premium forms and payments for the plan year that follows a short plan year shall be filed no later than the date specified in the applicable subparagraph as follows:

(i) For plan years beginning before January 1, 1985—

(A) The last day of the seventh month following the close of the preceding short plan year; or

(B) 30 days after the date on which the amendment to change the plan year was adopted;

(ii) For plan years beginning on or after January 1, 1985 up to and including plan years beginning on December 31, 1985—

(A) If the plan has fewer than 10,000 participants for the plan year, as determined under paragraph (a)(9) of this section: the last day of the seventh month following the close of the preceding short plan year; or

(B) If the plan has 10,000 or more participants for the plan year, as determined under paragraph (a)(9) of this section: the last day of the second month following the close of the preceding short plan year; and

(iii) For plan years beginning on or after January 1, 1986—

(A) If the plan has fewer than 500 participants for the plan year, as determined under paragraph (a)(9) of this section: the last day of the seventh month following the close of the preceding short plan year; or

(B) If the plan has 500 or more participants for the plan year, as determined under paragraph (a)(9) of this section: the last day of the second month following the close of the preceding short plan year.

(9) For purposes of paragraphs (a)(5), (a)(6), (a)(8), (b)(4), and (b)(5) of this section, the number of participants in the plan year is determined as of the following dates:

(i) If the plan year is the plan's second plan year, the first day of the first plan year; or

(ii) If the plan year is the plan's third or a subsequent plan year, the last day of the second preceding plan year.

(b) *Reconciliation due date.* The plan administrator of each covered plan shall file the premium reconciliation form

prescribed by this part, in accordance with the instructions accompanying the form, no later than the date specified in the applicable paragraph as follows:

(1) For plan years beginning before September 2, 1976: two years and 30 days after the beginning of the plan year;

(2) For plan years beginning on or after September 2, 1976 up to and including plan years beginning on December 31, 1976: one year and 30 days after the beginning of the plan year;

(3) For plan years beginning on or after January 1, 1977 up to and including plan years beginning on December 31, 1977: seven months after the close of the plan year;

(4) For plan years beginning on or after January 1, 1985 up to and including plan years beginning on December 31, 1985, if the plan has 10,000 or more participants for the plan year, as determined under paragraph (a)(9) of this section: the last day of the seventh month following the close of the prior plan year; or

(5) For plan years beginning on or after January 1, 1986, if the plan has 500 or more participants for the plan year, as determined under paragraph (a)(9) of this section: the last day of the seventh month following the close of the prior plan year.

(c) *Continuing obligation to file.* * * *

4. Section 2610.3(e)(2) is amended by changing "(d)(1)" to "(e)(1)".

5. Paragraph (a), the introductory text of (b), (c), and (d) of § 2610.5 are revised to read as follows:

§ 2610.5 Premium rate.

(a) *Single-employer plans.* For plans other than multiemployer plans, the premium rate for basic benefits guaranteed under section 4022(a) of the act is as follows:

(1) For plan years beginning after September 2, 1976: one dollar for each individual who is a participant in the plan at any time during the plan year;

(2) For plan years beginning on or after September 2, 1976 up to and including plan years beginning on December 31, 1977: one dollar for each individual who is a participant in the plan on the last day of the preceding plan year; or

(3) For plan years beginning on or after January 1, 1978: two dollars sixty cents for each individual who is a participant in the plan on the last day of the preceding plan year.

(b) *Multiemployer plans.* For

multiemployer plans, the premium rate for basic benefits guaranteed under section 4022(a) or 4022A(a) is as follows:

(c) *Newly covered plans.* For any plan not previously covered by section 4021 of the Act, the plan administrator shall pay the applicable premium under paragraph (a) or (b) of this section for each individual who is a participant in the plan on the date the plan becomes covered by section 4021 of the Act.

(d) *Changes in plan year.* For the first full plan year beginning after a plan changes its plan year, the plan administrator shall pay the applicable premium under paragraph (a) or (b) of this section for each individual who is a participant in the plan on the last day of the short plan year.

6. Section 2610.6 is revised to read as follows:

§ 2610.6. Form.

The form prescribed by this part for the declaration, payment and reconciliation of premiums is PBGC Form 1.

7. Section 2610.9 is amended by revising the introductory paragraph, and paragraph (c), by redesignating (d) as (e) and adding a new (d) to read as follows:

§ 2610.9 Waivers.

The late payment penalty charges imposed by § 2610.8 will not be assessed in whole or in part—

(c) If the PBGC, on its own motion, waives the application of § 2610.8;

(d) If a plan that is required, under § 2610.3(a), to file the premium form and payment due on or before the last day of the second month following the close of a prior plan year pays at least 90 percent of the premium due for the plan year on or before the due date and pays 100 percent of the premium due for the plan year on or before the reconciliation due date prescribed by § 2610.3(b); or

By delegation of Raymond Donovan, Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Ford B. Ford,

Under Secretary of Labor.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 85-564 Filed 1-8-85; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD784-01]

**Drawbridge Operation Regulations:
Atlantic Intracoastal Waterway, FL**

Correction

In FR Doc. 84-33372 beginning on page 49855 in the issue of Monday, December 24, 1984, make the following correction: In the third column, DATE, should read "Comments must be received on or before February 7, 1985."

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 265

**Disclosure of Information From
Customers' Mailing Records**

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to clarify its policy with respect to public disclosure of information about its bulk business mail customers' or their mailings. The Postal Service receives or creates this information in the course of providing mail services to those customers. This proposal affects the administration of the Postal Service's information disclosure policies and is consistent with the Freedom of Information Act and the Postal Reorganization Act.

DATE: Comments must be received on or before February 8, 1985.

ADDRESS: Written comments should be mailed or delivered to the Records Office, Room 8121, U.S. Postal Service, 475 L'Enfant Plaza, SW, Washington, D.C. 20260-5010. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 8121 at the above address.

FOR FURTHER INFORMATION CONTACT: John Gunnels (202) 245-4797.

SUPPLEMENTARY INFORMATION: The Postal Service requires customers who wish to mail in bulk, at rates other than the full First-Class postage rate, to

¹ For the purposes of this proposed rule, "bulk business mail customers" are defined as those customers who are authorized to mail in bulk at less than the full First-Class postage rate. These customers are primarily the publishers of newspapers and magazines, mailers of advertising matter, and non-profit organizations.

submit an application for such privilege and also to provide certain information about each mailing made at those rates. The Postal Service needs the information on the application to determine the customer's eligibility to mail at the rate sought. Certain other information is needed about each bulk mailing, such as number of pieces, weight per piece, percentage of advertising and geographic distribution, to compute and verify the correct postage charge since rates for the various classes of mail are based on these and other factors. This type of information is provided in statements submitted with each bulk mailing. In addition to applications and mailing statements, the Postal Service maintains certain financial records related to its business transactions with these customers, for example, those that show postage and fees payment activities and balances in advance deposit accounts. Most of this information is located at the post offices where the mailings are entered.

In recent years, the Postal Service has received an increasing number of requests from members of the public for information about bulk business mail customers and their mailings. The practice of the Postal Service in responding to these requests has not been altogether consistent. Therefore, the Postal Service has undertaken a comprehensive review of the information submitted by bulk business mail customers and now proposes to clarify its regulations so that consistent disclosure decisions may be made.

The Postal Service maintains the following types of information about its bulk business mail customers:

- Applications to mail at other than full postage rates (second; third- and fourth-class privileges) including statements of continued eligibility for reduced rates, and applications to use certain special services or alternative methods for payment of postage.
- Mailing transaction records that contain detailed information about individual bulk mailings or summary information about bulk mailings during a specific period of time.
- Financial records that contain information about balances in advance deposit or trust fund accounts and amounts of postage and fees paid or information about customers' postage meter settings.

The Postal Service is proposing to explicitly prohibit disclosure to the public of any information contained in these records that would reveal a customer's mailing habits or practices, details about specific mailing

transactions, or details of postage and fee payments. The clarified policy would, however, permit disclosure of certain information not viewed to infringe on a customer's expectations of privacy when using the mails.

Specifically, the Postage Service will disclose to any person, upon request:

(1) Certain information, as specified in 39 U.S.C. 3685(a), that the Postal Service requires to determine a publication's eligibility for periodical publication mail privileges, including any information from periodic statements of continued eligibility (such as PS Form 3526, *Statement of Ownership, Management and Circulation*).

(2) In accordance with 39 CFR 265.6(d)(2), the name and address of the holder of a particular bulk mail permit, permit imprint or similar permit, or postage meter permit, and the name of any person applying for a permit in behalf of a holder. In addition, certain information from applications for such permits may also be disclosed. Lists of permit holders, however, will not be disclosed.

(3) volume information and date of mailing from mailing statements submitted with bulk mailings of political campaign literature made by individual candidates or by local, state or national campaign organizations.

It is not intended for there to be any restriction upon the disclosure of any statistical information which does not relate to a particular customer and which is otherwise available to the public under the Freedom of Information Act.

The Postal Service is proposing this clarification to protect customers' mail privacy and to ensure that the disclosure of customer mailing transaction records remain consistent with its overall information disclosure regulations. The Postal Service has determined that customer mailing transaction records are exempt from mandatory disclosure under exemption (b)(4) of the Freedom of Information Act [5 U.S.C. 552(b)(4)] as records containing " * * * commercial or financial information * * * and privileged or confidential" and under a provision of the Postal Reorganization Act which vests in the Postal Service the discretion to withhold "information of a commercial nature * * * which under good business practice would not be publicly disclosed" (39 U.S.C. 410(c)(2)). Records of mailing transactions reveal details about customers' business operations and are provided to the Postal Service only in order to obtain mail services. Because of its proprietary nature, such detailed information is not ordinarily and voluntarily divulged by businesses to their competitors. The

Postal Service, moreover, must compete with other distribution services and with other forms of communication for much of the matter that is, or may be, mailed in bulk. Therefore, information about Postal Service customers may be proprietary to its own business interests, as well as those of its customers, and will not be disclosed, since such information " * * * would be of potential benefit to persons or firms in economic competition with the Postal Service." (39 CFR 265.6(b)(3)(vi)).

In addition to withholding information from customer mailing records, the Postal Service is also specifically prohibited by 39 U.S.C. 412 from disclosing " * * * any mailing or other list of names or addresses * * * of postal patrons or other persons". For example, disclosure requests for a list of the publishers authorized to mail at second-class rates at a particular post office or a list of customers authorized to use permit imprints at a particular post office, will, as in the past, continue to be denied.

Finally, the Postal Service views this clarification as an extension of its longstanding policy with regard to the privacy of the mails. Second 115.5 of the Domestic Mail Manual (incorporated by reference in the Code of Federal Regulations at 39 CFR 11.1) states, in pertinent part, that "no employee shall disclose * * * information which concerns any mail sent or received by any particular sender * * *". Such a disclosure would violate customers' reasonable expectations of privacy with regard to their transactions with the Postal Service.

Although exempt by 39 U.S.C. 410(a) from the requirements of the Administrative Procedure Act, 5 U.S.C. 553 (b), (c), regarding the publication of notices of proposed rulemaking, the Postal Service invites public comment on the following proposed revisions to Title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 265

Freedom of Information, Postal Service.

PART 265—RELEASE OF INFORMATION

In § 265.6, paragraphs (b)(3)(viii), (ix), and (x) are proposed to be added to read as follows. The introductory text of (6)(3) is shown for the convenience of the user.

§ 265.6 Availability of records.

* * * * *

(b) * * *

(3) Information of a commercial nature, including trade secrets, whether

or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed. This class includes, but is not limited to:

* * * * *

(viii) Information that would reveal certain details of a bulk business mail customer's mailing habits, practices or operations.

(ix) Information concerning specific bulk business mailing transactions, except that information concerning bulk mailings of political campaign literature may be disclosed.

(x) Information concerning a bulk business mail customer's payments of postage and fees.

* * * * *

(39 U.S.C. 410(c)(2), 3685(a); 5 U.S.C. 552(b)(4))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-615 Filed 1-8-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 153

[OPP-250061; PH-FRL 2750-1]

Notification to the Secretary of Agriculture of a Final Regulation on Automatic Requirements for Registrant Submission of Risk/Benefit and Exposure Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final interpretive rule and statement of policy. The rule issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), sets forth the Agency's interpretation of what information FIFRA section 6(a)(2) requires to be reported to EPA. The rule also amends and codifies a statement of EPA enforcement policy regarding which failures to report information, or delays in reporting, will be regarded by EPA as actionable violations. This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: David Alexander, Registration Division (TS-767C), Office of Pesticide

Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1114C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the *Federal Register*. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the *Federal Register*, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the *Federal Register* anytime after the 15-day period.

As required by FIFRA section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Sec. 25, Pub. L. 92-516, 86 Stat. 973 as amended (7 U.S.C. 136 et seq.))

Dated: December 21, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-245 Filed 1-8-85; 8:45 am]

BILLING CODE 8560-50-M

40 CFR PART 180

[OPP-300111; PH-FRL 2753-7]

Proposed Exemption From the Requirement of a Tolerance; Dried Grape Pomace

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that dried grape pomace be exempted from the requirement of a tolerance when used as a solid diluent, carrier in pesticide formulations. This proposed regulation was requested by the Pennwalt Corp.

DATE: Written comments, identified by the document control number [OPP-300111], must be received on or before February 8, 1985.

ADDRESS:

By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Environmental Protection Agency, Rm. 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: At the request of the Pennwalt Corp., the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for dried grape pomace when used as a solid diluent, carrier in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Grape pomace, dried.

Name and address of requestor. Pennwalt Corp., Philadelphia, PA 19102.

Bases for approval. 1. Apple pomace is cleared under 40 CFR 180.1001(c) for use as a solid diluent, carrier in pesticide formulations.

2. Dried grape pomace is the residue from juice-extracted grapes. Since it is obtained from a popular food item, the Agency has found no evidence for toxicological concern.

Based on above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the *Federal Register* that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP-300111]." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or

establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 31, 1984.

Douglas D. Campi,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
Grape pomace, dried		Solid diluent, carrier

[FR Doc. 85-587 Filed 1-9-85; 8:45 am]

BILLING CODE 5560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

Records and Testimony; Freedom of Information Act; Fee Schedule Change

Correction

In FR Doc. 85-19 beginning on page 286 in the issue of Thursday, January 3, 1985, make the following corrections:

§ 2.19 [Corrected]

1. On page 287, in the middle column, in § 2.19(f), "Filling" should read "Billing".

Appendix A—[Corrected]

2. In the third column, in the second line, "\$.50" should read "\$4.50".

3. In the same column, in the paragraph designated "(15)", the last line which reads "February 4, 1985."

should read "(30 days from date of final publication in the Federal Register)."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 50 and 56

[CGD-77-140]

Miscellaneous Changes to Parts 50 and 56

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would amend several sections of 46 CFR Part 56 of the Coast Guard's Marine Engineering Regulations for vessel piping systems to clarify technical requirements, correct errors and revise the lists of acceptable standards and specifications. The reasons for these changes are advances in technology and suggestions from industry and Coast Guard field units. This proposal would result in a better understanding of the technical requirements for vessel piping systems. This document also proposes to amend the general provisions in Part 50.

DATES: Comments must be received on or before March 11, 1985.

ADDRESSES: The comments, draft evaluation, and materials referenced in this notice will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/21), Room 2110, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Comments may also be delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Fred W. Weidner, Office of Merchant Marine Safety (202-426-2160).

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 77-140) and the specific section of the proposal to which each comment applies, and give the reasons for the comment. The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held at a time and place to be set in a later notice in the Federal Register if requested in writing and it is determined

that the opportunity to make oral presentation will aid the rulemaking process. If acknowledgment of receipt of a comment is desired, a stamped, self-addressed postcard or envelope should be enclosed.

Drafting Information

The principal persons involved in drafting this document are Mr. Fred W. Weidner, Project Manager, Office of Merchant Marine Safety and Mr. Michael M. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Rule

This proposal is intended to decrease confusion about certain requirements for vessel piping systems in 46 CFR part 56. Additionally, the tables of acceptable standards are revised and typographical errors are corrected. There is no intention to require changes to installations which have already been accepted by Coast Guard inspectors. These proposed amendments will be applied to vessels contracted for after the date these changes become effective. Section 50.15-1 has been revised to reflect current language concerning incorporation by reference, including use of the table of Material Approved for incorporation by Reference in the Finding Aids portion of the Code of Federal Regulations.

The terms "screwed", "threaded", "screwed threads" and "screw threads" appear in various places in these regulations. In line with revisions to the American National Standards Institute (ANSI) standards, the titles of several documents cited have been previously changed from "screwed" to "threaded" but these words in the text of the regulations have not been brought up to date with the text of ANSI B31.1. At this time, the terms "threaded" or "threaded joints" are being substituted for the terms "screwed" or "screwed joints". These terms continue to refer to pipe joints made by screw threads.

Section 56.01-3 would be reworded for clarification but without substantive change.

In Section 56.01-6 the reference to American Society for Testing and Materials (ASTM) Specification A72 would be removed. ASTM A72, wrought iron pipe is no longer produced and ASTM has dropped this specification. This also affects §§ 56.10-5(b) and 56.60-1(a).

The words "salt water" would be removed from § 56.01-10(c)(1)(vii) to make it clear that the Coast Guard also intends to require plan review of crude oil tanks washing piping. This review is already required because any piping

handling crude oil on a crude oil carrier would be considered cargo piping. The change is for clarification only. The final rules dealing with detailed requirements for crude oil washing systems were published in the Federal Register of June 30, 1980 [45 FR 43709].

The wording of 56.01-10(c)(1)(xiii) would be changed to show more clearly that all piping for hot water over 250 °F is subject to review. Current wording attempts to warn the reader that piping used for hot water over 375 °F is prohibited, but it is sometimes read to mean that the latter is not subject to review. Section 56.50-15(h) will continue to prohibit piping for hot water heating over 375 °F.

Section 56.01-10(c)(2) currently requires submittal of a large number of piping arrangement drawings. These drawings are used primarily for two reasons:

1. To be sure that location requirements, such as spacing of fire hose stations, are met; and
2. Because the material lists are much more complete, detailed and specific on the typical piping arrangement drawing than on the typical diagram required in § 56.01-10(c)(1).

Information required in the arrangement drawings is often found in these typical diagrams. In these cases we have found that it is unnecessary to submit an arrangement drawing. In some piping systems such as main steam systems, the arrangement drawings are also used for calculations such as thermal stress analysis. Therefore, section 56.01-10 would be amended by adding a new paragraph (f) permitting the substitution of a piping system diagram containing locations where required and a fully detailed material list in lieu of an arrangement drawing unless calculations are also required for that system.

Piping systems not requiring plan review currently must meet "normal commercial standards." This phrase is not well defined and has led to wide variations of interpretation. This is undesirable because these non-reviewed systems are first seen by the Coast Guard when they are already completed. If a Coast Guard inspector considers them substandard, considerable extra cost may be involved in correcting them. In practice, most piping systems are evaluated based on operational testing, unless the inspector considers them actually unsafe rather than merely substandard. Section 56.04-10 would be changed to clarify what would constitute a substandard installation.

The term "vital" has been used in the Marine Engineering Regulations for

many years. There have been differing interpretations of that term among Coast Guard and marine industry personnel. This has led to avoidable resubmittal of required plans and inadvertent non-compliance with regulations. The term "vital" has been defined to clarify its intended meaning and to reflect past and current policy. This definition would be added to § 56.07-5. A definition of "plate flange" is also to be added, for reasons discussed under § 56.30-10(b)(5).

ANSI B31.1 has been incorporated by reference. Section 101.5 of ANSI B31.1 deals with dynamic effects. 46 CFR 56.07-10(c) currently replaces all of Section 101.5. Section 56.07-10(c) appears to state that internal dynamic effects such as water hammer, sudden opening of a relief valve, etc., could be accounted for by a twenty percent reduction of allowable stress or by an analysis of ship motions. In practice, Coast Guard engineers reviewing plans would have to point out to submitters that the word "impact" did not apply only to the ship being hit by waves or other ships but also to the impact of dynamic effects inside the system. The new wording clarifies this by making ANSI B31.1 paragraphs 101.5.1 (Impact), 101.5.2 (Wind), and 101.5.4 (Vibration) more clearly applicable to shipboard piping systems. Only 101.5.3 (Earthquake) would be replaced by Section 56.07-10(c), which would be retitled "Ship Motion Dynamic Effects." There would be no specific Coast Guard requirements for internal dynamic analysis, because ANSI B31.1 requires only that the designer take this into account. It is felt that once designers are aware that the 20% allowable stress reduction or ship motion dynamic analysis are not intended to make internal dynamic analysis unnecessary, no specific reporting requirement on how it was done will be needed. If engineers note in the course of plan review that a system could have severe internal dynamic loads and the design does not appear sufficiently conservative, information on how this was considered will be requested prior to approval.

The reference to nuclear piping in this section would be removed because it is duplicated in the nuclear system regulations, 46 CFR 55.10-5.

Section 56.07-10(d)(2) would be amended because it duplicates § 56.50-40.

Section 56.07-10(e) is in conflict with Subpart 56.60 because it appears to limit acceptable piping materials to those listed in Tables 56.60-1(a) and 56.60-2(a). Actually, Subpart 56.60 also permits materials listed in Sections I, III,

and VIII of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code and others specifically accepted for individual applications. This would be changed to refer to Section 56.60-1(a) where the actual requirements are spelled out.

Section 56.15-1(a) would be amended by adding the phrase "of materials complying with Subpart 56.60" after "the applicable standards in Tables 56.60-1(a) and 56.60-1(b)" to clarify the requirement discussed that all piping materials comply with 56.60-1(a) even though the adopted standards include some unacceptable as well as acceptable materials.

Paragraphs (a) through (c) of Section 56.20-1 contain requirements for acceptance of valves. These paragraphs have frequently caused confusion. The design requirements for acceptance are less clear than the procedural requirements, particularly in the case of welded valves. For welded valves the only requirements are for acceptable materials and specific acceptance by the Commandant (G-MTH) for the service intended. Paragraphs (a) and (b) would be rewritten to: (1) Permit valves manufactured to adopted standards (subject to the Coast Guard piping design and material requirements); (2) list the requirements for acceptance by the Commandant (G-MTH), and (3) give examples of some methods of calculation or testing by which compliance with these requirements can be demonstrated. It is necessary to amend paragraph (a) as well as paragraph (b) because another change in this rulemaking adopts ANSI B16.34, a valve standard that includes welded valves. Also, the regulations and the adopted standards have changed over the years. It is necessary to clarify that materials listed in adopted design standards are not acceptable unless use of these materials is also permitted by 56.60-1(a).

Section 56.20-9 would be rearranged to clarify that paragraph (a) applies to all valves, not only those over a certain size and pressure which must be of outside screw and yoke design. The use of wafer valves would be limited by paragraph (c) to agree with ABS rules and allow piping to be removed inboard of a skin valve without drydocking.

Section 56.20-15 would be clarified by the addition of paragraph (c) which would offer two methods of testing to those manufacturers who wish to prove that their resilient seated valves qualify as Category A or positive shut-off valves. A simple and inexpensive pressure leakage test with all resilient seating material removed may be

chosen by those who use small amounts of resilient seating materials. Valves already recognized by the Commandant (G-MTH) as positive shut-off or Category A at the time this regulation becomes effective need not be tested so long as there are no changes in design or materials, and no casualty data or Coast Guard test results indicate a need to withdraw acceptance.

Bolting requirements in § 56.25-20 contain conflicting wording. Section 56.25-20(c) prohibits the use of headed alloy bolts, requiring studs instead. Paragraph (a), (b) and (d) would be amended so as not to conflict with this. The bolting requirements also insist upon heavy heads and heavy nuts. This came from the steel flange standard ANSI B16.5, which calls for oversize holes to ensure bolts are loaded in tension in spite of some bending loads applied to the joint. If a designer chooses to use a nonstandard flange and bolt combination, which would require specific acceptance, he may choose not to use oversize holes. The requirement for heavy bolts and nuts is incorrectly printed twice. The second version, an obsolete reference to square as well as heavy hex heads, will be deleted.

Section 56.30-5(c), socket weld, makes reference to ANSI B31.1, but not to Coast Guard regulations which conflict with the current version of ANSI B31.1. Reference would also be made to §§ 56.70-15(d)(3) and 56.30-10(b) (4) through (6). Discussion of the differences between these sections and B31.1 appears below.

Section 56.30-10(a) contains the symbol "I-N". This obsolete reference, which should have been deleted when this old nuclear piping class was deleted, would be removed at this time. Details may be found in the *Federal Register* of 29 June 1973 (38 FR 17230).

Several changes are to be made to the requirements for flanges in § 56.30-10(b). In paragraphs (b)(1) and (b)(2), "screwed threads" would be changed to "screw threads" without change in meaning. Paragraph (b)(3) would be reworded to conform to ANSI B31.1 to reduce misunderstandings of the Coast Guard limitations on use of slip-on flanges when radiography is required. The new wording would allow ANSI B16.5 slip-on flanges of class 300 and lower ratings, any size in Class II piping, 4 inches and smaller in Class I and Class II-L piping, and only in small instrument lines in Class I-L piping, except that if 100% radiography is required, a butt welding flange must be used. The discussion of fillet weld sizing below would also be applicable to this change. The reference to "Table 56.95-10" has been changed to "§ 56.90-10".

The sizing of fillet welds has been reduced in ANSI B31.1, from a leg dimension of 1.4 times the nominal pipe wall thickness (1.4T), which still appears in the regulations, to 1.09 times the nominal wall thickness (1.09T). For an interim period, 1.25 times the minimum wall thickness (1.25T) was used. (For the standard 12.5% mill tolerance, this is identical to 1.09T.) This was done primarily for socket type pipe joints and socket weld fittings, where the surface area of the parts to be joined did not always allow the larger fillets. However, the Coast Guard, and other members of the ANSI subcommittees dealing with steel flanges and flanged valves, do not consider this reduction appropriate for fillet welds which effectively serve as all or part of the hub area of a flange to pipe joint. Unless commentators can submit calculations or test data proving that this approach is overly conservative, the regulations will not be changed to conform to ANSI B31.1.

The outside fillet welds of slip-on flanges and the fillet welds of socket weld flanges will be required to have a leg dimension of 1.4 times the nominal wall thickness. Note that this dimension allows the throat of a perfectly formed fillet weld to be the same as the nominal pipe wall thickness, which makes for a smooth stress flow and eliminates a weak point. Since fillet welds made in the confined spaces on board ships are often imperfectly shaped, the reduction to 1.09 times the nominal thickness, with an ideal throat size of 77%, is considered inappropriate. The regulations already contain one provision to reduce the fillet size when heavy wall pipe is used for long life in corrosive service rather than for strength. The limit of fillet size to 0.525 inch in Class II piping will be retained. Another relaxation of the 1.4T requirement would be added, by amending the Note in Table 56.30-10(b) to state that the fillet need not be larger than the space available for it on the hub of the flange. This reflects a long-standing inspection practice, and allows the user of heavy-wall small diameter pipe in Class II service with Class 150 flanges a benefit similar to that given to large diameter piping by the 0.525 inch limit.

Paragraph (b)(5) of the flange regulations deals with "flanges fabricated from steel plate." A change would be made to remove the requirement that a flange meeting the requirements of Part 54 must also meet the dimensional requirements of an accepted ANSI standards. Application of this dual standard has been confusing in the past and is deemed unnecessary.

Footnote 2 of Table 56.30-20(c) would be changed. When this footnote was

added, it was intended to permit threaded joints for the attachment of hydraulic components which are often only available in that form. It was too loosely worded and designers who used these regulations began to submit hydraulic systems with long pipe runs entirely made up of threaded pipe and fittings. The note is reworded to better reflect the original intent.

Paragraphs (a) and (b) of § 56.30-40 would be reworded. Discussion sentences are removed as they are not regulatory in nature. The actual requirements are reworded to make it clear that the alternative methods to prevent creeping are only examples.

Sections 56.35-10 and 56.35-15 would be clarified by adding a paragraph to each referring the reader to § 56.60-25(e) for non-metallic expansion joints. Frequent questions regarding the need for cyclic testing of rubber expansion joints have been received. Reference to the actual requirements for non-metallic joints here will show that §§ 56.35-10 and 56.35-15 are intended only for metallic expansion joints. A new paragraph would be added for metallic expansion joints that meet the Expansion Joint Manufacturers Association Standards (EJMA) to be accepted in lieu of other requirements.

Section 56.50-1(c) would be amended by the addition of the clause "except that sluice valves or gates in oiltight bulkheads of tankships will be given special consideration by the Commandant (G-MTH)." This would reflect existing practice. Modern sluicing systems have been accepted by the Coast Guard on an individual case basis under the "general equivalency" regulations 46 CFR 50.20-30 and 30.15-1.

Section 56.50-1(g)(1) would be amended to conform to changes in §§ 56.50-5 and 56.50-60 discussed below, by removal of the words "for cargo and fuel oil deep tanks."

Section 56.50-1(1) would be reworded to clarify that it is applicable only to dry cargo spaces and that means other than enclosures to protect piping from damage will be accepted.

Sections 56.50-5, applicable to all oil systems, and 56.50-60, applicable to certain oil systems, are to be combined into one section, which would become § 56.50-60. Most of the requirements would remain unchanged, but in some cases, requirements previously applicable only to certain oil systems would become applicable to all oil systems. Details will be discussed in this preamble under § 56.50-60.

Section 56.50-20(a) currently prohibits stop valves between pressure vessels or piping systems and their protective

devices such as relief valves. However, other regulations and practices contradict this. In general, the real requirement is that there must always be overpressure protection in service. For example, when two or more relief valves of sufficient capacity are provided, they may have interlocked stop valves so one relief can be replaced in service and the other cannot be shut off at the same time. Such a situation would be recognized by adding the words "except as specifically provided for in other regulations or as specifically authorized by the Commandant (G-MTH)." A similar change would be made for valves in relief valve discharge lines by removing the words "in nuclear system" and adding the words "or as specifically provided for in other regulations," to the end of paragraph (c) of the same section.

Section 56.50-25(d) would be clarified by adding a sentence stating that backpressure in relief piping must be considered with all relief valves using the same discharge piping assumed to be simultaneously discharging at full capacity.

Section 56.50-45(b) would be clarified by adding the words "and well separated" after "independent". This would show that the intent of this requirement is to ensure that a single incident like fouling or minor grounding will not cause a common mode failure of both main propulsion circulating water intakes. At the time this regulation was written, ships typically had three sea chests, known as "port", "starboard" and "high" sea suction. This arrangement ensured that noting short of a hard grounding followed by a falling tide could prevent operation of the main propulsion and ships service generating machinery. Loss of this machinery will often make salvage and lightening much more difficult. Some modern designs have been submitted with only two main sea chests, located in one sea chest structure with a centerline dividing bulkhead. This is considered unacceptable when pollution prevention in coastal waters and the development of deeper draft ships make the need for prompt refloating of a grounded vessel even more important than in the past.

The regulations on bilge systems would be amended so as to inform the designer that designs other than the conventional manifold system will be considered. This is particularly important on combination carriers, mobile offshore drilling units, and other industrial vessels. The regulations detailing requirements for the conventional systems would be retained, and a sentence would be added making

the requirements for rapid operation of suction valves applicable to discharge valves as well. The intent of the requirement for rapid operation of suction valves is to get the whole bilge system working immediately, before the water level in the bilges begins to damage machinery or hazard the vessel. This cannot be accomplished unless the discharge valve can also be promptly operated.

The formula for calculating bilge main size has been incorrect in the regulations for several years. It would be corrected at this time by removing the open parenthesis from before the L. Due to previous changes, the entire equation will be published for clarity. In Note 1 under this formula, the word "tankers" would be changed to "tank vessels." The exemption of liquid cargo areas served by suitable cargo piping systems from the vessel length when computing the bilge main and pump sizes is equally applicable to tank barges and to tank ships. New regulations have begun to use "tanker" to mean "tank ship" only, rather than "tank vessel" which includes both "tank ship" and "tank barge".

The emergency bilge suction requirements are unclear in their present form. Section 56.50-50(f) requires vessels over 180 feet in river and similar service to have emergency suction, but the subsequent subparagraphs do not provide criteria for approval of the design in such services. To correct this, it is proposed to amend paragraph (f)(3) by adding the words "not covered by paragraphs (f)(1) and (f)(2) of this section." This change could be regarded as an increase in requirements in areas where local Coast Guard officials have permitted other designs to be used to comply with the introduction to paragraph (f). Persons wishing to continue to build with such designs are invited to comment.

The piping separation requirements, § 56.50-50(h), are often misinterpreted. Some progress was made informally around 1975 when persons questioning this regulation were informed that the word "cargo" should be read as "dry cargo" and did not refer to liquid cargo tanks. However, formalizing this change along would not really make the intent clear. Also, there have been additional requirements dealing with pipe separation developed in other regulations. Most notably, there are now "segregated ballast" and "clean ballast" requirements in 33 CFR Part 157, and slop discharge piping requirements in both 33 CFR Part 157 and 33 CFR Part 155. New designs combining bilge and fire pumps and

providing means to concentrate oil from bilge slops have also led to new risk areas. At this time, it is proposed to combine the effects of all these changes into a redrafting of § 56.50-50(h). This would take the form of dividing piping services into groups which must be kept separated from other groups. Following the listing of the groups, the permitted means of connection such as spool pieces, swing ells, blinds, and common pumps would be detailed. While the proposal is not entirely free of new material, it is largely a combination of the present requirements of: 46 CFR 56.50-50(h) and (1), 56.50-80(e), 56.50-5(a) (concurrently to be relocated to § 56.50-60(a)), 34.17-15(e), 32.50-15(a)(3), 32.52-5(a), 34.10-5(f), 76.10-5(f), 95.10-5(f), and 108.417 (c) and (e); and 33 CFR 155.410, 157.11, 157.37, 157.39 and 157.03(r).

In Section 56.50-50(k), the word "deep" would be removed in two places and the words "except ballast piping in ballast tanks" would be added. This regulation is intended to prevent flooding of spaces or undesired mixing of fluids through piping that is damaged or corroded in tanks. The words "deep tanks" have been variously interpreted in the past. Since flooding can occur equally well from inner bottom tanks, side tanks etc., the limitation of this requirement to deep tanks, whatever this term may be read to include, is to be removed.

The bilge pump table, Table 56.50-55(b)(1), lacks an entry for manned barges in other than ocean and coastwise service. It is proposed to add a line making the requirements for unmanned barges in all waters applicable also to manned barges in other than ocean and coastwise service. This requirement calls for suitable hand or power pumps or siphons, fixed or portable, either on the barge or on the tug.

In Section 56.50-55(e)(1), the requirements for separation of bilge pumps would be clarified by additional wording showing the intent of the existing wording and giving an example of what sort of alternative arrangements the Commandant (G-MTH) will consider acceptable. At the same time "possible" would be changed to "practicable" since it is always "possible" in new construction but frequently not practicable to build a separate pump room to meet this requirement. The operational requirement to keep shut-off valves closed when not in use would be deleted since it is not a design requirement and is generally practiced without being required.

As briefly referred to above, Sections 56.50-5 and 56.50-60 both deal with oil systems. These would be combined into one section, the proposed Section 56.50-60. The title would be changed to "Systems containing oil." The existing § 56.50-60(a) would be followed by the words of the existing § 56.50-5(a). Existing § 56.50-60(b) would be retained. Existing § 56.50-60(c) would be retained, with an added sentence restricting oil piping in accommodation spaces. The obsolete ASTM specification A445 would be removed from paragraphs (d)(1) and (d)(2). Paragraph (d)(4) would be revised to make it applicable to all oil systems, not just fuel oil systems. Paragraphs (d) through (g) would otherwise remain unchanged. They would therefore become applicable to all oil systems, not just those listed under the old title. Because of this, the existing case by case exemption from the remote tank stop valve requirements for "small independent fuel oil tanks" would be expanded to apply to "small oil tanks." This will prevent the inadvertent addition of tank stop valve remote operation requirements to many small oil tanks. Paragraphs (h) through (k) would be added to § 56.50-60. These would match the present § 56.50-5 (b) through (e). Because of this relocation, a reference to § 56.50-60 in old § 56.50-5(c) would be removed. A new paragraph (1) would be added, placing requirements on oil piping through tanks other than oil tanks comparable to § 56.50-50(k) requirements discussed above for bilge and ballast piping through tanks other than ballast tanks. The reasoning for this added requirement is the same as for the existing and proposed § 56.50-50(k) to prevent flooding or undesired mixture of liquids due to damage or corrosion to pipes running through tanks. However, since oil piping does not have requirements for prompt operation in emergencies comparable to bilge piping, the option of tank stop valves at both sides of the tank would be added to the existing options of a pipe tunnel or Schedule 80 pipe, all welded joints and expansion bends.

Section 56.50-65 would be amended so that all requirements other than redundancy requirements apply to all fuel oil burners, not only those on boilers. This would bring the regulations into line with existing policy on the review of fuel piping for the many fired burners other than boilers now found on board ships. This would commonly apply to inert gas generators, incinerator type marine sanitation devices, garbage incinerators, boiloff burners and similar devices. These have the same hazards

as boilers if fuel piping leakage comes in contact with or is drawn into burners, and in many cases are more hazardous because they are fueled with diesel oil rather than bunker fuels and are unattended. The requirement for two service pumps, two heaters and duplex strainers would still apply only to propulsion boilers. The sentences containing the redundancy requirements, a safety requirement regarding strainer location and coaming requirements would be rewritten to clarify the intent.

Section 56.50-75 requires two editorial changes.

Section 56.50-85 on tank vent piping currently is applicable to "vents for spaces in which" liquid is carried. This has frequently been interpreted to refer only to integral tanks, and not to other containers located within structural spaces. Therefore, it is considered necessary to add the phrase "and to all independent fixed non-pressure tanks or containers" after the word "vents." Two other additions would be made to the venting requirements at this time. In paragraph (a)(7) words would be added extending the flame screen requirements from "oil tanks" to all tanks which may emit flammable or combustible vapors. This would apply to bilge slop tanks, contaminated drain collection tanks, and similar locations. In paragraph (a)(9), the vent pipe minimum diameters would not be applied to the small independent tanks, but the vents would be 25% larger than the fill lines.

The requirements for various types of piping which must penetrate the shell of the vessel, § 56.50-95, would be reworded for clarification, and notify the designer that certain designated overflow lines used for overpressure protection of tanks, other than storage tanks, will be regarded as equivalent to relief valve piping. In such lines, the substitution of a stop check valve for two check valves would not be accepted. In paragraphs (b)(1) and (e)(3) of the existing regulations the pipe thicknesses required at hull penetrations were listed in such a way the 16" pipe was left out. The words "above sixteen inches" would be changed to "sixteen inches and above." A new paragraph would be added, establishing requirements for the locking of sea valves. Various existing regulations prohibit locking of certain sea valves, require locking of certain sea valves, or require "sealing, lashing or locking" certain valves which are sometimes sea valves. These regulations sometimes appeared to the casual reader to be in conflict. It is considered desirable to

formalize Coast Guard policy on locking of sea valves in the regulations.

The requirements for keel cooler installations in § 56.50-96 would be changed slightly. The forward end of the cooler need not be faired or molded to the hull when it is located inside a bow thruster trunk or in otherwise shielded from grounding damage. In the absence of skin valves the piping components below the deepest load line would have to be Schedule 80, and system openings internal to the vessel, such as expansion tank vents and fill funnels, would have to be located above the deepest load line.

Section 56.50-102 currently applies to the use of liquefied petroleum gas (LPG) for "cooking and heating" and refers the reader to 46 CFR Subpart 58.16. This section would be reworded, both title and text, to "domestic services." This would bring the regulations into line with the current policy of accepting LPG for sewage and garbage incineration and other such services under the same rules as for cooking and heating. No change in current regulations prohibiting LPG use as motor or boiler fuel is planned.

Section 56.50-105 would be amended where aluminum materials are discussed to make reference to restrictions on heat-sensitive materials found both in this part and in Subchapter O.

Although the addition of material specifications to Table 56.50-105 has been deferred, two general changes would be made at this time. Footnotes (3) and (4) would be added. Note (3) would apply to all ASTM specifications, and would state that repair methods must be satisfactory to the Commandant (G-MTH) and that welded repairs must be qualified under Part 57. Note (4) would apply to all grades, and would caution the designer that the acceptability of a particular alloy for low temperature services does not necessarily imply that it is acceptable for exposure to marine corrosion. The selection of alloys for any particular shipboard location would have to be to the satisfaction of the Commandant (G-MTH). These notes are considered necessary due to repeated problems encountered during plan review and inspection of the first classes of gas carriers built in the U.S. Many designers, particularly equipment subcontractors unfamiliar with marine conditions and Coast Guard requirements, incorrectly assumed that all materials listed in § 56.50-105 were suitable for use in exposed locations and that ASTM requirements for repair welding were sufficient even though they were aware

of the extensive Coast Guard requirements for fabrication welding.

Section 56.60-1(a)(2) would be amended to clarify its intent. Some readers took the old wording to mean that Table 126.1 of ANSI B31.1 remained in effect for other than piping, tubing, and fittings.

ASTM specification A72 is obsolete and would be removed from Table 56.60-1(a).

Technological improvements in the production of centrifugally cast iron piping have made it possible to accept such piping in certain applications. Table 56.60-1(a) would be amended to allow for these acceptances.

ASTM specification A445 under "Castings, iron" would be removed from Table 56.60-1(a) since it has been replaced by ASTM specification A395.

ANSI standard B16.34, for steel and nickel valves, and ASTM specification F882-80, for wrought carbon steel sleeve-type couplings, would be added to Table 56.60-1(b).

MSS standard SP-37 would be deleted from Table 56.60-1(b). It is obsolete. The requirements for this standard are now incorporated in SP-80, which is not suitable for adoption.

MSS SP-42 would be deleted from Table 56.60-1(b). The addition of ANSI B16.34 will cover the same items.

This table would also be clarified by: (a) Adding Footnote 3, applicable to ANSI B16.5, B16.9, B16.24 and B16.34. (b) Adding Footnote 4, applicable to ANSI B16.14, B16.15, B16.18, B16.22, B16.23, B16.28, and B16.29, MSS SP-44, -51, -67 and -72, and FCI 69-1.

These notes would inform readers what further information is needed to determine compliance with general material regulations when components to various adopted standards are selected. They would not change existing requirements but would make the combined effect of regulations like 48 CFR 50.15-10(a), Subpart 50.25, § 56.15-1(a), and Subpart 56.60 clearer to the reader.

Table 56.60-2(a) would be amended by:

(a) Replacing "SA-306" in notes 2 and 3 with "SA-675". ASME specification SA-306 is obsolete and has been replaced by SA-675.

(b) Replacing the words "Table IV" in note 9 with "Table 3". This is the same table but with a changed designation in the current ASTM B283.

(c) Replacing the words "Table III" in note 14 with "Table X-2". This is the same table but with a changed designation in the current ASTM B85.

In § 56.60-10, editorial corrections would be made in paragraphs (a) and (c).

ASTM specification A445 would be deleted from § 56.60-15(a). Specification A445 is obsolete.

Section 56.60-20(a)(1) would be amended to include lead, certain bronzes, silver brazing alloys, and other materials which have been proven to fail in fire testing or actual fires, by changing the emphasis from "aluminum" to "nonferrous metals."

Note 2 of § 56.60-20 would be amended to include reference to Coast Guard regulations on flammable combustible, or dangerous fluids.

Section 56.60-20(b) would be amended because some readers took the existing wording to mean that paragraph (a)(4) of § 56.60-20 did not apply to hydraulics. The proposed paragraph (b) would make it clear that the § 56.30-15(e) requirements are additional to, rather than in lieu of, § 56.60-20(a).

Section 56.60-25(a) would be amended to clarify the intent of the term "water service" to allow use of PVC pipe in certain sewage and waste vent and drain service as well as for pure fresh and salt water.

Section 56.60-25 (a)(7)(i) and (a)(8) would be amended by adding the specification ASTM D2665, which is suitable for sewage service and is popular in Marine Sanitation Device (MSD) installations. The word "strength" would be changed editorially to "stress" in paragraph (a)(8).

Table 56.60-25(c) would be amended to reflect the adoption of a new flame resistance test to replace the obsolete ASTM D1692. This test already appears in the Code of Federal Regulations, 30 CFR 18.65. Hoses previously accepted under ASTM specification D1692 need not be retested to show compliance with this test. The table would also be changed to reflect the addition of an existing fire resistance test, now available from the Coast Guard upon request, to the text of the regulation.

Section 56.60-25(c)(2) would be amended to allow an even number of layers of closely-packed spirally wound wire as well as braided reinforcement, and to eliminate the misinterpretation that made braided covers appear acceptable.

Section 56.60-25(c)(5) would be amended by changing the word "and" in the second line to "end". A sentence would also be added clarifying requirements for end fittings. Section 56.97-5 would be specified for the hydrostatic test to eliminate confusion with other hydrostatic tests in § 56.97.

Section 56.60-25 (c)(7) and (c)(8) would be added to inform designers what is being required on non metallic flexible hose to be accepted as flame and fire resistant, as discussed above.

The fire test has been in use by the Coast Guard (G-MTH) for approximately 10 years, as noted in footnote 5 to the existing Table 56.60-25(c). Although no fire test changes are presently planned, the Coast Guard is aware that there are several hose fire tests in use. Persons wishing to increase standardization of testing by submitting comments which compare the various tests point by point and discuss their relative merits are welcome to do so. Copies of any tests discussed which are not published in the **Federal Register** should be included with such comments.

Section 56.60-25(c)(9) would be added to require impulse testing using SAE standard J-343. Current regulations do not require any testing to determine long term strength or fluid and temperature capability of hoses or hose end fittings. The new impulse test criteria being proposed are considered adequate without being unduly restrictive. Testing methods and results are based on minimums currently in use by industry. Casualty data indicates that hose failures have led to both machinery failures and machinery space fires.

Section 56.60-25(e) would be amended to reflect the adoption of a new flame resistance test to replace the obsolete ASTM D1692. This test already appears in the Code of Federal Regulations, 30 CFR 18.65. Expansion joints previously accepted under ASTM specification D1692 need not be retested to show compliance with this test.

Section 56.70-1(a) would be amended to eliminate misinterpretations as to whether and how unusual welding processes have to be qualified. In the past, there was doubt as to whether or not processes such as stud welding and repair welding had to be accepted by the Coast Guard.

In Section 56.70-15, references to "Table 56.95-10" have been changed to "§ 56.95-10". In paragraph (g), figure A would be deleted because it is a socket weld and not a branch connection. This figure was taken directly from ANSI B31.1. This figure is now referenced in § 56.70-15(d)(1). The heading in Table 56.70-15 would be amended to correct an editorial error.

Section 56.75-5(a) would be amended to alert designers to the fact that the 1000°F melting temperature of brazing alloys is not to be taken as a substitute for the heat resistance requirements for certain systems, but as minimum requirement for brazing in systems which are not required to meet the higher standard.

Editorial corrections would be made to Table 56.85-10 by deleting the word "minimum" after each temperature in

the third column of the body of the table and adding the word "inclusive" to column 2 for P-5(15) (less than 5 cr) materials after the words "up to ¼". The word "minimum" already appears in the heading of column 3, and the word "inclusive" is being added for clarification.

Section 56.95-10, Type and extent of examination required, would be revised by deleting the table and rewriting paragraph (a) for easier readability and application of non-destructive testing.

Section 56.97-5(a) would be amended by adding, after the first sentence, the phrase, "except that no component should be tested at a pressure causing stresses in excess of 90% of its yield strength." This will prevent damage to certain materials with low yield strength compared to ultimate strength.

Incorporation By Reference

Approval of the Director of the Federal Register to incorporate by reference ANSI Standard B16.34, ASME Specification SA-675, ASTM Specification D2665, EJMA Standards, and SAE Standard J-343 has been requested. Copies of these documents are on file at the Office of the Federal Register, Washington, D.C. 20408.

ANSI Standard B16.34 is available from the American National Standards Institute, 1430 Broadway, New York, NY 10018.

ASME Specification SA-675 is available from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

ASTM Specifications D2665 and F682-80 are available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103.

EJMA Standards are available from the Expansion Joint Manufacturers Association, Inc., 25 N. Broadway, Tarrytown, NY 10591.

SAE Standards J-343 is available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

These documents are also available for inspection at Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington D.C. 20593.

Evaluation

These proposed regulations have been reviewed under Executive Order 12291 and the Department of Transportation's Order 2100.5 "Policies and Procedures for Simplification, Analysis and Review of Regulations" dated May 22, 1980, and have been determined to be neither major nor significant. Technical requirements would be clarified, known

errors corrected, and lists of acceptable standards and specifications updated pursuant to advances in technology and suggestions from industry and Coast Guard field units. The result will be the elimination of confusion over application of the "Piping Systems and Appurtenances" regulations and a slight savings of time and effort in plans review and resubmissions on the part of the Coast Guard and industry. Costs for materials and fabrication are not expected to be affected. The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. For these reasons it is also certified that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities, in accordance with the Regulatory Flexibility Act (94 Stat. 1164). There will be no ascertainable effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2115-0142. Section 56.01-10(f) proposes a reduction in the number of arrangement drawings required to be submitted.

List of Subjects in 46 CFR Parts 50 and 56

Vessels, Marine safety.

In consideration of the foregoing, it is proposed to amend Part 50 and Part 56 of Chapter 1 of Title 46, Code of Federal Regulations, as follows:

1. The authority citation in Parts 50 and 56 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

PART 50—[AMENDED]

2. In § 50.15-1, paragraph (b) is revised and paragraph (c) is removed to read:

§ 50.15-1 General acceptance of standard requirements; incorporation by reference.

(b) The current issue of the industry specification, standard, or code described in this chapter as adopted by reference, including addenda or changes, is generally accepted as an alternate during plan review and approval, or for repair or replacement. The current issue is that issue, including

any addenda or changes, in effect on the date the work is contracted for, or, if no contract exists, the date fabrication is begun. The Commandant (G-MTH) also authorizes the use of an issue of an earlier date when circumstances warrant such action.

PART 56—[AMENDED]

3. A new § 56.01-2 is added to read as follows:

§ 56.01-2 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table are found the date of the edition approved, citations to the particular sections of this subchapter where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. Notice of any changes will be published in the Federal Register and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and is available for inspection or copying at U.S. Coast Guard Headquarters, Room 2110, 2100 Second Street, SW., Washington, DC 20593, (202) 426-1477.

4. Section 56.01-3 is revised to read as follows:

§ 56.01-3 Power boiler external piping (Replaces 100.1.1, 100.1.2, 102.4.7, 111.6, 122.1, 132 and 133).

(a) Power boiler external piping and components must meet the requirements of this part and §§ 52.01-105, 52.01-110, 52.01-115, and 52.01-120.

(b) Specific requirements for power boiler external piping and appurtenances, as defined in §§ 100.1.1 and 100.1.2, appearing in the various paragraphs of ANSI-B31.1, are not adopted unless specifically indicated elsewhere in this part.

5. Section 56.01-6 is amended by:

- (a) Removing paragraph (c)(2)(ii).
- (b) Redesignating paragraph (c)(2)(iii) as (c)(2)(ii).
- (c) Redesignating paragraph (d) as (e).
- (d) Adding new paragraphs (d) and (f).

As amended the affected paragraphs of § 56.10-6 read as follows:

§ 56.10-6 Adoption of other standards and specifications.

(c) *American Society of Testing Materials.* (1) The ASTM specifications as referenced in this part are adopted and form a part of this subchapter.

(2) The following specifications of the American Society of Testing Materials have been specifically disapproved for certain purposes:

(i) ASTM A-53, furnace welded pipe, shall not be used for flammable or combustible liquids in machinery spaces (see § 56.10-5(b)).

(ii) Plate material listed in UCS-6(b), section VIII, ASME Code (see § 56.30-10(b)(5)).

(d) *Expansion Joint Manufacturers' Association.* The portions of the EJMA (Expansion Joint Manufacturers' Association) Standards as referenced in this part are adopted and form a part of this subchapter.

(e) *Manufacturers' Standardization Society (MSS).* See § 56.60-(b) for other adopted commercial standards of the Manufacturer's Standardization Society applicable to piping systems.

(f) *Society of Automotive Engineers.* The portions of the SAE (Society of Automotive Engineers) Standards as referenced in this part are adopted and form a part of this subchapter.

8. In § 56.01-10, paragraphs (c)(1)(vii) and (c)(1)(xiii) are revised, and a new paragraph (f) is added to read as follows:

§ 56.01-10 Plan approval.

(c)(1) * * *

(vii) Tank cleaning piping.

(xiii) Hot water heating system if the temperature is greater than 121 °C (250 °F).

(f) Arrangement drawings are not required if—

(1) The location of each component for which there is a location requirement (i.e., shell penetration, fire station, foam monitor, etc.) is indicated on the piping diagram;

(2) The diagram includes, or is accompanied by and makes reference to, a fully detailed bill of material comparable to that normally associated with a piping arrangement drawing;

(3) A thermal stress analysis is not required; and

(4) A dynamic analysis is neither required nor elected in lieu of allowable stress reduction.

(Approved by the Office of Management and Budget under OMB control number 2115-0142)

7. Section 56.04-10 is revised to read:

§ 56.04-10 Other systems.

Piping systems and appurtenances not requiring plan approval are accepted by the marine inspector if:

(a) The system is suitable for the service intended,

(b) There are guards, shields, insulation and similar devices where needed for protection of personnel,

(c) Failure of the systems would not hazard the vessel, personnel or vital systems,

(d) The system is not manifestly unsafe.

8. Section 56.07-5 is amended by adding paragraphs (f) and (g) to read as follows:

§ 56.07-5 Definitions (modifies 100.2).

(f) *Vital system.* A system or component is regarded as vital either because its function is essential or because its failure may create a particularly dangerous situation. If the system or component must start or continue functioning to protect personnel, the vessel or, the marine environment from serious harm, it is vital. For the purpose of applying the requirements of this part, if a failure could reasonably result in death, serious injury or severe property damage, either directly or indirectly, the system or component is also regarded as vital.

(g) *Plate flange.* The term plate flange, as used in this Subchapter, means a flange made from plate material, and may have a raised face and/or a raised hub.

9. Section 56.07-10 is amended by revising paragraph (c), paragraph (d)(2), and the first sentence of paragraph (e) to read as follows:

§ 56.07-10 Design conditions and criteria (modifies 101-104.7).

(c) *Ship motion dynamic effects (replaces 101.5.3).* (1) In Class I, I-L, and II-L systems, the full allowable stress permitted by these regulations may be used only if:

(i) The effects of ship motion and flexure, including collision, weight, yaw, sway, roll, pitch, heave and vibration are taken into account by either calculations or model testing acceptable to the Coast Guard; and

(ii) Additional non-destructive testing that provides complete volumetric examination of the material (e.g., Supplemental Requirement S6.1 to ASTM A376 for ultrasonics or other forms of non-destructive examination acceptable to the Coast Guard) is performed.

(2) Otherwise, 80% or less of the allowable stress permitted must be used in Class I, I-L and II-L systems. This reduction in allowable stress is not intended to take into account impact loading inside the piping system, such as water or steam hammer and hydraulic shock.

(3) For Class II systems the full allowable stress may be used without the requirements of paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

(d) * * *

(2) Boiler blowoff piping shall be designed in accordance with § 56.50-40.

(e) Materials for use in piping systems must be selected as described in 56.00-1(a).

10. Section 56.10-5(b) is revised to read as follows:

§ 56.10-5 Pipe.

(b) *Ferrous pipe.* ASTM Specification A53 furnace welded pipe shall not be used for flammable or combustible liquids within machinery spaces. (See §§ 30.10-15 and 30.10-22 of Subchapter D (Tank Vessels) of this chapter.)

11. Section 56.15-1(a) is revised to read as follows:

§ 56.15-1 Fittings.

(a) Threaded, flanged, socket, butt-welded, and brazed fittings made in accordance with the applicable standards in Tables 56.60-1(a) and 56.60-1(b), and of materials complying with Subpart 56.60 of this chapter may be used in piping systems within the material, size, pressure and temperature limitations of those standards and within any further limitations specified in this Subchapter. The design must be for the maximum pressure to which they may be subjected, but in no case less than 50 pounds per square inch gage.

12. Section 56.20-1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 56.20-1 General.

(a) Non-welded valves complying with the standards and specifications listed in § 56.60-1 may be used within the specified pressure and temperature rating provided the limitations of § 56.07-10(c) are applied. Materials must comply with Subpart 56.60. Welded valves complying with the standards and specifications listed in § 56.60-1 must also comply with Part 57 of this chapter and Subpart 56.70.

(b)(1) All other valves must be accepted by the Commandant (G-MTH)

for their intended use. To be accepted a valve must:

(i) Have all pressure-containing materials accepted in accordance with § 56.60-1;

(ii) Be designed with a maximum allowable working pressure not exceeding one fourth of the burst pressure or ultimate tensile strength of the material for all Class II systems and for Class I, I-L and II-L systems receiving ship motion dynamic analysis and nondestructive examination, or one fifth of the burst pressure or ultimate tensile strength of the material for Class I, I-L and II-L systems not receiving ship motion dynamic analysis and nondestructive examination under § 56.07-10(c).

(iii) Be tested in accordance with § 56.97-5;

(iv) If welded, be welded in accordance with Part 97 of this chapter and Subpart 56.70 or by other processes specifically accepted by the Commandant (G-MTH).

(2) A valve designed may demonstrate that the maximum allowable working pressure does not exceed one fourth or one fifth of the burst pressure or ultimate tensile strength as applicable by:

(i) Calculations comparable to those of ANSI B31.1 or Section VIII of the ASME Boiler and Pressure Vessel Code, if the valve shape permits this;

(ii) Subjecting a representative model to a proof test or experimental stress analysis described in paragraph A-22 of Section I of the ASME Boiler and Pressure Vessel Code; or

(iii) Other means specifically accepted by the Commandant (G-MTH).

13. Section 56.20-9 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 56.20-9 Valve construction.

(a) All valves must close with a right-hand (clockwise) motion of the handwheels when facing the end of the valve stem. Valves must be of the rising-stem type, preferably with the stem threads external to the valve body. Where operating conditions will not permit such installations, the use of a nonrising stem valve will be permitted, provided indicators are fitted to show clearly whether the valve is opened or closed. However, such indicators are not required for valves located in tanks.

(b) Valves of Class I piping systems (for restrictions in other classes refer to sections on nuclear and low temperature service), having diameters exceeding 2 inches must have bolted, pressure seal, or breech lock bonnets and flanged or welding ends, except the socket type

welding ends shall not be used where the diameter exceeds 2 inches. For diameters not exceeding 2 inches, screwed union bonnet or bolted bonnet, or bonnetless valves of a type which will positively prevent the stem from screwing out of the body may be employed. Outside screw and yoke design must be used for valves 3 inches and larger for pressures above 600 pounds per square inch. Cast iron valves with screwed-in or screwed-over bonnets are prohibited. Union bonnet type cast iron valves must have the bonnet ring made of steel, bronze, or malleable iron.

(c) Valves must be designed for the maximum pressure to which they may be subjected, but in no case shall the design pressure be less than 50 pounds per square inch. The use of wafer type resilient seated valves must be avoided for shell connections unless specifically authorized by the OCMI. (Refer also to § 56.20-15(b)(2)(ii).) Large fabricated ballast manifolds connecting lines exceeding 8 inches nominal pipe size must be designed for a pressure of not less than 25 pounds per square inch.

14. Section 56.20-15 is amended by adding a new paragraph (c) to read as follows:

§ 56.20-15 Valves employing resilient material.

(c) Valves employing resilient material will be determined to be qualified as Category A, Category B, or positive shut-off as follows:

(1) Category A—The valve must pass less than the greater of five percent or 15% / \sqrt{NPS} of its fully open flow rate through the line after complete removal of all resilient seating material or equivalent and testing at full rated pressure.

Note.—"NPS" is nominal pipe size.

(2) Positive shutoff—The valve must pass less than 10 ml/hour (0.34 fluid oz/hour) of liquid or 3 liters/hour (0.11 standard cubic feet/hour) of gas per inch nominal size through the line after removal of all resilient seating material or equivalent and testing at full rated pressure. Packing material must be fire resistant. This valve type will be considered suitable for internal head pressure from tanks (positive shutoff) as well as a Category A valve.

(3) If a valve designer elects to use either calculations or actual fire testing in lieu of material removal and pressure testing, the proposed calculation method or test plan must be accepted by the Commandant (G-MTH).

(4) Category B—Valves containing resilient seating or packing material,

non-metallic composition discs, or similar components and which have not passed one of the above tests are considered Category B valves.

§ 56.25-20 [Amended]

15. In § 56.25-20, paragraphs (a)(1), (a)(2), (b) and (d) are revised to read as follows:

(a) General. (1) Bolts, studs, nuts, and washers must comply with applicable standards and specifications listed in Table 126.1 of ANSI-B31.1. Refer to § 56.60-1 for use of other materials. Unless otherwise specified, bolting must be in accordance with ANSI-B18.5.

(2) Bolts and studs must extend completely through the nuts.

(b) Carbon steel bolts or bolt studs may be used if expected normal operating pressure does not exceed 300 pounds per square inch gage and the expected normal operating temperature does not exceed 450 °F. Carbon steel bolts must have American National Standard (ANSI-B18.2) heavy hexagon heads and must have American National Standard heavy semifinished hexagonal nuts, unless the bolts are tightly fitted to the holes and flange stress calculations taking the bolt bending stresses into account are submitted. When 250-pound cast iron flanges are used or when 125-pound cast iron flanges are used with ring gaskets, bolting material must be carbon steel conforming to ASTM Specification A-307, Grade B.

(d) All alloy studs and accompanying nuts are recommended to be threaded in accordance with American National Standard B1.1, Class 2A external threads, and Class 2B internal threads (8-thread series 8UN for 1 inch and larger).

16. The paragraph heading of § 56.30-5(c) and first sentence of § 56.30-5(c)(1) are revised to read as follows:

§ 56.30-5 Welded joints.

(c) Socket welds (modifies 27.3.3A). (1) Socket welds must conform to the requirements specified in ANSI-B16.11, applicable standards listed in Table 126.1 and Figure 127.4.4C in ANSI-B31.1 as amended by § 56.70-15(d)(3) and § 56.30-10(b)(4)-(6). A gap of approximately one-sixteenth inch between the end of the pipe and the bottom of the socket shall be provided before welding. This may best be

provided by bottoming the pipe and backing off slightly prior to tacking.

17. Section 56.30-10(a) is revised to read as follows:

§ 56.30-10 Flanged joints (modifies 104.5.1(a)).

(a) Flanged or butt-welded joints are required for Classes I and I-L piping for nominal diameters exceeding 2 inches, except as otherwise specified in this subchapter.

18. The following sentence is added to the end of the Note in Figure 56.30-10(b): "Fillet weld leg size need not exceed the thickness of the ANSI standard hub if this thickness is between 1/8 inch and 1.4T."

19. Section 56.30-10 (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) are revised to read as follows:

§ 56.30-10 Flanged joints (modifies 104.5.1(a)).

(b) * * *

(1) *Figure 56.30-10(b), Method 1.* Flanges with screw threads may be used in accordance with the Table in § 56.30.20.

(2) *Figure 56.30-10(b), Method 2.* 150-pound and 300-pound low-hubbed flanges with screw threads, plus the addition of a strength fillet weld of the size as shown, may be used for Class I piping without diameter limitation for temperatures not exceeding 750 °F. The pressure shall not exceed the American National Standards service pressure temperature rating.

(3) *Figure 56.30-10(b), Method 3.* ANSI-B16.5 slip-on flanges may be used in Class I, Class II, or Class II-L systems not to exceed the service pressure-temperature ratings for the 300-pound and lower classes, within the temperature limitations of the material selected for use and not to exceed 4 inches nominal pipe size in Class I systems. If 100 percent radiography is required by § 56.95-10 for the class, diameter, wall thickness and material of the pipe being joined, the use of slip-on flanges is not permitted and a butt welding flange must be provided. This configuration may be preferable in those applications where it is desirable to eliminate void spaces. For Class II piping systems the size of the strength fillet may be limited to a maximum of 0.525 inch instead of 1.4T and the distance from the face of flange to the end of the pipe may be a maximum of three-eighths inch. Restrictions on the use of slip-on flanges appear in § 56.50-105 and in requirements for nuclear piping.

(4) *Figure 56.30-10(b), Method 4.* ANSI-B16.5 socket welding flanges may be used in Classes I, II, or II-L systems not exceeding 3 inches in nominal pipe size for 600-pound and lower classes, and 2 1/2 inches for 900-pound classes within the service pressure-temperature ratings of the standard. Whenever full radiography is required by § 56.95-10 for the class, diameter, and wall thickness of the pipe being joined, the use of socket welding flanges is not permitted and a butt weld type connection must be provided. For Class II piping, socket welding flanges may be used without diameter limitations, and the size of the fillet weld may be limited to a maximum of 0.525 inch instead of 1.4T. Restrictions on the use of socket welds appear in the low temperature and nuclear piping systems and should be checked when designing for these systems.

(5) *Figure 56.30-10(b), Method 5.* Flanges fabricated from steel plate meeting the requirements of Part 54 of this chapter may be used for Class II piping for pressures not exceeding 150 pounds per square inch and temperatures not exceeding 450 °F. Plate material listed in UCS-6(b) of Section VIII of the ASME Code may not be used in this application except that material meeting ASTM Specification A-36 may be used. The size of the strength fillet weld may be limited to a maximum of 0.525 inches of 1.4T and the distance from the face of the flange to the end of the pipe may be a maximum of three-eighths inch.

20. Section 56.30-20 is amended by revising the section heading, paragraphs (a) and (c), the last sentence of paragraph (d), and note 2 of Table 56.30-20(c) to read as follows:

§ 56.30-20 Threaded joints.

(a) Threaded joints may be used within the limitations specified in Subpart 56.15 of this chapter and within other limitations specified in this section.

(c) Threaded joints may not be used where severe erosion, crevice corrosion, shock, or vibration is expected to occur; or at temperatures over 925 °F. Size limitations are given in Table 56.30-20(c).

(d) Pipe with a wall thickness less than that of standard weight of ANSI-B36.10 steel pipe must not be threaded regardless of service. For additional threading limitations for pipe used in steam service over 250 pounds per square inch or water service over 100 pounds per square inch and 200 °F., see Part 104.1.2(c)(1) of ANSI-B31.1.

Restrictions as to the use of threaded joints appear for low temperature and nuclear piping and should be checked when designing for these systems.

TABLE 56.30-20(c)—Threaded Joints (notes 1,2)

* * * * *

² Threaded joints in hydraulic systems are permitted above the pressures indicated for the nominal sizes shown when commercially available components such as pumps, valves and strainers may only be obtained with threaded connections.

21. Paragraphs (a) and (b) of § 56.30-40 are revised to read as follows:

§ 56.30-40 Flexible pipe couplings of the compression or slip-on type.

(a) Flexible pipe couplings of the compression or slip-on type must not be used as expansion joints. To insure that the maximum axial displacement (approximately 3/8" maximum) of each coupling is not exceeded, positive restraints must be included in each installation.

(b) Positive means must also be provided to prevent the coupling from "creeping" on the pipe and uncovering the joint. Bite type devices are not considered to provide positive protection against creeping and are not generally accepted for this purpose in the absence of other means. Machined grooves or centering pins are considered positive means, and other positive means will be considered.

22. A new paragraph (b) is added to § 56.35-10 to read as follows:

§ 56.35-10 Bellows expansion joints below 15 pounds per square inch (replaces 119.5.1).

(b) For expansion joints of nonmetallic materials, see § 56.60-25(e).

23. Paragraphs (c), (d), the introductory text of (e), (e)(2) and (f) of § 56.35-15 are revised and the OMB control number is added to the end to read as follows:

§ 56.35-15 Bellows expansion joints above 15 pounds per square inch (replaces 119.5.1).

(c) *Preapproval test.* The acceptability of bellows type expansion joints for service above 15 pounds per square inch gage is based upon meeting the requirements of paragraph (1) or paragraph (2) as follows:

(1) A prototype expansion joint may be tested to indicate that it will successfully withstand at least as many cycles, under the conditions of pressure, temperature, axial movement, rotational

movement, and transverse movement, as will be encountered in an actual installation. The manufacturer shall submit a Certified Test Report for a prototype of the model or type joint under consideration detailing the test set up, the total number of corrugations, the deflection per corrugation, the internal test pressure and temperature, axial movement, rotational movement, transverse movement, the total cycles at failure, and the location of the failure.

(2) Expansion joints which are designed, constructed and tested in accordance with the Expansion Joint Manufacturers Association Standards (EJMA) may be accepted by submitting supporting information to the Merchant Marine Technical Office having jurisdiction over the place of installation.

(d) *Approval.* Upon receipt of the Certified Test Report described in paragraph (c)(1) or information showing compliance with paragraph (c)(2) of this section, approval action will be taken. Approval will be granted for each model of expansion joint under consideration, with the approval specifically stating the model number, and nominal pipe size(s), by which the expansion joint may be readily identified. The approval will also state the maximum approved pressure, the corresponding maximum approved temperature, the maximum allowable deflection per corrugation, maximum axial movement, maximum rotational movement, maximum transverse movement and whether of the self-equalizing or nonequalizing type.

(e) *Approval without submitting test data.* If approval of an entire line or a portion thereof is desired without submitting test data or calculations for each model and size, the following information is required:

(2) Sufficient test data or calculations to substantiate the design procedures along with details of the test procedure and mode of failure.

(f) *Nonmetallic expansion joints.* For expansion joints of nonmetallic materials, see § 56.60-25(e).

(g) * * * (Approved by the Office of Management and Budget under OMB control number 2115-0142)

24. In § 56.50-1, paragraph (c), paragraph (g)(1), and paragraph (l) are revised to read as follows:

§ 56.50-1 *General* (replaces 122.6 through 122.10).

(c) Valves and cocks not forming part of a piping system are not permitted in

watertight subdivision bulkheads except that sluice valves or gates in oiltight bulkheads of tankships will be given special consideration by the Commandant (G-MTH).

(g)(1) The use of power actuated valves in systems other than as specified in § 56.50-60 is subject to special consideration by the Commandant (G-MTH). All power actuated valves required in an emergency to operate the vessel's machinery, to maintain its stability, and to operate the bilge and firemain systems must also be provided with a manual means of operation.

(l) Where pipes are run through dry cargo spaces they must be protected from mechanical injury by a suitable enclosure or other means.

§ 56.50-5 [Removed]

25. Section 56.50-5 is removed.

26. Paragraph (a) and (c) of § 56.50-20 are revised to read as follows:

§ 56.50-20 *Pressure relief piping.*

(a) *General.* There shall be no intervening stop valves between the vessel or piping system being protected and its protective device or devices, except as specifically provided for in other regulations or as specifically authorized by the Commandant (G-MTH).

(c) *Stop valves.* There shall be no intervening stop valve between the safety or relief valve and the point of discharge, except as specifically provided for in other regulations or as specifically authorized by the Commandant (G-MTH).

§ 56.50-25 [Amended]

27. The sentence "Back pressure must be calculated with all relief valves which discharge to a common escape pipe relieving simultaneously at full capacity." is added to the end of paragraph (d) of § 56.50-25.

28. Paragraph (b) of § 56.50-45 is revised to read as follows:

§ 56.50-45 *Circulating pumps.*

(b) Independent and well separated sea suctions shall be provided for the main circulating and the emergency circulating pumps.

29. Section 56.50-50 is amended by revising paragraphs (c)(1), Note 1 of paragraph (d), paragraph (f)(3),

paragraph (h), and paragraph (k) to read as follows:

§ 56.50-50 *Bilge and ballast piping:*

(c)(1) Except as otherwise accepted by the Commandant (G-MTH), bilge suctions must be led from manifolds. Insofar as practicable, manifolds must be located in, or be capable of remote operation from, the same space as the bilge pump which normally takes suction on that manifold. In either case, the manifolds must be capable of being locally controlled from above the floorplates, and be easily accessible at all times. Bilge overboard discharge valves must comply with the requirements for suction manifolds insofar as practicable. Except as otherwise permitted by paragraph (h) of this section for Great Lakes cargo vessels employing a common bilge and ballast system for the cargo spaces, bilge manifold valves controlling bilge suctions from various compartments must be of the stop-check type.

(d) * * *

(1) For suctions to each main bilge pump:

$$d = 1 + \sqrt{L(B+D)/2500} \quad (1)(4)(5)$$

Note 1.—For tank vessels, "L" may be reduced by the combined length of the cargo oil tanks.

(f) * * *

(3) Vessels over 180 feet in length not covered by paragraphs (f)(1) and (f)(2) of this section and which operate on international voyages or in ocean, coastwise, or Great Lakes service, must be provided with a direct emergency bilge suction from any pump in the machinery space, except that a required bilge pump may not be used. The discharge capacity of the pump selected must exceed the capacity of the required main bilge pump and the area of the suction inlet is to be equal to the full suction inlet of the pump.

(h) This paragraph contains requirements for separation of piping systems. Piping systems must meet the following separation requirements:

(1) Except as provided for in subparagraph (2) of this paragraph, piping systems for the following groups of services must not be connected to those in other groups.

(i) Non-cargo bilge piping, for draining spaces not intended to contain liquids. This group does not include piping for draining fluid cargo handling spaces or cofferdams adjacent to cargo tanks.

(ii) Segregated ballast piping for filling and draining spaces intended only to contain water ballast.

(iii) Piping for filling and draining spaces intended to carry oil or other hazardous materials as cargo or slops, other than Grade E fuel slops and non-cargo machinery space bilge slops, with or without provision for ballasting, including cargo handling space bilges and cofferdams adjacent to cargo tanks.

(iv) Piping for filling, cleaning or draining spaces intended to carry oil as fuel, with or without provisions for ballasting, including Grade E oil slops and non-cargo machinery space bilge slops.

(v) Piping for filling, cleaning or draining spaces containing a cargo considered incompatible with other cargoes carried.

(vi) Firefighting water system.

(vii) Feed and potable water systems.

(viii) Lubricating oil systems.

(2) The following interconnections of piping systems are permitted:

(i) Great Lakes dry cargo vessels may employ a common line for bilge and ballast systems for dry cargo spaces.

(ii) Means for disposal of various types of oil slops at sea or to shore facilities may be combined in a manner which ensures that no backflow of cargo slops into segregated ballast systems, fuel systems, or machinery spaces can occur.

(iii) Piping systems required to be separate under normal circumstances and connected under unusual circumstances may be connected by means of a spool piece or comparable means providing a visible gap under normal conditions. Means of connection not providing a visible gap must be specifically authorized by the Commandant (G-MTH).

(iv) Bilge and ballast systems may utilize common pumps, unless the pump takes ballast suction from a system in the group described in paragraph (h)(1)(iii) of this section, or the pump is also to be used in a firefighting system and any of the systems attached to the pump may contain oil other than unconcentrated Grade E bilge slops. Where a common pump is permitted, the bilge and ballast mains must be separated by control valves or manifolds located at the pump.

(v) Fire mains, bilge systems, or ballast systems may be used to provide clean water for tank cleaning.

(vi) Fire pumps may be used as bilge pumps if they cannot take suction on a source of oil or oil slops (except the bilges of machinery spaces containing no liquids with a flash point lower than Grade E). Such pumps may not take suction from a tank in which the bilge

slops can be separated, decanted, or otherwise deliberately concentrated, or which receives other oil drains. Such pumps must be equipped with control valves or manifolds at the pumps so arranged that if any one pump is damaged or removed, the required number of pumps, minus one, can serve each piping system, and one pump will always be available for either fire or bilge service. Where only one fire pump is required it may also be a bilge pump only if there is another pump providing both fire and bilge pump services and meeting all requirements for these services.

(k) Where bilge or ballast piping is led through tanks, except ballast piping in ballast tanks, means must be provided to prevent the flooding of the compartments being served in the event of pipe leakage within the tanks. Such means may consist of an oiltight or watertight pipe tunnel, or the lines may be of Schedule 80 pipe thickness, fitted with expansion bends, and all joints within the tanks shall be welded. Where a pipe tunnel is installed, the watertight integrity of the bulkheads must be maintained and if the tunnel is not of sufficient size to afford easy access, no valve or fitting must be located therein. Bilge lines led through tanks without a pipe tunnel must be fitted with nonreturn valves at the bilge suction.

30. In § 56.50-55, Table 56.50-55 (b)(1) and paragraph (e)(1) are revised to read as follows:

§ 56.50-55 Bilge pumps.

TABLE 56.50-55(b)(1)—BILGE PUMPS

[Required for nonself-propelled vessels]

Type of vessel	Waters navigated	Power pumps(1)	Hand pumps
Sailing	Ocean and coastwise.	Two	Note(2).
Manned barges.	do	Two	Note(2).
Manned barges.	Other than ocean and coastwise.	Note(3).	Note(3).
Unmanned barges.	All waters.	Note(3).	Note(3).
Mobile offshore drilling units.	All waters.	Two	None.

(e) Location. (1) For self-propelled vessels, if the engines and boilers are in two or more watertight compartments, the bilge pumps must be distributed throughout these compartments. On other self-propelled vessels and mobile offshore drilling units, the bilge pumps must be in separate compartments to the extent practicable. When the location of bilge pumps in separate watertight

compartments is not practicable, the Commandant (G-MTH) will consider alternative arrangements of the bilge pumps. In general, where a fire pump acts as a supplemental bilge pump, has the capacity of a required bilge pump, the pump and its power source are independent of the space in which the required bilge pumps are located, and it complies with the requirements of (h)(2)(vii) of this section, this will be considered as an acceptable alternative arrangement.

31. § 56.50-60 is amended as follows:

a. By revising the section heading.

b. By revising paragraphs (a), (c) (d)(1), (d)(2) and (d)(4).

c. By adding new paragraphs (a)(2), (a)(3), (h), (i), (j), (k) and (l).

As amended, the affected paragraphs of § 56.50-60 read as follows:

§ 56.50-60 Systems containing oil.

(a)(1) Oil-piping systems for the transfer or discharge of cargo or fuel oil must be separate from other piping systems as far as practicable, and positive means shall be provided to prevent dangerous interconnection in service.

(2) Fuel oil and cargo oil systems may be combined if the cargo oil systems contain only Grade E oils and have no connection to cargo systems containing grades of oil with lower flash points or hazardous substances.

(3) Pumps used to transfer oil must have no discharge connections to fire mains, boiler feed systems, or condensers unless approved positive means are provided to prevent oil from being accidentally discharged into any of the aforementioned systems.

(c) Filling pipes may be led directly from the deck into the tanks or to a manifold in an accessible location permanently marked to indicate to which they are connected and from which the oil can be distributed to the various tanks through the piping system. The end of filling pipes must be fitted with a shutoff valve. Alternate arrangements where gravity systems for filling are employed will be given special consideration by the Commandant (G-MTH). Oil piping must not be led through accommodation spaces, except that low pressure fill piping not normally used at sea may pass through accommodation spaces if it is of steel construction, all welded, and not concealed.

(d) Piping subject to internal head pressure from oil in the tank must be

fitted with positive shutoff valves located at the tank.

(1) Valves installed on the outside of the oil tanks must be made of steel, ductile cast iron ASTM A395, or a ductile nonferrous alloy having a melting point above 1,700 °F and must be arranged for local manual control at the valve and from a readily accessible and safe location outside of the compartment in which the valves are located.

(2) If valves are installed on the inside of the tank, they may be made of cast iron and arranged for remote control only. Additional valves for local control must be located in the space where the system exits from the tank or adjacent tanks. Valves for local control outside the tanks must be made of steel, ductile cast iron ASTM A395, or a ductile nonferrous alloy having a melting point above 1,700 °F.

(4) Remote operation for shutoff valves on small independent oil tanks will be specially considered in each case where the size of tanks and their location may warrant the omission of remote operating rods.

(h) Oil piping must not run through feed or potable water tanks. Feed or potable water piping must not pass through oil tanks.

(i) Where flooding equalizing cross-connections between fuel or cargo tanks are required for stability considerations, the arrangement must be approved by the Commandant (G-MTH).

(j) Piping conveying oil must be run well away from hot surfaces wherever possible. Where such leads are unavoidable, only welded joints are to be used, or alternatively, suitable shields are to be fitted in the way of flanged or mechanical pipe joints when welded joints are not practicable. Piping that conveys fuel oil or lubricating oil to equipment and is in the proximity of equipment or liner having an open flame or having parts operating above 500 °F must be of seamless steel. (See § 56.50-65.)

(k) Oil piping drains, strainers and other equipment subject to normal oil leakage must be fitted with drip pans or other means to prevent oil draining into the bilge.

(l) Where oil piping passes through a non-oil tank and stop valves complying with paragraph (d) of this section are not provided at all penetrations, the piping must comply with § 56.50-50(k).

32. Section 56.50-65 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 56.50-65 Burner fuel oil service systems.

(a) All discharge piping from the fuel oil service pumps to burners must be seamless steel with a thickness of at least Schedule 80. If required by § 56.07-10(e) or Paragraph 104.1.2 of ANSI-B31.1 the thickness must be greater than Schedule 80. Short lengths of steel, or annealed copper nickel, nickel copper, or copper pipe and tubing may be used between the fuel oil burner front header manifold and the atomizer head to provide flexibility. All material used must meet the requirements of Subpart 56.60. The use of non-metallic materials is prohibited. The thickness or the short lengths must not be less than the larger of 0.9mm (0.35 inch) or that required by § 56.07-10(e). Flexible metallic tubing may be considered for this application when approved by the Commandant (G-MTH). Tubing fittings must be of the flared type except that flareless fittings of the nonbite type may be used when the tubing is steel, nickel copper or copper nickel.

(b)(1) All vessels having oil fired propulsion boilers must have at least two fuel service pumps, each of sufficient capacity to supply all the boilers at full power, and arranged so that one may be overhauled while the other is in service. At least two fuel oil heaters of approximately equal capacity must be installed and so arranged that any heater may be overhauled while the other(s) is (are) in service. Suction and discharge strainers must be of the duplex or other type capable of being cleaned without interrupting the oil supply.

(2) All auxiliary boilers, except those furnishing steam for vital equipment and fire extinguishing purposes other than duplicate installations, may be equipped with a single fuel oil service pump and a single fuel oil heater. Such pumps need not be fitted with discharge strainers.

(3) Strainers must be located so as to preclude the possibility of spraying oil on the burner or boiler casing, or be provided with spray shields. Coamings, drip pans, ect., must be fitted under fuel oil service pumps, heaters, etc., where necessary to prevent oil drainage to the bilge.

(4) Boilers burning fuel oils of low viscosity need not be equipped with fuel oil heaters, provided acceptable evidence is furnished to indicate that satisfactory combustion will be obtained without the use of heaters.

§ 56.50-75 [Amended]

33. In § 56.50-75 (a) and (b), the "(a)" from the citation "§ 58.01-25(a)" is removed and in paragraph (b)(3),

"Installation" is amended to read "installation".

34. Section 56.50-85 is amended by revising the introductory text of paragraph (a) (a)(7) and (a)(9), to read as follows:

§ 56.50-85 Tank vent piping.

(a) This section applies to vents for all independent, fixed non-pressure tanks or containers or spaces in which liquid is carried as fuel, ship's stores, cargo, or ballast.

(7) Vent outlets from all tanks which may emit flammable or combustible vapors, such as bilge slop tanks and contaminated drain tanks must be fitted with a single screen of corrosion-resistant wire, of at least 30 by 30 mesh, or two screens of at least 20 by 20 mesh, spaced not less than one-half inch nor more than 1½ inches apart. The clear area through the mesh must not be less than the internal unobstructed area of the required pipe.

(9) The diameter of each vent pipe must not be less than 1½ inches for fresh water tanks, 2 inches for water ballast tanks and 2½ inches for fuel oil tanks, except that small independent tanks need not have a vent more than 25% larger than the fill line.

35. Section 56.50-95 is amended by revising paragraphs (c) and (e)(3) and paragraph (b)(1), and by adding a new paragraph (i) or read as follows:

§ 56.90-95 Overboard discharges and shell connections.

(b)(1) Scuppers and discharge pipes originating at any level and penetrating the shell either more than 17½ inches (450mm) below the freeboard deck or less than 23½ inches (600mm) above the summer load waterline must be provided with an automatic nonreturn valve at the shell. This valve, unless required by paragraph (b)(2) of this section, may be omitted if the piping is not less than Schedule 80 in wall thickness through 8 inches nominal pipe size, Schedule 60 for nominal pipe sizes above 8 inches and below 16 inches, and Schedule 40 for pipe sizes 16 inches and above.

(c) Overflow pipes which discharge through the vessel's side must be located as far above the deepest load line as practicable and fitted with valves as required by paragraph (b) of this section. Two automatic nonreturn valves must be used unless it is

impracticable to locate the inboard valve in an accessible position, in which case a nonreturn valve with a positive means of closure from a position above the freeboard deck will be acceptable for storage tanks. Overflows which extend at least 30 inches above the freeboard deck before discharging overboard may be fitted with a single automatic nonreturn valve at the vessel's side. Pipes serving as a required means of preventing overpressure of a tank other than a storage tank must not be fitted with positive means of closure without the specific approval of the Commandant (G-MTH). Overflow pipes may be vented to the weather.

(e) * * *

(3) The thickness of inlet and discharge connections outboard of the shutoff valves, and exclusive of seachests, must be not less than that of Schedule 80 for nominal pipe sizes through 8 inches, Schedule 60 for nominal pipe sizes above 8 inches and below 16 inches, and Schedule 40 for nominal pipe sizes 16 inches and above.

(i) Except as provided for in § 58.20-20(c) of this Subchapter, sea valves must not be held open with locks. Where it is necessary to hold a discharge or intake closed with a lock, either a locking valve may be located inboard of the sea valve, or the design must be such that there is sufficient freedom of motion to fully close the locked sea valve after an event, such as fire damage to the seat, causes significant leakage through the valve. Valves which must be opened in an emergency, such as bilge discharges or fire pump suction must not be locked closed, whether they are sea valves or not.

36. Section 56.50-96 (a)(2)(ii) and (a)(2)(iv) are revised to read as follows:

§ 56.50-96 Keel cooler installations.

(a) * * *

(2) * * *

(ii) The flexible connections and all openings internal to the vessel, such as expansion tank vents and fills, in the installation are above the deepest load line and all piping components are Schedule 80 or thicker below the deepest load line.

(iv) The forward end of the structure is faired to the hull with a slope no greater than 4 to 1 or in a protected location such as inside a bow thruster trunk.

37. Section 56.50-102 is revised to read as follows:

§ 56.50-102 Liquefied petroleum gas for domestic services.

Requirements for liquefied petroleum gas systems for domestic services are in Subpart 58.16 of this chapter.

38. Section 56.50-105 is amended by revising paragraph (a)(1)(iii), and adding new footnotes 3 and 4 to Table 56.50-105, to read as follows:

§ 56.50-105 Low Temperature piping.

(a) * * *

(1) * * *

(iii) Steels equivalent to those listed in Table 56.50.105, but not produced according to a particular ASTM specification, may be used only with the prior consent of the Commandant (G-MTH). Steels differing in chemical composition, mechanical properties or heat treatment from those specified may be specially approved by the Commandant (G-MTH). Similarly, aluminum alloy and other nonferrous materials not covered in Table 56.50-105 may be specially considered by the Commandant (G-MTH) for service at any low temperature. There are restrictions on the user of certain materials in this Part and in Subchapter O of this Chapter.

TABLE 56.50-105—Acceptable Materials and Toughness Test Criteria (2)

Product form	ASTM specification ³	Grade ⁴	Minimum service temperature	minimum avg Charpy V notch energy
.

³ Any repair method must be acceptable to the Commandant (G-MTH), and welding repairs as well as fabrication welding must be in accordance with Part 57 of this Subchapter.

⁴ The acceptability of several alloys for low temperature service is not intended to suggest acceptable resistance to marine corrosion. The selection of alloys for any particular shipboard location should take corrosion resistance into account and must be to the satisfaction of the Commandant (G-MTH).

39. Section 56.60-1(a)(2) is revised to read as follows. Paragraph (a)(1) is set out for the convenience of the reader.

§ 56.60-1 Acceptable materials and specifications (replaces § 123 and modifies Table 126.1 in ANSI-B31.1).

(a)(1) The material requirements in this subpart shall be followed in lieu of those in § 123 in ANSI-B31.1.

(2) Materials used in piping systems must be selected from the specifications which appear in Table 56.60-1(a) or Table 56.60-2(a), or they may be selected from the material specifications

of section I, III, or VIII of the ASME Code if not prohibited by a regulation of this subchapter dealing with the particular section of the ASME Code. Table 56.60-1(a) contains only pipe, tubing, and fitting specifications. Determination of acceptability of plate, forging, bolting, nuts, and castings may be made by reference to the ASME Code as previously described. Additionally accepted materials for use as piping system components appear in Table 56.60-2(a). Other materials must receive the specific approval of the Commandant (G-MTH) before being used. Materials listed in Table 126.1 of ANSI-B31.1 are not accepted unless specifically permitted by this paragraph.

§ 56.60-1 [Amended]

40. Table 56.60-1(a) is amended by (a) Removing the entry for A72 under "Pipe, welded"

(b) Revising the line entry for "Pipe centrifugally cast" to read:

Pipe, centrifugally cast: . . . (None applicable) . . . (19)

(c) Removing the entry for A445 under "Castings, iron"

(d) Adding a new footnote 19 to read as follows:

¹⁹Centrifugally cast pipe must be specifically approved by the Commandant (G-MTH).

41. Table 56.60-1(b) is amended by removing MSS standards SP-37 and SP-42 and footnote 1 and adding ASTM Specification F682-80, ANSI Standard B16.34 and footnotes 3 and 4 to read as follows:

TABLE 56.60-1(b).—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS

[Modifies Table 126.1]

ANSI Standards (American National Standards Institute),
1430 Broadway, New York, N.Y. 10018

B16.5—Steel Pipe Flanges and Flanged Fittings³

B16.9—Steel Butt-welding Fittings³

B16.14—Ferrous-Threaded Plugs, Bushings and Locknuts⁴

B16.15—Cast Bronze Threaded Fittings—125 & 250lb⁴

B16.18—Cast Brass Solder Joints⁴

B16.22—Wrought Copper and Bronze Solder Joint Fittings⁴

B16.23—Cast Bronze Solder-Joint Drainage Fittings⁴

B16.24—Brass or Bronze Flanges and Fittings—150 and 300lb³

B16.28—Wrought Steel Butt-welding Short Radius Elbows and Returns⁴

B16.29—Wrought Copper and Wrought-Copper Alloy Solder Joint Drainage Fittings⁴

B16.24—Valves—Flanged and Butt-welding End⁴

TABLE 56.60-1(b).—ADOPTED STANDARDS
APPLICABLE TO PIPING SYSTEMS—Continued
(Modifies Table 126.1)

MSS Standards (Manufacturers' Standardization Society of the Valve and Fittings Industry), 1815 North Fort Myer Drive, Arlington, Va. 22209

SP-25—Marking for Valves, Fittings, Flanges and Unions
SP-44—Steel Pipe Line Flanges *

SP-51—Cast Flanges and Fittings *

SP-67—Butterfly Valves **

SP-72—Ball Valves with Flanged or Butt-Welding Ends for General Service *

FCI Standards (Fluid Controls Institute, Inc.), 12 Bank Street, Summit, New Jersey 07901

FCI 59-1—Pressure Rating Standard for Steam Traps *

ASTM (American Society for Testing and Material), 1916 Race St., Philadelphia, Pa. 19103

F682-80—Wrought Carbon Steel Sleeve-type Couplings

[Removed]

* Mill or manufacturer's certification is not required except where a needed portion of the required marking is deleted due to size or absent due to age of existing stocks.

** Because the standard offers the option of several materials, some of which are not generally acceptable to the Coast Guard, compliance with the standard does not necessarily indicate compliance with these regulations. The marking on the component or the mill or manufacturer's certificate must indicate the material specification and/or grade as necessary to fully identify the materials used, and the material must comply with these regulations in the particular application.

§ 56.60-2 [Amended]

42. The notes to Table 56.60-2(a) are amended as follows:

(a) In notes 2 and 3 replace "SA-306" with "SA-675".

(b) In note 9 replace "Table IV" with "Table 3".

(c) In note 14 replace "Table III" with "Table X-2".

43. In § 56.60-10, paragraph (a) and (c) are revised to read as follows:

§ 56.60-10 Cast iron and malleable iron.

(a) The low ductility of cast iron and malleable iron should be recognized and the use of these metals where shock loading may occur should be avoided. Cast iron and malleable iron fittings conforming to the specifications of Table 56.60-1(a) may be used at pressures not exceeding the limits of the applicable standards of Table 56.60-1(b) at temperatures not exceeding 450 °F. Valves of this material may be used in conformance with the standards for flanges and flanged fittings in ANSI-B16.1 if such service does not exceed the rating as marked on the valve.

(c) Malleable iron and cast iron valves and fittings, designed and marked for Class 300 refrigeration service may be

used for such service, provided the pressure limitation of 300 pounds per square inch is not exceeded. Malleable iron flanges of this class may also be used in sizes 4 inches and smaller (oval and square design).

§ 56.60-15 [Amended]

44. Remove from the first sentence of § 56.60-15(a) the words "A445 and".

45. In § 56.60-20, paragraphs (a)(1), (a)(4), and (b) are revised and footnote 2 is removed as follows:

§ 56.60-20 Nonferrous materials.

(a) * * *

(1) The low melting points of many nonferrous metals and alloys, such as aluminum and aluminum alloys, must be recognized. These types of heat sensitive materials must not be used to conduct flammable, combustible, or dangerous fluids, or for vital systems unless authorized by the Commandant (G-MTH).

Note.—For definitions of flammable or combustible fluids, see §§ 30.10-15 and 30.10-22 of Subchapter D (Tank Vessels) or Parts 151-154 of Subchapter O (Certain Bulk Dangerous Cargoes) of this chapter. Dangerous Fluids are those covered by regulations in Part 98 of Subchapter I (Cargo and Miscellaneous Vessels) of this chapter.

(4) The corrosion resistance of copper bearing aluminum alloys in a marine atmosphere is poor and alloys with copper contents exceeding 0.6 percent should not be used. Refer to table 56.60-2(a) for further guidance.

(b) An additional requirement for cast aluminum alloys is hydraulic fluid power systems is described in § 58.30-15(f) of this subchapter.

46. Section 56.60-25 is amended as follows:

a. By revising the introductory text of paragraph (a), the first sentence of (a)(1)(ii), paragraphs (a)(7)(i)(σ), (a)(7)(i)(b), (a)(8), (c)(2) and (c)(5), Table 56.60-25(c), footnotes 1 and 5 of Table 56.60-25(c), and paragraph (e).

b. By adding new paragraphs (c)(7), (c)(8), (c)(9) and (c)(10). As amended § 56.60-25 reads as follows:

§ 56.60-25 Nonmetallic materials.

(a) *Plastic pipe-nonvital service.*
Plastic pipe may be used for nonvital fresh and salt water service, including vents and drains for waste and sewage services not involving treatment chemicals incompatible with the pipe, or flammable vapors from degenerating waste or other sources, subject to the following limitations:

(1) * * *

(ii) An acceptable metallic shutoff is installed adjacent to the spool piece.

(7) * * *

(i) * * *

(a) *Pipe (PVC).*

ASTM D1785 (Schedule 40, 80, 120),
ASTM D2241 (Standard Dimension Ratio).

ASTM D2665.

Type I Grade 1 or 2.

Type II Grade 1.

Type IV Grade 1.

(b) *Fittings (PVC).*

ASTM D1785 (Schedule 80 threaded).

ASTM D2466 (Schedule 40 socket).

ASTM D2487 (Schedule 80 socket).

ASTM D2665.

Type I Grade 1 or 2.

Type II Grade 1.

(8) In using PVC pipe, a schedule or Standard Dimension Ratio must be chosen so that the maximum value of hoop stress in service will not be more than 20 percent of the specified minimum burst stress as listed in the applicable specification. Pipe and fittings meeting ASTM D2665 are limited to drain, waste, and associated vent services.

(c) *Nonmetallic flexible hose.*

(1) The installation requirements for nonmetallic flexible hose shall be as specified in Table 56.60-25(c).

TABLE 56.60-25(c).—INSTALLATION REQUIREMENTS FOR NONMETALLIC FLEXIBLE HOSE

Type of service	Maximum service pressure (psi)	Type cover required	Required hose reinforcement	Where permitted
Vital fresh and salt water	150	Flame resistant	Wire or polyester	(*)
Nonvital fresh and salt water	150	do ¹	do	(*)
Nonvital water and pneumatic	50	do ¹	None	(*)
Do	150	do ¹	Fiber	(*)
Lube oil and fuel systems		do ^{1,2}	Wire	For flexibility only
Fluid power systems		do ¹	Wire or polyester	(*)

¹ The hose must be judged flame-resistant as detailed in § 56.60-25(c)(7).

² The hose assembly must be capable of withstanding the fire test detailed in § 56.60-25(c)(8).

(Approved by the Office of Management and Budget under OMB control number 2115-0142)

(2) Reinforced nonmetallic flexible hose must be fabricated with an inner tube and a cover of synthetic rubber or other suitable material and reinforced with wire or polyester braid, or an even number of oppositely laid layers of closely-packed spirally wound wire.

(5) Nonmetallic hose must be complete with factory-assembled end fittings requiring no further adjustment of the fittings on the hose, except that field attachable type fittings may be used if they are of a type the design of which is approved by the Commandant (G-MTH). Field attachable fittings must be installed following the manufacturer's recommended practice (method). If special equipment is required, such as crimping machines, these must be of the type and design as specified by the manufacturer. Field attachable fittings must not be reused. A hydrostatic test of each hose assembly must be conducted in accordance with Subpart 56.97-5.

(7) Nonmetallic hose must pass the flame resistance test and be marked as required by 30 CFR 18.65.

(8) Nonmetallic hose for lube oil or fuel service must not leak during or after a 2½ minute exposure to a gasoline fire under the following conditions.

(i) The hose must be pressurized to the maximum allowable working pressure during the test. (The use of water as the pressurizing medium is strongly recommended for safety purposes).

(ii) No fluid flow may occur in the hose during the test.

(iii) The hose length must be between 46 cm (18") and 61 cm (24").

(iv) The hose must be positioned 23 cm (9") above an open pan of gasoline.

(v) At least one end fitting of the hose assembly must be engulfed in the fire.

(vi) The test must be witnessed by a Coast Guard inspector or performed by an independent testing laboratory accepted by the Commandant (G-MTH).

(vii) The hose must be burst at the end of the test after cooldown.

(viii) The results of testing must be submitted to the Commandant (G-MTH)

(9) Nonmetallic hose used in fluid power systems must be impulse tested at 125% of maximum allowable working pressure, using the fluid to be used in service, at a temperature of 93 °C (200 °F), for a minimum of 150,000 cycles in accordance with the test method in SAE J343, Tests and Procedures for SAE 100R Series Hydraulic Hose and Hose

Assemblies. If acceptance for higher temperature service is desired, the test must be performed at the higher temperature.

(10) After hose assemblies have been impulse tested, fire tested, or tested for flame resistance, duplicate hose assemblies of the same materials, design, construction and size need not be so tested, but must be given a hydrostatic test as required in paragraph (c)(5).

(e) Short nonmetallic expansion joints may be used in vital and nonvital machinery sea connections inboard of the skin valve. Such joints must be reinforced with wire braid, polyester or fibrous materials. The cover material must be flame resistant as marked as required by 30 CFR 18.65. The design must provide a burst pressure of not less than four times the maximum allowable working (rated) pressure. These joints may not be used to correct for improper piping workmanship or misalignment. Joint movements may not exceed the limits set by the joint manufacturer. Refer also to § 56.35-10.

47. Section 56.70-1 is revised to read as follows:

§ 56.70-1 General.

(a) The following generally applies to all types of welding, such as stud welding, casting repair welding and all processes of fabrication welding. Where the detailed requirements are not appropriate to a particular process, alternatives shall be to the satisfaction of the Commandant (G-MTH).

§ 56.70-15 [Amended]

48. In the second sentence of § 56.70-15(b)(2), the reference "paragraph (b)(2)(iv)" is amended to read "paragraph (b)(3)(iv)".

49. In § 56.70-15 the reference "Table 56.95-10" is amended to read § 56.95-10" in the following paragraphs:

(b)(v), next to last sentence

(b)(7)

(d)(3)

50. In Figure 56.70-15(g) detail A is removed and the remaining details are relettered "A" through "E" in lieu of "B" through "F" respectively.

51. In the first sentence of § 56.70-15(g)(4) the reference "56.70-15(g)(7)" is amended to read "56.70-15(g)(7)".

52. The heading of Table 56.70-15 is revised to read as follows:

TABLE 56.70-15.—REINFORCEMENT OF GIRTH AND LONGITUDINAL BUTT WELDS

Thickness (in inches) of base metal	Maximum thickness (in inches) of reinforcement for design temperature
	Below 0°F or above 750 °F; 350° to 750 °F; 0°F and above but less than 350 °F.

53. Section 56.75-5 is amended by adding a new sentence to paragraph (a). As amended, paragraph (a) reads as follows:

§ 56.75-5 Filler metal.

(a) The filler metal used in brazing must be a nonferrous metal or alloy having a melting point above 1,000 °F, and below that of the metal being joined. The filler metal must meet and flow freely within the desired temperature range and, in conjunction with a suitable flux or controlled atmosphere, must wet and adhere to the surfaces to be joined. Prior to using a particular brazing material in a piping system, the requirements of § 56.60-20 should be considered.

§ 56.85-10 [Amended]

54. Table 56.85-10 is amended as follows:

(a) The word "minimum" is removed whenever it appears in the column "Minimum Temperature".

(b) The word "inclusive" is added after the words "up to ¼ in." in the "Minimum Wall" column opposite "P-5(15) (less than 5 cr.)".

55. In § 56.95-10 paragraphs (a) and (c)(2) are revised and Table 56.95-10 is removed to read as follows:

§ 56.95-10 Type and extent of examination required.

(a) *General.* The types and extent of nondestructive examinations required for piping must be in accordance with this section and Table 136.4 of ANSI-B31.1. In addition, a visual examination shall be made.

(1) 100 percent radiography¹ is required for all Class I, I-L and II-L piping equal to or greater than 4 inches nominal diameter or 0.375 inches nominal wall thickness.

(2) Nondestructive examination is required for all Class II piping equal to or greater than 18 inches nominal diameter regardless of wall thickness. Any test method acceptable to the Officer in Charge, Marine Inspection may be used.

(3) Appropriate nondestructive examination of other piping systems is

required only when deemed necessary by the Officer in Charge, Marine Inspection. In such cases a method of testing satisfactory to the Officer in Charge, Marine Inspection must be selected from those described in this section.

(c) * * *

(2) *Random radiography.* Where random radiography¹ is required, one or more welds may be completely or partially radiographed. Random radiography is considered to be a desirable means of spot checking welder performance, particularly in field welding where conditions such as position, ambient temperatures, and cleanliness are not as readily controlled as in shop welding. It is to be employed whenever an Officer in Charge, Marine Inspection questions a pipe weld not otherwise required to be tested. The standards of acceptance are the same as for 100 percent radiography.

56. In § 56.97-5(a), paragraph (a) is revised to read as follows:

§ 56.97-5 Pressure testing of nonstandard piping system components.

(a) All nonstandard piping system components such as welded valves and fittings, nonstandard fittings, manifolds, scuppers, seacocks, and other appurtenances must be hydrostatically tested to twice the rated pressure stamped thereon, except that no component should be tested at a pressure causing stresses in excess of 90 percent of its yield strength.

Dated: January 2, 1985.

B. G. Burns,

Captain, U.S. Coast Guard, Acting Chief,
Office of Merchant Marine Safety.

[FR Doc. 85-410 Filed 1-8-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

50 CFR Part 226

[Docket No. 41152-4152]

**Designated Critical Habitat; Hawaiian
Monk Seal**

AGENCY: National Marine Fisheries
Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule, public hearing
and meeting.

SUMMARY: The NOAA proposes to
designate critical habitat for the
Hawaiian monk seal (*Monachus*

schauinslandi) pursuant to the
Endangered Species Act of 1973 (ESA).
Habitat proposed for designation
includes all beach areas, lagoon waters,
and ocean waters out to a depth of 10
fathoms around Kure Atoll, Midway
Islands (except Sand Island), Pearl and
Hermes Reef, Lisianski Island, Laysan
Island, French Frigate Shoals, Gardner
Pinnacles, Necker Island and Nihoa
Island. The proposal is based on the
determination that designating critical
habitat will benefit the Hawaiian monk
seal by protecting habitat essential for
the survival and recovery of the species.
The designation would require Federal
agencies to ensure that their actions are
not likely to result in the destruction or
adverse modification of the critical
habitat.

DATES: Comments must be received by
March 11, 1985.

A combined public meeting and public
hearing has been scheduled for 7:00 p.m.
on February 5, 1985.

ADDRESSES: Interested persons or
organizations are requested to submit
written comments to E.C. Fullerton,
Regional Director, Southwest Region,
National Marine Fisheries Service, 300
S. Ferry St., Terminal Island, CA 90731.

The public meeting/public hearing
will be held at the McCoy Pavilion, 1201,
Ala Moana Boulevard, Honolulu,
Hawaii.

Comments and other material relating
to this rule will be available for public
inspection by appointment during
normal business hours (8:00 a.m. to 4:30
p.m.) at the Western Pacific Program
Office, NMFS, 2570 Dole Street,
Honolulu, Hawaii, and at the California
address noted above.

FOR FURTHER INFORMATION CONTACT:
Eugene T. Nitta, Protected Species
Program Coordinator, Western Pacific
Program Office, National Marine
Fisheries Service, P.O. Box 3830,
Honolulu, HI 96812, Telephone (808)
955-8831; James Lecky, Southwest
Region, National Marine Fisheries
Service, 300 South Ferry Street, Room
2015, Terminal Island, California 90731,
Telephone (213) 548-2518; or Patricia
Montano, Protected Species Division,
National Marine Fisheries Service,
Washington, D.C. 20235, Telephone (202)
634-7529.

SUPPLEMENTARY INFORMATION:

Background

The NMFS listed the Hawaiian monk
seal as an endangered species under the
ESA in November of 1976. In December
1976, the Marine Mammal Commission
recommended designating certain
portions of the Hawaiian monk seal's
range as critical habitat. The NMFS

prepared an environmental assessment
to evaluate the need for the action and
to identify alternatives. In October 1978,
the NMFS selected five alternatives for
incorporation in a pre-environmental
impact statement discussion paper that
was circulated for comment. The State
of Hawaii objected to designating
critical habitat because they thought
insufficient information was available
for identifying essential components of
the monk seal's habitat. The Hawaiian
commercial fishing community also
expressed concern about the
designation of critical habitat, primarily
because they believed that fishing in the
area designated as critical habitat
would be strictly regulated.

On March 7, 1980, the NMFS
published a Draft Environmental Impact
Statement (DEIS) on the proposed
designation of critical habitat, and
incorporated three boundary options in
the preferred alternative. These were to
place the seaward limit at the 10-fathom
isobath, at the 20-fathom isobath, or at
three miles from shore. The 10-fathom
option incorporated pupping beaches,
beaches used for hauling-out (coming
ashore), waters inhabited by females
and young during nursing and post-
weaning, and a portion of the foraging
habitat used by adults while they are
near the islands. The 20-fathom option
was developed to incorporate additional
foraging habitat. The three-mile option
was essentially the original
recommendation from the Marine
Mammal Commission.

Thirty comments were received during
the public comment period on the DEIS.
Twenty-three commenters favored
designation of critical habitat, but there
was no consensus for a preferred
boundary option. Seven commenters
opposed designation of critical habitat
because data substantiating a need were
insufficient, existing regulatory
mechanisms were providing adequate
protection, and the designation would
impede development of commercial
fisheries. Among those in opposition
were the State of Hawaii; the Western
Pacific Fishery Management Council;
and the Hawaiian Fishing Council, an ad
hoc group of commercial fishermen.

The NMFS postponed further action
until the Hawaiian Monk Seal Recovery
Team (Recovery Team) had reviewed
the DEIS and submitted its
recommendation. On October 9, 1980,
the Recovery Team forwarded its
recommendation supporting the 20-
fathom option and added to it Nihoa
Island, Gardner Pinnacles, and Maro
Reef. This was not a unanimous
recommendation, however. One team
member supported a designation to 10

fathoms, and another support designating only the beaches, lava benches, and nearshore waters.

Due, in part, to the continuing opposition of the State of Hawaii and the lack of a unanimous recommendation from the Recovery Team, the NMFS deferred the designation pending completion of the Monk Seal Recovery Plan (Recovery Plan). The Recovery Plan was submitted in March 1983, with a recommendation to designate critical habitat to 20 fathoms.

During the four years since the DEIS was published, the NMFS has consulted with the Federal agencies that operate in the Northwestern Hawaiian Islands (NWHI) regarding the effects of their activities on the monk seal population. These consultations conducted under section 7 of the ESA appeared to satisfy a primary purpose of designating critical habitat by notifying Federal agencies of their responsibilities under the ESA and to assist those agencies in ensuring that their actions are not likely to jeopardize the continued existence of the Hawaiian monk seal. Because the record of consultations in the NWHI appeared to preclude the need for critical habitat designation, the NMFS Southwest Region requested NOAA General Counsel, Southwest (GCSW) to prepare a legal opinion on whether the NMFS was required to proceed with the designation.

The legal opinion concluded that critical habitat must be designated as recommended in the Recovery Plan unless the Assistant Administrator for Fisheries (Assistant Administrator) finds that designation of critical habitat will not benefit the species, that the area described in the Recovery Plan is not critical habitat as defined in the ESA and regulations, or that he should devote his resources to other areas.

The Assistant Administrator decided (Decision Memorandum dated May 15, 1984) to propose critical habitat for the Hawaiian monk seal and selected a modification of the 10-fathom option presented in the DEIS. The 10-fathom alternative incorporates essential breeding, pupping, and hauling-out areas; nearshore waters used by females and pups during nursing and post-weaning; and a portion of the foraging habitat used during the breeding season. His decision was based on a review of the administrative record, which generally supports designation, the GCSW legal opinion, the record of section 7 consultations in the NWHI (which indicates that the NMFS is most concerned with human activities in the terrestrial and nearshore environments), and a review of available biological

information. Also, there were no apparent benefits to be derived from extending the seaward boundary of the designation to incorporate additional foraging habitat.

Critical Habitat

The ESA defines critical habitat as " * * * the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species, and (II) which may require special management considerations or protection" and "specific areas outside the geographical area occupied by the species at the time it is listed * * * upon a determination by the Secretary that such areas are essential for the conservation of the species." 16 U.S.C. 1532(5)(A). "Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied" by the species. 16 U.S.C. 1532(5)(C).

The criteria to be considered in critical habitat designation are set forth in Title 50, Code of Federal Regulations, § 424.12. The Assistant Administrator is required to consider those physiological, behavioral, ecological, and evolutionary requirements that are essential to the conservation of the species and which may require special management considerations or protection. Such requirements include, but are not limited to:

- (1) Space for individual and population growth, and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,
- (5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species.

When considering the designation of critical habitat, the Assistant Administrator is required to focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the critical habitat description. Primary constituent elements that may be identified include, but are not limited to, the following: Roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host animal or plant pollinator, geological

formation, vegetation type, tide, and specific soil types.

Regulations designating critical habitat must be based on the best available scientific data and to the maximum extent practicable must be accompanied by a brief description and evaluation of those activities that may adversely modify such habitat or may be affected by such designation. Economic and other relevant impacts of specifying critical habitat must also be considered when designating habitat and any area may be excluded from a critical habitat designation if a determination is made that the benefits of the exclusion outweigh the benefits of designation. The only exception to this provision is where the failure to designate such habitat will result in the extinction of the species.

There are no inherent restrictions on human activities in an area designated as critical habitat. Critical habitat designation affects only those actions authorized, funded, or carried out by Federal agencies. It provides notification to Federal agencies that a listed species is dependent on a particular area for its continued existence and that any Federal action that may affect that area is subject to the consultation requirements of Section 7 of the ESA. Certain activities such as commercial fisheries that are Federally regulated, scientific research conducted under Federal permits, Federal management of other resources, and military operations may be conducted within an area designated as critical habitat if the authorizing Federal agency determines through the section 7 consultation process that the activity is not likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat. Activities that are conducted by state agencies or the private sector without the involvement of the Federal Government may be carried out without being subjected to the section 7 consultation process.

Hawaiian Monk Seal Biology

The biology of the Hawaiian monk seal is discussed in the Supplemental Environmental Impact Statement (SEIS). That discussion covers the history of exploitation, trends in population size, the current status of the population, life history parameters, habitat requirements, and biological problems confronting the population. Further information and lists of references can be found in the DEIS, Recovery Plan, and the Hawaiian monk seal status review. Only the habitat requirements are summarized here.

Habitat Requirements

Existing data indicate that the beach areas used by the Hawaiian monk seal for hauling out, pupping, and nursing are critical to the well being of the species. This critical area also includes the first line of vegetation (usually *Scaevola* or *Eragrostis* spp.) backing these beaches which provides shelter from wind and other elements. Lava bench and boulder beach habitat found at Necker and Nihoa Islands are also essential pupping and hauling-out areas.

Shallow protected water immediately adjacent to beaches is important to the Hawaiian monk seal. During the April 1977 monk seal survey it became evident that with the exception of undisturbed dry sand beaches, this nearshore protected water habitat is the most important factor for a successful pupping area. Pregnant females use beaches adjacent to shallow protected waters for pupping apparently to have a protected shallow area to take their pups when they first enter the water. This type of habitat exists off the leeward side of Laysan Island and off the windward side of Lisianski Island where the majority of pupping occurs on these two islands. Round Island at French Frigate Shoals is small, low, and unvegetated, but is ringed with the requisite shallow protected water.

Monk seals have been observed by divers on the bottom in 10 fathoms or shallower water near anchored vessels at rookery islands. The seals appear to favor a rugged, broken bottom substrate containing many caves and crevices. They spend time in these coral caves where it has been reported they trap exhaled air against the cave ceilings possible to be used later in order to extend their bottom time.

Studies on Laysan Island indicate that, for three months after weaning, pups make daily sorties from the beaches, presumably to feed. They are seen in the water close to shore and it is assumed that the critical stage of learning to feed is carried out in nearshore waters. During the first month the pups lose weight, then stabilize, and finally begin to gain slightly. By four months post-weaning, pups begin spending periods up to 10 days away from the island.

Observations at Laysan Island indicate that immediately upon weaning their pups adult female monk seals leave the island for at least 20 days. They leave in an emaciated condition and return in relatively good condition, stay one to four days on the island, then leave for an additional 20 days before reappearing apparently well nourished. Since they do not haul out a Laysan

during these two 20-day periods, it is assumed that they are feeding at least beyond the inner reef and probably a considerable distance from shore. This component of the foraging habitat has not been defined, and is not included in the proposed critical habitat designation.

From samples of regurgitated material found on the beaches it is known that monk seals consume spiny lobsters, octopuses, moray eels, and various smaller reef fish. These known prey species are distributed over and with the coral structures, from the inner reef waters very near the shore and in the lagoons, to offshore waters over the extensive banks surrounding many of the rookery islands, and some distance down the bank slopes, which drop off quickly to deep ocean waters beyond 100 fathoms. Studies have shown that monk seal are capable of diving to considerable depth. Thus, feeding probably occurs in the lagoons and in the offshore waters along the bank slopes to the deepest extent of their diving capabilities whenever prey is abundant.

Depth of dive studies have shown that adult male Hawaiian monk seals are capable of diving to at least 120 meters (393.7 ft., 65.6 fm), and that juvenile and subadult females are able to dive to at least 152 m (498.7 ft., 83.1 fm). In the studies conducted, the majority of dives recorded were in the 0-15 m (8.2 fm) depth range. Based on these data and a 1978 review of pinniped diving, it is reasonable to assume that a majority of the recorded dives were for foraging.

The only observed monk seal matings have been in the nearshore and shallow offshore waters around Laysan Island. In May 1978, a mating of Hawaiian monk seals was observed approximately one kilometer (0.62 miles) off Laysan Island outside the reef in water ranging from about 6 to 12 fathoms. Another observation of copulation was observed in shallow waters near the beach off the southwest side of Laysan Island also in May 1978. Thus, critical habitat delineated by the 10-fathom isobath would include the known breeding habitat, as well as some foraging habitat, for Hawaiian monk seals.

Based on available information, the following habitat components, listed in order of their probable importance, are considered to be essential for the health, well being, and continued viability of the Hawaiian monk seal population.

1. Pupping and major hauling beaches including the vegetation immediately backing the beaches (coral sand beaches and lava benches).

2. Shallow protected water adjacent to the above (tide pools, inner reef waters, shoal areas, and near shore shallows).

3. Deeper inner reef areas, lagoon waters, and all other water areas out to the 10-fathom isobath.

The NMFS therefore proposes to designate as critical habitat for the Hawaiian monk seal all beach areas, lagoon waters, and ocean waters out to a depth of 10 fathoms around Kure Atoll, Midway Island, (except Sand Island), Pearl and Hermes Reef, Lisianski Island, Laysan Island, French Frigate Shoals, Gardner Pinnacles, Necker Island, and Nihoa Island. Many of the habitat components such as beach areas, nearshore shallow water areas, and offshore banks and shoals cannot be simply delineated as specific distances along specified beaches or arbitrary distances offshore. Therefore, it is necessary to designate the entire area without piecemeal delineations. For example, monk seals use all of the beaches on Green Island at Kure as hauling areas and the more isolated areas (from human disturbance) for pupping areas. Additionally, the various sand spits and islets grow, shrink, disappear, change shape, and even change location. In some cases new islets appear after storms or strong tide conditions. Therefore, references to beaches or beach areas should be assumed to include all of the above.

Monk seals are found over other banks and shoals without emerged land, in waters beyond 10 fathoms, and in pelagic areas. However, the importance of these areas to this species is not known at this time. If investigations reveal that these areas are essential to the conservation of the species and require special management considerations or protection, the Assistant Administrator will consider modification of the critical habitat boundaries.

Expected Impacts

The designation would require Federal agencies to evaluate their activities with respect to critical habitat in the NWHI and consult with the NMFS pursuant to section 7 of the ESA prior to engaging in any action which may affect critical habitat. Federal agencies must ensure that their activities are not likely to result in the destruction or adverse modification of the critical habitat. Currently, Federal agencies operating in the NWHI are required to consult with the NMFS regarding projects and activities they permit, fund, or otherwise carry out that may affect the Hawaiian monk seal. In most situations, if not all,

such consultation would be required even without a critical habitat designation because an action that is likely to affect critical habitat also probably would affect the species. Designating critical habitat will also assist those Federal agencies in evaluating the potential effects of their activities on monk seals or their critical habitat and in determining when consultation with the NMFS would be appropriate. The additional consultations that would be required would be minimal. The Federal agencies that most likely will be affected by critical habitat designation include the U.S. Coast Guard, U.S. Navy, U.S. Fish and Wildlife Service, Western Pacific Regional Fishery Management Council, and the NMFS.

The proposed rule is not expected to have any direct impact on existing fisheries in the NWHI. The only direct economic costs will be those associated with more extensive monitoring of Federal activities by the NMFS and those from administrative actions by Federal agencies resulting from reviews of their activities in the NWHI. The additional costs are expected to be minimal since Federal agencies would have had to conduct Section 7 consultations for activities that may affect Hawaiian monk seals and/or conform to National Environmental Policy Act (NEPA) requirements for actions that significantly affect the environment.

Future activities which may require evaluation under Section 7 of the ESA include: (1) Construction activities of the Coast Guard on Green Island at Kure Atoll, of the Navy on Sand Island at Midway Islands, and of the Fish and Wildlife Service on Tern Island at French Frigate Shoals; (2) deep ocean mining; (3) ocean dumping of wastes and chemicals; (4) Federally funded, or controlled fishing activities; and (5) fisheries and wildlife research conducted, funded, supported, or controlled by Federal agencies in the NWHI.

Public Comments Solicited

To ensure that any final rule implementing the Act is as effective as possible, the NMFS is soliciting information, comments or recommendations on any aspect of this proposed rule from the public, concerned government agencies, the scientific community, industry, private interests, or any other interested party. The NMFS will consider all comments received in reaching a final decision. The final rule may differ from the

proposed rule depending on comments and recommendations received. In order to provide further opportunities for public comment, a public meeting and hearing has been scheduled as noted in the **DATES** and **ADDRESSES** sections of this proposed rule.

Classification

The NOAA Administrator has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The regulations are not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The General Counsel of the Department of Commerce has certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small business entities as described in the Regulatory Flexibility Act; therefore, a regulatory flexibility analysis is not required. This rule does not contain a collection of information requirements for purposes of the Paperwork Reduction Act of 1980.

The rules contained in this proposal are definitive and procedural in nature. Any substantive potential impacts of critical habitat designation would be secondary to tertiary and would result whether or not this proposed rule were implemented.

National Environmental Policy Act

This action is categorically excluded from the requirements to prepare an environmental assessment and environmental impact statement under NEPA by NOAA Directive 02-10 (49 FR 29644; July 23, 1984). This proposed rule will not have any adverse environmental consequences. However, since a DEIS was prepared, the NMFS has elected to continue with the NEPA process. Accordingly, an SEIS has been prepared for this proposed action and copies are available upon request from the NMFS.

Coastal Zone Management Consistency Statement

The Assistant Administrator for Fisheries has determined that the proposed designation of critical habitat for the Hawaiian monk seal is

consistent with the approved State of Hawaii Coastal Zone Management Program.

The relevant Coastal Zone Management Objective is to "[p]rotect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems". State of Hawaii Coastal Zone Management Program and Federal Environmental Impact Statement (Hawaii Program; p. 37, HRS § 205 A-2 (b)(4)). One of the supporting policies is to protect endangered species, which includes the Hawaiian monk seal (Hawaii Program p. 38-39, HRS Chapter 195D).

The purpose of designating critical habitat is to protect the area, a valuable coastal ecosystem, from disruption and adverse impacts. The ultimate purpose is to protect the monk seal. Therefore, the proposed critical habitat designation is consistent with approved Hawaii Coastal Zone Management Plan.

List of Subjects in 50 CFR Part 226

Endangered and threatened wildlife, Marine mammals.

Dated: January 4, 1985.

William G. Gordon,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

Proposed Regulation Promulgation

Accordingly, Part 226 of Chapter II of Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below.

1. The authority citation for Part 226 is revised to read as follows:

Authority: 16 U.S.C. 1533.

2. A new Subpart B is added to Part 226 to read as follows:

Subpart B—Critical Habitat for Marine Mammals

§ 226.11 Northwestern Hawaiian Islands

Hawaiian Monk Seal

(*Monachus schauinslandi*)

In all beach areas, lagoon waters, and ocean waters out to a depth of 10 fathoms around:

Kure Atoll (28°24' N, 178°20' W)

Midway Islands (Except Sand Island) (28°14' N, 177°22' W)

Pearl and Hermes Reef (27°55' N, 175° W)

Lisianski Island (26°04' N, 173°58' W)

Laysan Island (25°46' N, 177°44' W)

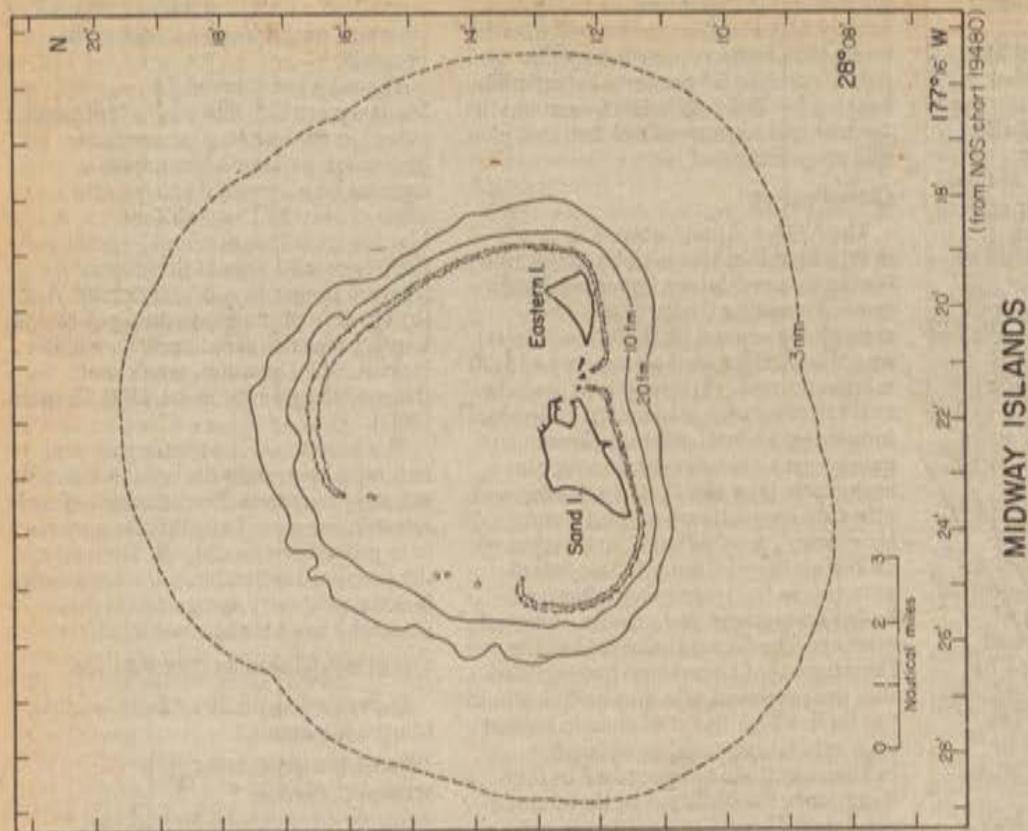
French Frigate Shoals (23°45' N, 166°00' W)

Gardner Pinnacles (25°00' N, 168°00' W)

Necker Island (23°34' N, 164°42' W)

Nihoa Island (23°03.5' N, 161°55.5' W)

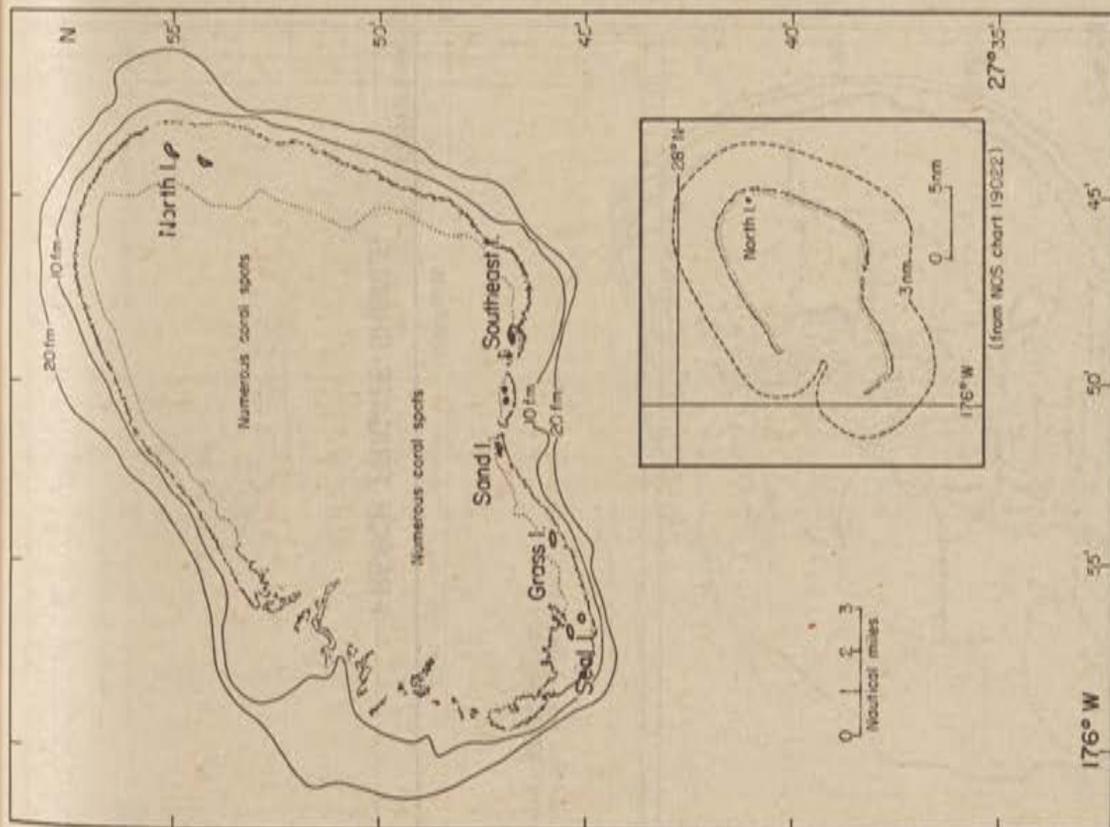
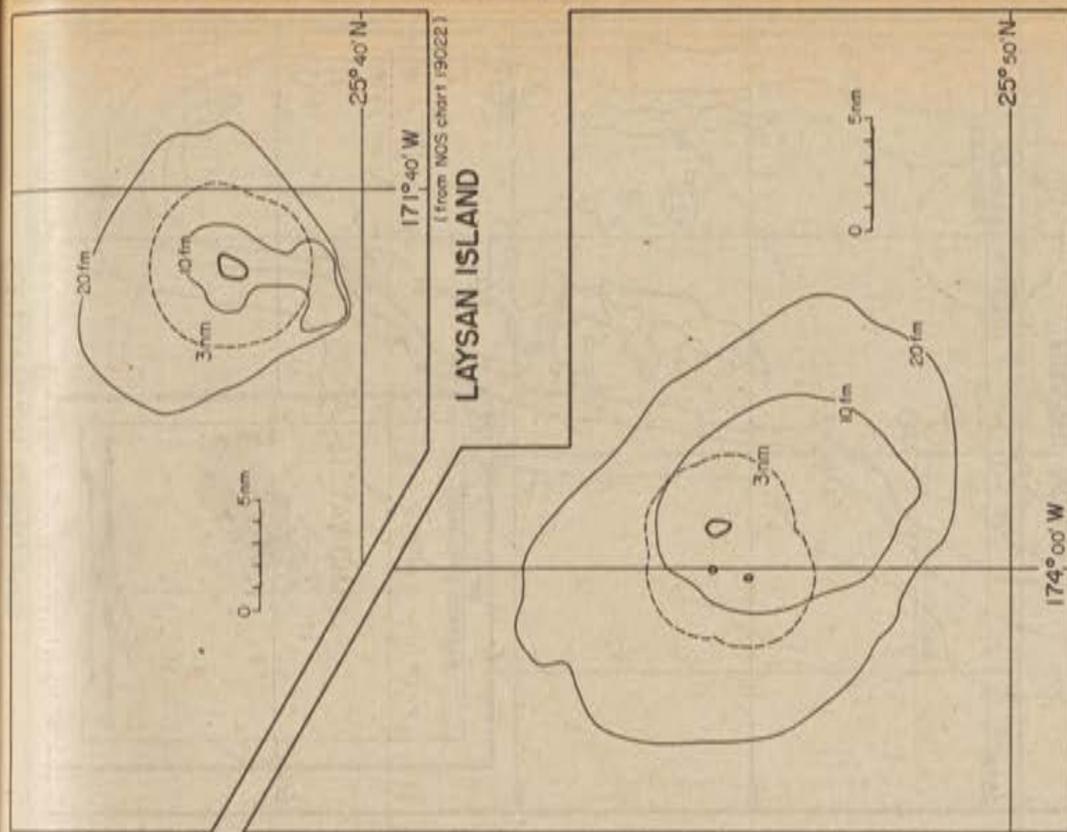
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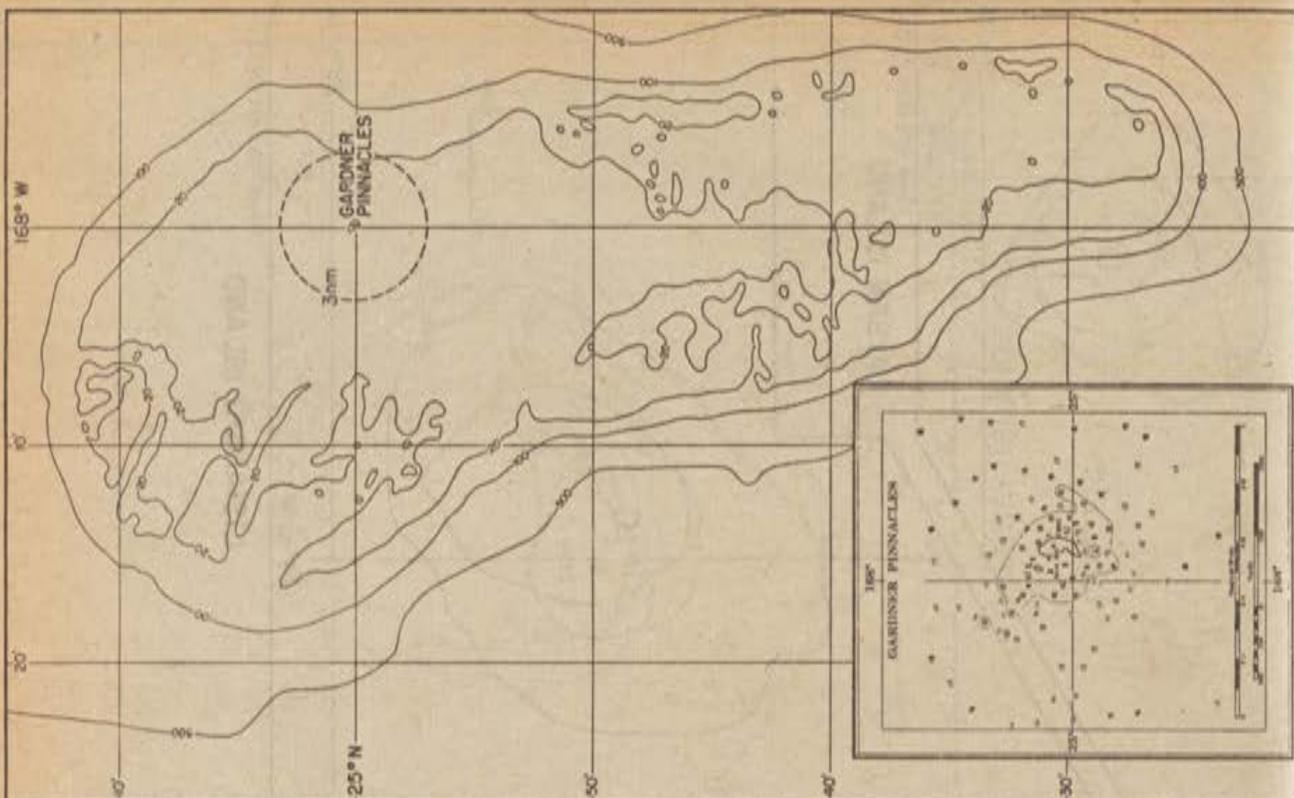


MIDWAY ISLANDS



KURE ATOLL





(from NOS chart 15421)

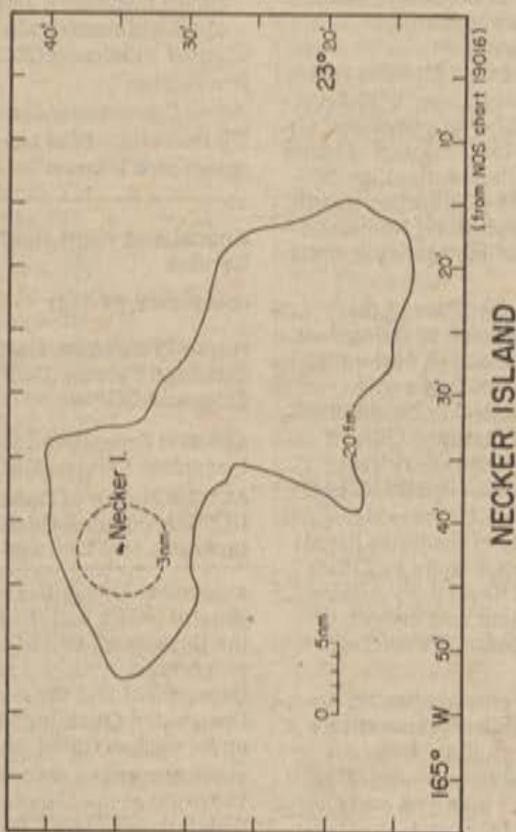
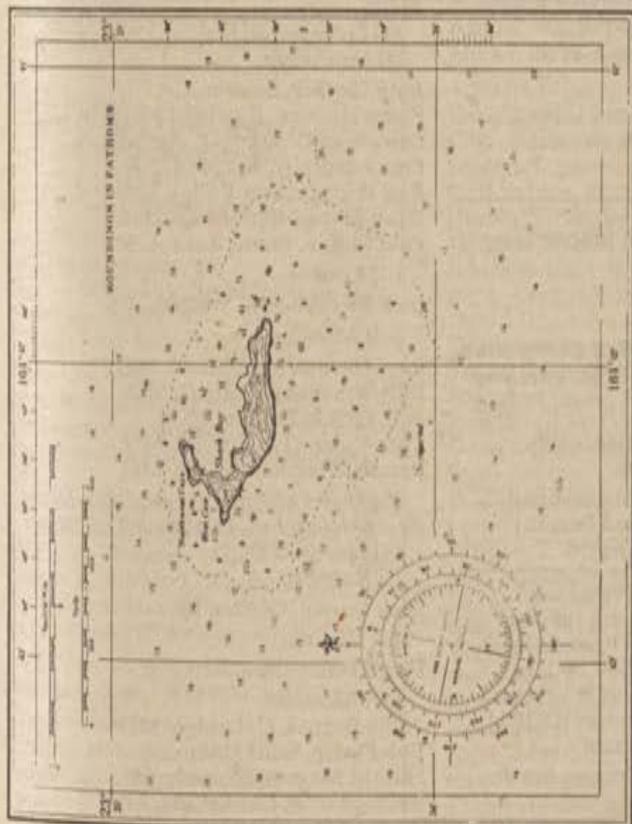
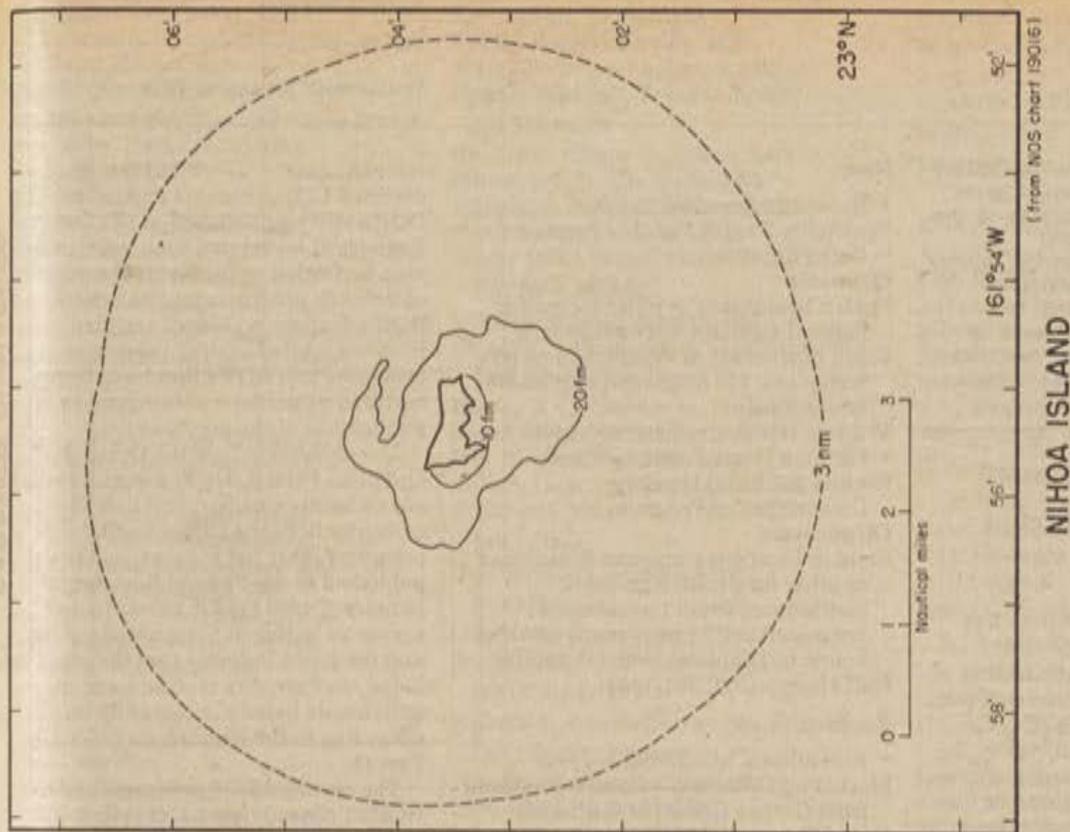
GARDNER PINNACLES



(from U.S.F.W.S.)

FRENCH FRIGATE SHOALS

GARDNER PINNACLES



[FR Doc. 85-663 Filed 1-8-85; 8:45 am]
BILLING CODE 3510-22-C

Notices

Federal Register

Vol. 50, No. 6

Wednesday, January 9, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 3, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 20250 (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

- Economic Research Service
Feasibility Test of Panel for Farmland Value Reporters
Quarterly
Farms; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 900 responses; 250 hours; not applicable under 3504(h)

William Heneberry (202) 447-8179

- Farmers Home Administration
Section 502 Rural Housing Demonstration Program

On occasion

- State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 75 responses; 6,000 hours; not applicable under 3504(h)

Cliff Herron (202) 382-1484

Revision

- Agricultural Marketing Service
Marketing Order 989—Raisins Produced from Grapes Grown in California
On occasion; Weekly; Monthly; Annually

Farms; Businesses or other for-profit; 26,325 responses; 2,916 hours; not applicable under 3504(h)

Charles Villalonga (202) 447-4140

Don Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 85-622 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

[Docket No. 84-122]

Horse Protection, Certified Designated Qualified Person (DQP) Programs and Licensed DQP's

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of currently certified DQP (Designated Qualified Person) Programs and Licensed DQP's.

SUMMARY: This notice advises the general public and the horse industry of the Designated Qualified Person (DQP) programs currently certified by the Department and the currently licensed Designated Qualified Persons (DQP's) under each certified program.

SUPPLEMENTARY INFORMATION: Section 11.7(b)(8) of the "Horse Protection Regulations" (9 CFR Part 11) states in

relevant part" . . . A current list of certified DQP programs and licensed DQP's will be published in the Federal Register at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list."

This document lists the Designated Qualified Person (DQP) programs which are currently certified and lists the currently licensed DQP's under those programs. This list supersedes the list published in the Federal Register on January 3, 1984 (49 FR 230-231), and serves as notice to the general public and the horse industry that the programs listed are currently certified and the individuals listed are currently licensed, according to the regulations in 9 CFR, Part 11.

The certified DQP programs and the DQP's licensed by each certified program are as follows:

(A) *American Fox Trotting Horse Breed Association, Inc., Marshfield, MO 65706.*

(1) Licensed DQP:

(i) *California.*

Judy Clothier, Sylmar, CA
Steve Herrera, Rowland Heights, CA
Sebastian C. Kolbusz, Acton, CA
Frank Murphy, Sunland, CA
Ray Pridgen, Sun Valley, CA
Ellen Slaton, Santa Rosa, CA
Paul Slaton, Santa Rosa, CA

(ii) *Kansas.*

Jack Kirschbaum, Wichita, KS
(iii) *Missouri.*

Paul Garton, Marshfield, MO
Billy Kimmons, Bolivar, MO
A.B. Quick, Protem, MO
Tom Tyler, Hylandville, MO
Jimmy Wisdom, Arnold, MO

(b) *Heart of America Walking Horse Association, Inc., Olathe, KS 66061.*

(1) Licensed DQP:

(i) *Kansas.*

Dick Brown, Olathe, KS
(ii) *Illinois.*

Floyd Hampshire, Barry, IL

(iii) *Missouri.*

Allan Barnes, Columbia, MO
Bob Finley, Eolia, MO
Harold Magers, Moberly, MO
Keith Martin, Clarksburg, MO
Bernard Owens, Kansas City, MO

Jeff Owens, Kansas City, MO
Paul Patterson, Osborn, MO
Elvin Sapp, Columbia, MO
Sonny Scrivner, Vienna, MO

(c) *Missouri Fox Trotting Horse Breed Association, Ava, MO 65608.*

(1) Licensed DQP:

(i) *Missouri.*

Daryl Caswell, Lebanon, MO
Lee Chick, Lebanon, MO
John Belshe, Warrensburg, MO
J.R. Jones Cole Camp, MO

(d) *National Horse Show Regulatory Committee, Shelbyville, TN 37160.*

(1) Licensed DQP:

(i) *Alabama.*

Arylon Burney, Town Creek, AL
Elwin Heatherly, Baileyton, AL
Jackie Hodge, Elba, AL
Claud E. Johnson, Goshen, AL
John R. Parrish, Wellington, AL
Grady Parsons, Birmingham, AL
Barney Porter, Cullman, AL
Edgar D. Smith, Stevenson, AL
Wayne T. Smith, Alabaster, AL
Ken Willis, Alabaster, AL

(ii) *Arizona.*

Terry Streere, Scottsdale, AZ

(iii) *Arkansas.*

Robert C. Allen, Ward AR
Joe N. Beasley, Farmington, AK
Phil Jones, Cabot, AR

(iv) *California.*

Darrell Brown, Ontario, CA
William A. Hartman, Norco, CA
Sharon McCaleb, Fair Oaks, CA
J.F. Mowrer, Orangevale, CA

(v) *Georgia.*

Douglas Brown, Gainesville, GA
Terry Etheridge, Forsyth, GA
W.R. New, Oxford, GA
Glenn Powell, Kennesaw, GA

(vi) *Illinois.*

Curt Davis, Marion, IL
Wendell Simmons, Creal Springs, IL
J.H. Syrcle, Barry, IL
Phillip J. Williams, Barry, IL

(vii) *Kentucky.*

Danny R. Collier, Danville, KY
Tom Cundiff, Somerest, KY
John Allen Dadisman, Lawrenceberg, KY

B.G. Edwards, Monticello, KY
W. Glenn Edwards, Monticello, KY
Bob Flynn, Winchester, KY
Thomas E. Garland, Mayfield, KY
John Goldey, Lancaster, KY
Norton Shearer, Winchester, KY

(viii) *Maryland.*

Joan Schricker, Frederick, MD

(ix) *Mississippi.*

Ed Abernathy, Shannon, MS
Kevin Bishop, Meridian, MS
Wallace Bishop, Meridian, MS
Billy R. Horn, Golden, MS

Earl Melton, Laurel, MS
Gerald Poole, Ellisville, MS
Jimmy Sullivan, Raymond, MS
Ronnie Wheelless, Tylertown, MS

(x) *Missouri.*

Ronald F. Elkins, Jr., Ozark, MO
Bill Maack, Jr., Goodson, MO
Johnny M. Pursley, Bolivar, MO
Steve Skopec, Bolivar, MO
Bobby Dean Wood, Hartville, MO

(xi) *New Mexico.*

Monique Riley, Corrales, NM
Larry W. Townsend, Albuquerque, NM

(xii) *North Carolina.*

Dewey S. Carpenter, Jr., Forest City, NC
David Finger, Waynesville, NC
E.N. Hopper, Franklin, NC
Robert Thomas, Waynesville, NC
Tommy H. West, Asheville, NC

(xiii) *Ohio.*

Dan Shockley, Mentor, OH

(xiv) *Oregon.*

Les Hyatt, Grants Pass, OR
Bruce Rumpf, Wilsonville, OR

(xv) *Pennsylvania.*

Richard C. Guise, Harrisburg, PA

(xvi) *South Carolina.*

Tommy Blackwell, Greer, SC
Leon Clark, Leesville, SC
Marietta Gambrell, Anderson, SC
Hank Goodman, Liberty, SC
James A. McKnight, Sumter, SC
Eddie Potts, Fort Mill, SC
Arnold "Sarge" Walker, Easley, SC
Melvin H. Wallace, Sumter, SC

(xvii) *Tennessee.*

Craig Bacon, Rockwood, TN
G.W. Bacon, Jr., Rockwood, TN
Leland S. Bacon, Rockwood, TN
Gail Barron, Kingsport, TN
Don Bills, Shelbyville, TN
William Bolden, Unionville, TN
James E. Cole, Jackson, TN
Joe L. Cunningham, Sr., Rockwood, TN
David Dodd, Sr., Knoxville, TN
Grady S. George, Jr., Bradyville, TN
Bennie Johnson, Shelbyville, TN
Margaret Jones, McDonald, TN
Ray Jones, McDonald, TN
Dana Kyte, Fall Branch, TN
Larry Landreth, Powell, TN
William Lones, Niota, TN
Lonnie Messick, Murfreesboro, TN
William L. Moore, Byboe, TN
Jerry McKechnie, Pikeville, TN
Lonnie Messick, Murfreesboro, TN
Edmond O'Neill, Pinson, TN
Wayne Peoples, Shelbyville, TN
Jerry Plemons, Tellico Plains, TN
Kirk Seaton, Milton, TN
Ronnie Slack, Englewood, TN
Mike Swafford, Spring City, TN
Randy Tenpenny, Woodbury, TN
Charles Thomas, Lynchburg, TN
George Walden, Ooltewah, TN

(xviii) *Texas.*

M.B. (Dean) Cox, Conroe, TX
Keith Pickard, Crosby, TX
Kenneth L. Willis, Manuel, TX

(xix) *Virginia.*

James Bayne, Fairfax Station, VA
(xx) *Washington.*

Skip Bickform, Elma, WA
Rose Boston, Puyallup, WA
F.M. (Lane) Curry, Maple Valley, WA
Jeff Curry, Maple Valley, WA
Mack Motes, Jr., Spokane, WA
John D. Petersen, Mead, WA
Mary R. Strandberg, Spokane, WA
R.V. Strandberg, Spokane, WA

(xxi) *West Virginia.*

Greg Thomason, Princeton, WV

(e) *Walking Horse Owners' Association of America, Inc.*

(1) Licensed DQP:

(i) *Georgia.*

James C. House, Ringgold, GA

(ii) *Kentucky.*

Lee Arnold, Fairdale, KY
Nolan Benton, Richmond, KY
Harry K., Chaffin, Catlettsburg, KY
Jim Coffey, Russell Springs, KY
James A. Farris, Winchester, KY
Kemp Martin, Dry Ridge, KY
Patrick Kelly, Burlington, KY
Romie Sanders, Brownsville, KY
Vernon Shearer, Winchester, KY
Charles W. Sims, Lexington, KY
Kent A. Wagoner, Richmond, KY
Gary L. Ware, Waynesboro, KY
Johnnie Zeller, Eubank, KY

(iii) *North Carolina.*

G.K. Mease, Marion, NC

(iv) *Ohio.*

Johnny Vance Black, Mt. Orab, OH
Tim Guthrie, Hamilton, OH
Dennis Sissel, Mt. Orab, OH

(v) *Tennessee.*

Ray "Tut" Brown, Hohenwald, TN
Jesse Dotson, Jr., Thompson Station, TN
Eddy Hooper, Athens, TN
Mike Hooper, Knoxville, TN
Gary Kinmons, Dickson, TN
Sam D. Pierce, Seymour, TN
C.D. (Bud) Varnadore, Knoxville, TN
Harold D. White, Franklin, TN
Don Wisecarver, Midway, TN

(vi) *Virginia.*

Carl Cartwright, Jr., Tazewell, VA

(vii) *West Virginia.*

James L. Singleton, Ashton, WV

(viii) *Wisconsin.*

John F. Wilson, Helenville, WI
Charles Sears, Milwaukee, WI

(f) *Western International Walking Horse Association, Gig Harbor, WA 98335.*

(1) Licensed DQP:

(i) *Nevada.*

Barbara Hibbard, Reno, NV

(ii) *Oregon.*

Bruce Rumpf, Wilsonville, OR

(iii) *Washington.*

Dave Crockett, Greenacres, WA

Dennis Izzi, Puyallup, WA

Mariane Howard, Redmond, WA

Bunny Winders, Enumclaw, WA

Irvin Steward, Auburn, WA

Vivian Steward, Auburn WA

Done at Washington, D.C., this 31st day of December 1984.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-623 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service**(Docket No. 84-027N)****Availability of FSIS Inspection Program Issuances**

This Notice announces that issuances pertaining to meat and poultry inspection will be on public display in the office of the FSIS Hearing Clerk upon being cleared for publication. The issuances include (1) FSIS directives (2) FSIS notices and (3) changes to the Meat and Poultry Inspection Manual.

In January 1984, FSIS established a comprehensive, Agencywide system for issuing instructions and information to its employees to carry out Agency responsibilities under the Federal Meat Inspection Act and the Poultry Products Inspection Act, and the attendant regulations.

Under the Agency's new issuance system, all new Agency procedures are issued either as notices, to convey temporary instructions, or directives, to convey permanent instructions. Material currently in the Meat and Poultry Inspection Manual will be reviewed, updated, and as appropriate reissued in directive form over the next few years. Nonetheless, manual changes will continue to be issued as needed until the manual is completely phased out.

All Agency issuances will be on file and available for viewing between 9:00 a.m. and 4:00 p.m., Monday through Friday, in the Office of the Hearing Clerk, Food Safety and Inspection Service, Room 2637, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250.

Changes to FSIS regulations and other Federal Register publications will continue to be available for viewing in the office of the FSIS Hearing Clerk at the same time they go on display at the Office of the Federal Register.

The Agency also publishes a looseleaf compilation of FSIS meat and poultry regulations, which is updated as needed to ensure employees work from the most current regulations. These updates will continue to be issued whenever a final rule is published in the Federal Register.

Copies of issuances and looseleaf regulations are distributed by the Agency directly to FSIS personnel, meat and poultry plant management, State meat and poultry inspection programs, and certain other designated parties affected by those publications. The Agency's issuances and looseleaf regulations are available by subscription to interested parties not receiving those publications directly from the Agency. The current Government Printing Office price for the "Compilation of Meat and Poultry Inspection Issuances" is \$103.00 and the current price for "Changes to the Meat and Poultry Inspection Regulations" is \$118.00. These prices include all current issuances and regulations, and, for an indefinite period of time, updates in the form of issuances and regulations to be published by the Agency in the future. Subscriptions may be obtained by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20250.

Done at Washington, D.C. on: December 27, 1984.

Donald L. Houston,

Administrator.

[FR Doc. 85-522 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-DM-M

Soil Conservation Service**Philip Barbour High School Land Drainage and Critical Area Treatment RC&D Measure Plan, WV****AGENCY:** Soil Conservation Service, USDA.**ACTION:** Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Philip Barbour High School Land Drainage and Critical Area Treatment RC&D Measures, Barbour County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High

Street, Morgantown, West Virginia 26505, telephone 304-291-4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage and critical area treatment. The planned works of improvement will include vegetative and structural practices. Vegetative practices include seedbed preparation, liming, fertilizing, and seeding and mulching of 8.75 acres. Structural measures include diversions, surface and subsurface drainage, land grading and shaping, and associated structures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable).

Dated: December 11, 1984.

Rollin N. Swank,

State Conservationist.

[FR Doc. 85-621 Filed 1-8-85; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board****(Docket No. 16-84)****Foreign-Trade Zone 41, Milwaukee, WI; Application for Reorganization Amendment to Application**

Notice is hereby given that the application submitted to the Foreign-Trade Zones Board on April 27, 1984, by the Foreign-Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone 41,

requesting authority to reorganize its zone project (49 FR 18881, 5/3/84), has been amended to retain zone status for the original zone site on Bradley Road, Milwaukee, and to add a 30-acre industrial park site owned by the City of Milwaukee on W. Boden St. and Howell Avenue, adjacent to Milwaukee's Mitchell Field Airport.

The record is reopened for comment on this amendment until February 8, 1985. The application and amendment material are available for public inspection at the following locations:

U.S. Department of Commerce District Office, Federal Bldg., 517 E. Wisconsin Ave., Milwaukee, WI 53202
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Rm. 1529, 14th & Pennsylvania Ave., NW., Washington, D.C. 20230.

Dated: January 4, 1985.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 85-613 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-05-M

International Trade Administration

[A-537-007]

Certain Valves, Couplings, Nozzles and Connections, of Brass, Suitable for Use in Interior Fire Protection Systems, from Italy: Amendment to the Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Amendment to the Final Determination of Sales at Less Than Fair Value.

SUMMARY: As a result of correction of clerical errors, the Department of Commerce is amending the final determination in this investigation, and is directing the U.S. Customs Service to adjust the estimated duty or bonding requirement for Rubinetterie A. Giacomini S.p.A. (Giacomini) and all other manufacturers/producers/exporters of certain valves, couplings, nozzles and connections, of brass, suitable for use in interior fire protection systems, from Italy (fire protection products) from 3.47 percent to 1.28 percent.

EFFECTIVE DATE: January 9, 1985.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW.,

Washington, D.C. 20230; Telephone: (202) 377-5388.

SUPPLEMENTARY INFORMATION: On November 30, 1984, we published a final determination of sales at less than fair value of fire protection products from Italy (49 FR 47066). We found that the overall weighted-average on all sales compared was 3.47 percent. Due to inadvertent deletions of commands in our margin calculation computer program, computations yielded erroneous margins on certain sales. The detection of this error caused us to review other calculations in the case, and we discovered and corrected other clerical errors in the calculations. As a result of the correction of these errors, the overall weighted average margin is 1.28 percent.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission of this amendment.

Alan F. Holmer,

Acting Assistant Secretary for Trade Administration.

January 2, 1985.

[FR Doc. 85-614 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-05-M

Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

Federal Register citation of previous announcement: 49 FR 49489 December 20, 1984.

Previously announced time and date of the meeting: 9:30 a.m., January 17, 1985.

Changes in the meeting: 9:00 a.m., January 23, 1985.

Dated: January 4, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85-616 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for General Permit; Federpesca

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. Fishery Conservation Zone during 1985 as authorized by the Marine Mammal

Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Applicant: FEDERPESCA, Rome, Italy has applied a Category 1: Towed and Drugged Gear general permit to take up to 20 small cetaceans and 20 harbor seals in the North Atlantic Ocean.

This application is available for review in the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.

Interested parties may submit written comments on this application within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: December 28, 1984.

Richard B. Roe,

Director, Office of Protected Species, and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-618 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-08-M

Modification to General Permit; Category 2: Encircling Gear Purse Seining Involving the Intentional Taking of Marine Mammals

Pursuant to section 104(h)(2)(A) of the Marine Mammal Protection Act of 1972 as amended (16 U.S.C. 1374(h)); 50 CFR 216.24(b)(4), and 216.33, the Regulations Governing the Taking and Importing of Marine Mammals; and Condition 2 of the Category 2 General Permit issued on December 1, 1980, to the American Tunaboat Association [the Permit], the Permit is hereby modified as detailed below.

1. Condition 4 is deleted and replaced by:

4. This permit is valid until surrendered by the permit holder or suspended or terminated by the Assistant Administrator for Fisheries provided the permittee and certificate holders under this permit continue to use the best marine mammal safety techniques and equipment that are economically and technologically practicable.

This modification becomes effective on January 1, 1985.

The General Permit as modified and supporting documentation pertaining to the modification are available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: December 28, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-630 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Center for Coastal Marine Studies

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1381-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Center for Coastal Marine Studies (P79D).

b. Address: University of California, Santa Cruz, Santa Cruz, California 95064.

2. Type of Permit: Scientific research/Scientific purposes.

3. Name and Number of Animals: Northern elephant seal (*Mirounga angustirostris*) 4,000 per year.

4. Type of Take: Taking by tagging, temporary holdings, and release while conducting research on these physiological processes: metabolism, molting, lactation and fastings.

5. Location of Activity: Ano Nuevo Rookery.

6. Period of Activity: 5 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 28, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-631 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Incidental Taking; Sefel Geophysical Ltd., et al.

An amendment made to the Marine Mammal Protection Act in 1981 directs the Secretary to allow, on request, the taking of small numbers of non-depleted marine mammals incidental to specific activities in specified geographical areas, if the Secretary makes certain findings concerning the affects of the activities and establishes regulations covering these activities. In 1982, the National Marine Fisheries Service issued Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities. These included specific regulations allowing the taking of ringed seals incidental to on-ice seismic activities in the Beaufort Sea. Any company or contractor wishing to be covered by these regulations must apply for and receive a Letter of Authorization, which is valid for one operating year. We have received two applications for a Letter of Authorization to conduct on-ice seismic activities in the Beaufort Sea in 1985. We have determined that the requests are consistent with the findings made for the specific regulations and that the level of taking will have a negligible impact on the ringed seals species or stock and its habitat and its availability for subsistence use. Therefore, notice is being given that the National Marine Fisheries Service issued two Letters of Authorization under the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to on—Ice Seismic Activities to the following:

Sefel Geophysical Ltd., 201 South Cherokee Street, Denver, Colorado U.S.A. 80223, Issued on December 28, 1984

Geophysical Service Inc., 5601 Silverado Way, Anchorage, Alaska 99502, Issued on December 28, 1984.

These Letters of Authorization are valid for 1985 and are subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1381-1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subpart A and B).

These Letters of Authorization are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1868, Juneau, Alaska 99802.

Dated: December 28, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation.

[FR Doc. 85-629 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Environmental Management Association, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Environmental Management Association, Inc. having an office in Easton, Pennsylvania, an exclusive right to practice the inventions embodied in U.S. Patent Application Serial No. 445,112, "Bagworm, Moth Attractant and Plant Protection." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office

of Federal Patent Licensing, NTIS, Box
1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S.
Department of Commerce, National Technical
Information Service.

[FR Doc. 85-597 Filed 1-8-85; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Joint Audit Plan

AGENCY: Commodity Futures Trading
Commission.

ACTION: Request for comment.

SUMMARY: When the Commission adopted rules with respect to introducing brokers ("IBs"), the Commission stated that an IB operating pursuant to a guarantee agreement with a futures commission merchant ("FCM") could engage in the solicitation or acceptance of orders for exchange-traded options if the FCM which is a party to that guarantee agreement is a member of a self-regulatory organization with rules to govern the option-related activity of IBs guaranteed by members FCMs in a manner equivalent to that required of contract markets with respect to their members FCMs, and a sales practice audit program to enforce those rules. 48 FR 35248, 35272 (August 3, 1983). Several contract markets have now submitted a proposed joint audit plan which provides for each of those contract markets to delegate to a designated contract market the responsibility of monitoring the option sales practices of IBs guaranteed by FCMs which are members of at least two of those contract markets. The joint audit plan is intended to relieve the contract markets and the guaranteed IBs of the burden of multiple compliance audits with respect to exchange-traded option sales practices, and to assure sufficient audit resources are available to monitor effectively such sales practices. The Commission is publishing this notice to request comment on the proposed new joint audit plan.

DATE: Comments must be received on or before February 8, 1985.

ADDRESS: Comments should be sent to:
Commodity Futures Trading
Commission, 2033 K Street, NW.,
Washington, D.C. 20581. Attention:
Secretariat.

FOR FURTHER INFORMATION CONTACT:

Tobey W. Kaczynsky, Associate
Director, or Lawrence B. Patent, Special
Counsel, Division of Trading and
Markets, at the above address.
Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission adopted rules to govern IBs and their associated persons, as well as the associated persons of commodity trading advisors and commodity pool operators, on July 29, 1983, 48 FR 35248 (August 3, 1983). With respect to exchange-traded commodity options, the Commission determined, by adopting Rule 33.3(b)(1) (ii) and (iii) (17 CFR 33.3 (b) (i), (ii) and (iii) (1984)), to permit IBs and their associated persons to engage in the solicitation or acceptance of orders for exchange-traded options if any of the following conditions were met:

1. The National Futures Association ("NFA"), or another registered futures association, adopts rules which are approved by the Commission, to govern the commodity option-related activity of its member introducing brokers;

2. A contract markets of which an introducing broker is a member adopts rules which the Commission approves to govern the commodity option-related activity of its member introducing brokers; or

3. The introducing broker is operating pursuant to a guarantee agreement, and the FCM which is a party to that agreement is a member of a self-regulatory organization which adopts rules which the Commission approves to govern the commodity option-related activity of the introducing broker which is a party to that agreement.

The Commission further determined that any such rules must provide for regulation of the commodity option-related activity of IBs in a manner equivalent to that required of contract markets with respect to their members FCMs, and must generally incorporate the standards set forth in Rule 33.4 (b) and (c) (17 CFR 33.4 (b) and (c) (1984)).¹ The Commission made those determinations in order to preserve the structure of the option pilot program and to retain the requirement that, in addition to the Commission, there be a self-regulatory organization with responsibility over the sales practices of all persons engaged in exchange-traded option transactions so that the Commission can continue to meet its statutory obligation and commitment to Congress that the pilot program be regulated successfully. 48 FR 35248, 35272.

The NFA has adopted rules to govern the commodity option-related activity of

its member IBs that are not operating pursuant to a guarantee agreement with a FCM but are instead meeting the basic minimum financial requirement for an IB, which is \$20,000 of adjusted net capital.² In addition to undertaking to regulate the option-related activities of those independent IBs NFA had previously undertaken to regulate the option-related activities of IBs which has entered into guarantee agreements with those FCMs for which NFA was the designated self-regulatory organization ("DSRO"), that is, those FCMs which are not members of any contract market. NFA's actions left it up to the contract markets to provide for supervision and audits of the exchange-traded option sales practices of those IBs which had entered into guarantee agreements with FCMs that are members of a contract market.³

Recently, a proposed new joint audit plan was submitted to which the Chicago Mercantile Exchange, the Board of Trade of the City of Chicago, the Commodity Exchange, Inc., the New York Futures Exchange, Inc., the MidAmerica Commodity Exchange, the Minneapolis Grain Exchange, the Board of Trade of Kansas City, Missouri, Inc. and the New York Cotton Exchange are parties. The plan provides for each party to delegate to another party the responsibility of monitoring the option sales practices of IBs guaranteed by FCMs which are members of at least two of the parties to the plan. Each of the contract markets which is a party to the proposed joint audit plan has adopted a rule or a resolution to undertake sales practice audits of the option-related activity of IBs which are guaranteed by a member FCM.⁴ Those contract markets have entered into a joint audit plan so that, as provided for in Commission Rule 1.52(c) [17 CFR 1.52(c) (1984)], an IB guaranteed by an FCM which is a member of more than

¹In a letter dated April 16, 1984, the Commission's Division of Trading and Markets informed NFA that it did not intend to recommend that the Commission review the NFA submission for approval and that NFA could proceed to institute this program. See Commission Rule 1.41(c) (17 CFR 1.41(c) (1984)).

²Although the second condition cited above would allow an IB to engage in the solicitation or acceptance of exchange-traded option orders if the IB were itself a member of a contract market with rules to govern the option-related activities of member IBs, the Commission understands that none of the contract markets have created an IB membership category, so the second condition is moot at this time. The Commission adopted that provision in response to the comment of one of the contract markets on the proposed IB rules. 48 FR 14933 (April 6, 1983).

³Most of those rules have been made effective without the Commission's formal approval pursuant to Rule 1.41(c).

⁴For example, those standards include having rules with respect to the handling of customer complaints, enforcement of written procedures for supervising option accounts, and the submission of all promotional material for exchange review. See 17 CFR 33.4(b) (4), (5) and (8) (1984).

one contract market will not be subject to multiple audits of their option sales practices. This will relieve duplicative compliance burdens on the guaranteed IBs and duplicative auditing burdens on contract market compliance personnel, and also help assure sufficient resources to supervise adequately a compliance program. A joint audit committee will oversee the general operation of the plan. There are approximately 400 guaranteed IBs, and the vast majority of them would be supervised by the Chicago Mercantile Exchange or by the Chicago Board of Trade under the plan.

The Commission wishes to note certain items with respect to the responsibilities of the parties to the plan. Under the plan, the DSRO for a particular FCM has the responsibility to conduct option sales practice audits for IBs guaranteed by that FCM involving any option traded on a contract market which is a party to the plan. However, if a guaranteed IB wishes to solicit or accept an order for an option traded on a contract market which is not a party to this joint audit plan, it could only do so if its guarantor FCM was a member of a contract market which had made arrangements for sales practice audits covering such activity by the IB. Further, the DSRO list included with the proposed new joint audit plan contains only mutual member FCMs, so each contract market which is a party to the plan must also remember its responsibility, pursuant to rules or resolutions which it has adopted and pursuant to an amendment to the plan, to conduct option sales practice audits for IBs guaranteed by an FCM which is a member only of that one contract market.⁵

The Commission notes two other areas of concern in the proposed new joint audit plan, a provision in the plan regarding access to information by Commission representatives and a provision regarding the furnishing of information in response to a civil subpoena or summons, both of which are contained in Paragraph 6 of the agreement. That paragraph states in full as follows:

Confidentiality. All reports, workpapers, summary sheets and other documents generated or received by the parties pursuant to their functions under this Agreement shall be confidential and shall not be disclosed other than between the parties except as provided herein. Such documents may be disclosed in response to a duly authorized

demand by an administrative or legislative body of government having jurisdiction of the subject matter and authority to obtain the information requested, or as otherwise required by law. Provided, however, such documents shall not be disclosed in response to a civil subpoena or summons until five (5) business days after all parties of which the mutual member FCM is a member and the mutual member FCM have been notified of the subpoena or for such shorter period of time as may be provided pursuant to an order issued by a court of competent jurisdiction; and in no event shall be disclosed in violation of Section 8c(1) of the Act.

The Commission wishes to point out that it will not approve the proposed new joint audit plan unless it is made clear, by an amendment to the agreement or by separate letter, that any representative of the Commission, upon his or her request, has access to and the right to make copies of any documents generated or received by any party to the plan pursuant to the party's functions thereunder. Such request may be oral or written and shall not be subject to prior notification or authorization.

With respect to the last sentence of Paragraph 6 of the agreement, regarding a party's obligation to furnish information in response to a civil subpoena or summons, the Commission's view is that such a provision is unnecessary to the basic operation of the joint audit plan and that it is without legal basis and may require parties to attempt to quash a subpoena or be held in contempt. Although the Commission would not object to a provision which would require a DSRO to give notice of a civil subpoena or summons to appropriate parties, the Commission objects to the last sentence of Paragraph 6 of the agreement because it creates a potential barrier to responding to a civil subpoena or summons. The Commission believes that there is no legal basis for, nor any purpose to be served by, imposing such an artificial time constraint. The parties to the plan should not create potential liability among themselves for compliance with a court order, and the Commission recommends that the last sentence of Paragraph 6 of the agreement be deleted from the joint audit plan. In any event, it is the Commission's intention, based upon its preliminary review of the plan, to exclude the provision referred to in this paragraph from any general approval of the new joint audit plan, if such provision remains a part of the contract among the parties.⁶ The Commission

further wishes to point out that it interprets the phrase "civil subpoena or summons" not to apply to any Commission subpoena or summons, and also notes the broad rights to inspection and copying of joint audit plan documents discussed above, which should make it unnecessary for the Commission to rely on a subpoena to gain access to records generated or received by a DSRO under the joint audit plan. The Commission would not approve the plan if any other interpretation is intended.

Requests for a copy of the documents submitted in connection with the proposed new joint audit plan, including the list of which DSRO is responsible for each mutual member FCM, may be made to the Secretariat.

Issued in Washington, D.C. on January 3, 1985 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-540 Filed 1-8-85; 8:45 am]

BILLING CODE 8351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: 5 February 1985, 8:30 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Major Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Microelectronics and Computers.

Information by Commission representatives and responding to a civil subpoena or summons which were contained in the joint audit plan submitted for review by all of the contract markets and NFA. 49 FR 28906-28907 (July 17, 1984).

⁵ As noted above, NFA will not conduct audits of any IB guaranteed by an FCM which is a member of any contract market.

⁶ The Commission also expressed its concern with respect to similar provisions regarding access to

Dated: January 4, 1985.

Patricia H. Means,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 85-577 Filed 1-8-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Thursday & Friday, 31 January & 1 February 1985.

Times of Meeting: 0830-1700 hours, both days (Closed).

Place: U.S. Army Western Command (WESTCOM), Honolulu, Hawaii.

Agenda: The Army Science Board Steering Committee will meet for classified overview/ orientation briefings and demonstrations regarding the WESTCOM mission and relationship to U.S. Army Pacific Command (PACOM); for example, expanded relations program, air defense, command and control, role/missions of 25th Infantry Division, & Pacific area update. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Maria P. Winters,

Acting Administrative Officer, Army Science Board.

[FR Doc. 85-576 Filed 1-8-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday and Wednesday 29 and 30 January 1985.

Times of Meeting: 0630-1700 hours, both days (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army TRADOC (U.S. Army Training and Doctrine Command) Operations Research Activity (TORA) will meet for classified briefings and discussions on TORA's projects and user perceptions and applications. The study purpose is to review and comment on planned, current, and completed TORA activities in order to improve operations. This meeting will be

closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Maria P. Winters,

Acting Administrative Officer, Army Science Board.

[FR Doc. 85-575 Filed 1-8-85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

Correction

In FR Doc. 84-33313 beginning on page 49535 of the issue of Thursday, December 20, 1984, make the following corrections:

1. On page 49535, in the table in the second column, the first word in the heading of the second column reading "Dallas" should read "Dollars".

2. In the same table, the entry in the second column for Texas reading "4.84" should read "3.84".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/43; FRL-2745-8]

Captafol; Special Review of Certain Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA is initiating a Special Review of all pesticide products containing the active ingredient captafol. Captafol is a fungicide used to control the foliar diseases of certain fruits and vegetables. EPA has determined that captafol is oncogenic in rats and mice and is highly toxic to fish. Captafol meets or exceeds the risk criteria as described in 40 CFR 162.11. Accordingly, a Special Review of products containing captafol is appropriate to determine whether additional regulatory actions, if any, are required. During the Special Review process, EPA will carefully examine the risks and benefits of using captafol products.

DATE: Comments, evidence to rebut the presumptions in this Notice, and other relevant information must be received 45 days from the date this notice is received or until February 25, 1985. (whichever is later).

ADDRESS: Written comments identified as "OPP-30000/43" should be sent by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment not containing material claimed to be CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All non-CBI written comments will be available for public inspection in Rm. 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Ingrid M. Sunzenauer
Registration Division (TS-767C),
Office of Pesticide Programs,
Environmental Protection Agency, 401
M St., SW., Washington, D.C. 20460.
Office location and telephone number:
Rm. 717, CM #2, 1921 Jefferson Davis
Highway, Arlington, VA. (703-557-
7400).

SUPPLEMENTARY INFORMATION: The term "Special Review" is the name now being used by EPA for the process previously called the Rebuttable Presumption Against Registration (RPAR) process. Modifications in the process will be proposed in regulations in the near future. Until other applicable final regulations are adopted, the present Special Review will adhere to RPAR procedures now in effect and set forth in 40 CFR 162.11.

EPA has determined that a Special Review will be conducted for all pesticide products containing captafol as an active ingredient. EPA has also determined that data necessary to refine the Agency's risk analysis for oncogenicity and ecological effects must

be developed on an accelerated basis, and that precautionary labeling is required to reduce risk during the Special Review process.

Issuance of this notice means that potential hazards associated with the use of captafol have been identified. These hazards will be examined further to determine the nature and extent of the risk, and considering the benefits of captafol, whether such risks cause unreasonable adverse effects on the environment.

A document entitled "Guidance for the Interim Registration of Pesticide Products Containing Captafol As The Active Ingredient" (Guidance Document) has been issued. (The Guidance Document is also referred to as a Registration Standard.) The Guidance Document is available to the public from the contact person named above. The Guidance Document explains the basis of EPA's decision to start a Special Review and also contains references, background information, data requirements, and other information pertinent to the continued registration of pesticides containing captafol.

I. Initiation of a Special Review

A. General

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered, it must be shown that it can be used without "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide" (FIFRA section 2(bb)). The burden of proving that a pesticide meets this standard for registration is on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard for registration, then the Administrator may cancel the registration under section 6 of FIFRA.

The Agency has created an administrative process for fully evaluating whether a registered pesticide may not satisfy the statutory standard for registration. This Special Review process provides a procedure through which EPA may gather and evaluate information about the risks and benefits of a pesticide's use. It also provides a means by which interested members of the public may comment on

and participate in EPA's decision making process. The regulations governing this process are set forth at 40 CFR 162.11.

A Special Review is begun when EPA determines that a pesticide meets or exceeds one or more of the risk criteria set out in the regulations (40 CFR 162.11(a)(3)). The Agency generally announces the beginning of the Special Review by issuing a Position Document (PD) 1, which is published in the *Federal Register*. In addition, registrants of affected products will receive the PD 1 by certified mail. Registrants and other interested persons are invited to scrutinize the basis for the Agency's decision to initiate the Special Review and to submit data and information which rebuts or supports the Agency's determination of risk. Commenters may also suggest methods to reduce risks of use of the pesticide. In addition to addressing risk issues, commenters are encouraged to submit evidence and discussions of the biological, economic, social, and environmental costs and benefits of use of the pesticide. The public participation stage is described in more detail in Unit V. This notice constitutes PD 1 for pesticide products containing captafol.

If risk issues are not satisfactorily resolved, EPA will proceed to evaluate the risks and benefits of captafol to determine whether to propose regulatory actions to reduce the risks. After providing an opportunity for comment by the Scientific Advisory Panel, the Secretary of Agriculture, registrants, and the public on those actions and the reasons for them, EPA will issue an appropriate final notice. If EPA determines that the risks of use exceed the benefits, EPA will issue a notice of intent to cancel the registration of products intended for such use. The notice may state the intention to cancel registrations outright or it may require certain changes in the composition, packaging, application methods and/or labeling of the product. These changes would be intended to reduce the risks to levels that when considered against the benefits will not pose unreasonable adverse effects on the environment.

A notice initiating a Special Review is not a notice of intent to cancel the registration of a pesticide, and a Special Review may or may not lead to cancellation. This notice initiating the Special Review for captafol products is an announcement of EPA's concern about the safety of the pesticide's use, and only after carefully considering the risks and benefits of the pesticides and determining that the pesticide appears to cause unreasonable adverse effects

on the environment, would EPA issue a notice of intent to cancel.

B. Presumption

EPA has determined that the use of pesticide products containing captafol meets or exceeds the risk criteria for oncogenicity and hazard to wildlife. In Units I.B.1 and 2, the Agency's concerns over captafol's oncogenic and wildlife effects are discussed.

1. Oncogenicity

EPA has determined that captafol meets or exceeds the risk criterion in 40 CFR 162.11(a)(3)(ii)(A). That section provides that a Special Review shall be conducted if the use of a pesticide "induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure" On the basis of the scientific studies and information summarized in the Guidance Document and briefly discussed below, EPA has concluded that captafol meets or exceeds this risk criterion.

A 2-year mouse study showed dose-related oncogenic lesions in the middle and high dose groups and dose-related non-oncogenic lesions in all dose groups. Oncogenic lesions included lymphosarcomas, myeloproliferative disease, harderian gland hyperplasia, benign harderian gland adenomas, and hemangiosarcomas.

A 2-year rat feeding study showed a dose-related increased incidence of fibroadenomas of the mammary gland and an increased incidence of neoplastic nodules in the liver of females.

Using the linearized multi-stage quantitative risk extrapolation model, the Agency calculated a preliminary risk assessment. Dietary and non-dietary risks based on the incidence of neoplastic liver lesions in female rats and lymphosarcomas in mice were estimated. The Q^* for neoplastic liver lesions in female rats is 5×10^{-2} . The Q^* for lymphosarcomas in mice depends upon the sex and number of dose groups used but ranges from 5×10^{-3} to 5×10^{-2} . The Agency is using 10^{-2} as the slope in the preliminary risk calculations. The dietary estimate assumes a uniform distribution of treated crops among the U.S. population and an average daily consumption of those crops by individuals. Although an individual's exposure could vary considerably depending upon eating habits and geographic location, the dietary exposure values are considered representative for the total U.S. population over a lifetime. Because of the lack of residue data, the dietary exposure estimate was based on the

assumption that residues are at 100 percent tolerance levels. Tolerances are the maximum residue levels permitted on crops by EPA. This estimate resulted in an upper bound estimate on the excess lifetime cancer risk of 2×10^{-4} from dietary exposure. In the Guidance Document, the Agency estimated non-dietary risk to mixer/loaders and applicators. Because of the lack of data at the time, the Agency assumed 100 percent dermal penetration and used surrogate data from many pesticides to estimate worker exposure. The preliminary risk estimates resulted in a risk ranging from 3×10^{-2} to 2×10^{-6} . Based on these risk estimates, the Agency announced in the Guidance Document that protective clothing, restricted use classification and a label warning concerning tumors would be imposed to reduce the risk to workers. Following publication of the Guidance Document, the Agency reviewed recently submitted dermal penetration and worker exposure studies, which the Agency evaluated and considered in recalculating worker risk. The dermal penetration study was conducted by applying technical captafol and a formulated product to the skin of male rats. The results indicated that very little was absorbed. The absorption rate was approximately 0.1 percent per hour.

Data from the worker exposure study were not used by the Agency in its exposure calculations because the sample size in that study was too small to produce reliable results. The Agency is confident that its surrogate data, which are based on many studies involving a large sampling of individuals, is a reliable basis upon which to estimate worker exposure to captafol. It is worth noting, however, that the exposure values from the study were generally consistent with the Agency's estimates based on its surrogate data.

The Agency recalculated the risk assessment using the dermal absorption rates shown in the dermal penetration study rather than assuming 100 percent. However, the same exposure estimates based on surrogate data and the same assumptions used in the Guidance document were again used for the new calculations. The results of these calculations showed an upper limit of excess lifetime cancer risk for workers ranging from 1×10^{-8} to 1×10^{-7} . The risk calculated for the most common application methods ranged from 1×10^{-8} to 8×10^{-6} .

The requirement for protective clothing reduces this risk to workers by almost another order of magnitude. Specifically, the Guidance Document

required workers to wear impervious gloves and full body clothing during handling and application. The Agency is revising this requirement to replace "impervious gloves" with "mid-forearm to elbow length chemical resistant gloves." The Agency is also requiring registrants to submit data concerning the type of glove which provides the most protection from captafol. Because inhalation is still an important route of exposure for mixer/loaders, the Agency is requiring that workers who mix and load captafol wear a dust mask.

In the Guidance Document the Agency also classified captafol for "restricted use," which means that only certified applicators trained for and familiar with pesticide use, or persons under their direct supervision, may use captafol. This action was based on the higher cancer risks previously estimated in the Guidance Document. However, the Agency is lifting this restriction because the new risk estimates show that hazards to workers applying this pesticide are much less than originally estimated.

The Agency also required registrants to place a statement on the label of captafol products to warn workers that captafol causes tumors in laboratory animals. Based on revised risk estimates, the Agency believes that risks which may occur during the period of Special Review do not warrant this label warning. During the Special Review the Agency will evaluate whether the long-term risk to applicators justifies the need for any label warning.

2. Wildlife

The Agency has determined that the use of pesticide products containing captafol meets or exceeds the risk criteria in 40 CFR 162.11(a)(3)(i)(B)(3) and 162.11(a)(3)(ii)(C). The first criterion provides that a Special Review shall be conducted if the use of a pesticide "results in a maximum calculated concentration following direct application to a 6-inch layer of water more than one-half the acute LC₅₀ for aquatic organisms likely to be exposed. . . ." The second criterion requires a Special Review if the use of a pesticide "can reasonably be anticipated to result in significant local, regional, or national population reductions in non-target organisms, or fatality to members of endangered species." On the basis of the scientific studies and information summarized in the Guidance Document, EPA has concluded that captafol meets or exceeds these risk criteria.

The Agency reviewed several valid ecological effects studies which characterize captafol as very highly toxic to fish. Using captafol, the median

lethal concentration which kills 50 percent of the test organisms (LC₅₀) after 96 hours ranged from 0.045 to 0.230 parts per million (ppm) for bluegill sunfish and 0.027 to 0.190 ppm for rainbow trout. These data demonstrate that captafol is very highly toxic to fish.

As a result of this toxicity, the Agency is concerned about the effect of captafol on fish as a result of drift and/or runoff during application to cranberries and citrus groves. The Agency is also evaluating potential hazards of captafol to endangered species.

Captafol used in cranberry bogs irrigated by sprinkler systems or by flooding may present a hazard to fish. Biological monitoring studies in New Jersey detected fish kills after the application of captafol.

Citrus grove applications may present a hazard based on current use practices. In groves where captafol treated trees are irrigated with overhead systems, runoff may result from dislodgement of residues from foliage. This is of particular concern where groves are located near open water. Captafol may also enter open water as a result of drift from applications by way of airblast equipment.

The Agency used a spray drift model to calculate the potential amount of captafol to which fish may be exposed from airblast application to citrus. The expected residues and effects on fish in a 1-acre pond and an estuary representing one-half acre foot of water were estimated. The expected residues in both the pond and estuary exceeded the LC₅₀ for fish.

A runoff model using a 6-foot deep 1-acre pond was used to estimate the expected residues of captafol in water from overhead irrigation in captafol-treated citrus groves. Again for both the pond and estuary, the LC₅₀ values for fish were exceeded.

C. Risk Reduction Measures and Regulatory Status

Because of the Agency's concerns, the Guidance Document required registrants to change product labeling. These changes include:

1. Additional environmental labeling.
2. An interim 24 hour reentry interval.
3. A prohibition against crops treated with captafol being rotated with crops not registered for captafol use.
4. A prohibition against water from cranberry bogs, wetland taro fields which are foliarly treated, and rice fields planted with captafol-treated rice seed being used for irrigation of crops other than those with registered captafol uses.

5. Specified greenhouse application procedures.

6. "Restricted Use" classification.

7. A tumor warning statement.

8. Protective clothing requirement.

As discussed in Unit LB.1, the requirements for "restricted use" classification and the tumor warning are being lifted.

The protective clothing requirement is being modified to require all workers to wear mid-forearm to elbow length chemical resistant gloves and full body clothing. Mixer/loaders are being required to wear dust masks. Registrants are also required to conduct studies to determine what type of gloves provide the most protection from captafol.

The Guidance Document requires registrants to submit studies which will be used to refine the Agency's risk analysis for oncogenicity. Included are toxicology and residue chemistry data. EPA is requiring that these studies be conducted on an expedited schedule of 6 months to 1 year, depending on the test, and will include the results in the PD 2/3. Studies needed to refine the analysis for acute and chronic fish effects are also being expedited. For acute effects, EPA is requiring that these studies be conducted within 1 year. Depending on the outcome of these studies EPA will conclude whether acute effects on fish are of concern; if they are, the Agency will require extensive field testing. For chronic effects, EPA is requiring data related to the environmental fate of captafol. Depending on the outcome of the short-term studies, EPA will determine whether additional data are needed to assess the chronic risk to fish. The following Table 1 describes the pivotal studies needed for both oncogenic and wildlife concerns.

TABLE 1.—DATA PIVOTAL TO THE SPECIAL REVIEW

Data requirements	Submission date
Studies Pivotal to Oncogenicity	
Residue chemistry	Sept. 1985
Oncogenicity study ¹	Do.
Studies Pivotal to Acute Fish Concerns	
Acute toxicity, estuarine, and marine organisms	Mar. 1985
Aquatic residue monitoring/caged fish study	Sept. 1985
Field testing	Reserved. ²
Studies Pivotal to Chronic Fish Concerns	
Solubility	Mar. 1985
Vapor pressure	Do.
Octanol/water partition coefficient	Do.
Hydrolysis	Do.
Photodegradation	Do.
Leaching	Do.
Adsorption/desorption	Do.
Aerobic and anaerobic soil metabolism	Sept. 1986
Soil dissipation	Do.

TABLE 1.—DATA PIVOTAL TO THE SPECIAL REVIEW—Continued

Data requirements	Submission date
Chronic fish studies	Reserved. ²

¹The original study was incomplete. Information concerning control groups and histopathology are needed.
²Contingent on the results of the Aquatic Residue Monitoring/Caged Fish Study.
³Contingent on the results of the product chemistry and environmental fate studies.

All currently registered products will remain registered while the Special Review is in progress. The Agency is deferring final decisions on the reregistration of any products containing captafol as a sole active ingredient until the Agency concludes the Special Review. The Agency will not register any new uses of captafol until the Special Review is completed. The Agency will also not approve pending tolerance requests or future requests for new tolerances for captafol during the Special Review.

D. Rebuttal Criteria

All registrants, applicants for registration, and other interested members of the public are invited to submit evidence either to support or to rebut the presumption that (1) captafol causes oncogenic effects in rats and mice and may cause such effects in humans and/or that (2) captafol is very highly toxic to fish and may result in significant acute and chronic environmental adverse effects. Under 40 CFR 162.11(a)(4)(iii), the presumption initiating a Special Review for chronic oncogenic effects may be rebutted by proving "that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error." Under 40 CFR 162.11(a)(4)(i), the presumption initiating a Special Review for acute wildlife effects may be rebutted by proving that "the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget organisms is not likely to result in any significant acute adverse effects." Under 40 CFR 162.11(a)(4)(ii), the presumption initiating a Special Review for chronic wildlife effects may be rebutted by proving that "with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects."

E. Benefits Information

The Agency will perform a benefits analysis for captafol during Special Review. The following information briefly summarizes the most recent information on the benefits of captafol.

Chevron Chemical Company is the only producer of the technical product. Approximately 4.5 to 5 million pounds are used per year.

Captafol is a broad spectrum protectant fungicide used to control foliar diseases of certain fruits and vegetables. The major sites of use are apples, cherries, tomatoes, and citrus; more than half of the usage is for the first three crops. Minor use sites include the seed of corn, cotton, peanuts, rice, and sorghum; potato foliage; sweet corn; plums; watermelon; and cranberries; and use for wood preservation.

On apples captafol is used to control scab disease during the primary infection period, which lasts from the dormant period of the one-fourth green leaf stage of the apple tree's development. Captafol is used as a single application spray as an alternative to multiple applications of many of the registered alternative fungicides. The most viable alternative fungicides include dichlone, captan, metiram, folpet, glyodin, thiram, maneb, triforine, mancozeb, zineb, diamonium EBDC, and a combination of thiophanate-methyl or benomyl with another fungicide to which resistance has not been demonstrated. Up to five applications of any one of the alternative fungicides may be required to prevent the primary stage infections which are often controlled with only one application of captafol.

Captafol is one of the most extensively used fungicides on sour cherries in the northcentral and eastern parts of the United States. It is used for control of leaf spot disease, brown rot blossom blight, and fruit brown rot. It is limited to use on cherries which are mechanically harvested because hand picking of cherries treated with captafol may result in allergic skin reactions. The most viable alternative fungicides for use on cherries are dichlone, dodine, and ziram, and benomyl used in combination with a fungicide against which fungal resistance has not been demonstrated. For brown rot blossom blight and fruit brown rot, additional alternative fungicides include captan, sulfur, and triforine. Glyodine, folpet, and zineb are available alternative fungicides for control of leaf spot on cherries.

Captafol is registered for control of anthracnose, early blight, late blight,

gray leaf spot, nailhead spot, *Septoria* leaf spot, and fruit rot on tomatoes. In California it is also registered for control of black mold. Because of the skin sensitization properties of captafol, it is also limited to use on mechanically harvested tomatoes. These tomatoes are generally produced for processing rather than for the fresh market. Captafol is an extensively used fungicide on tomatoes. Twenty-six alternative fungicides are registered for control of one or more of the tomato diseases for which captafol is registered. The major ones include metiram, anilazine, captan, chlorthalonil, diammonium EBDG, folpet, maneb, nabam, metalaxyl combined with mancozeb, and zineb. For early blight, late blight, and anthracnose; metiram, anilazine, captan, chlorthalonil, diammonium EBDG, and maneb are the most viable.

In addition to submitting evidence to rebut the presumptions of risk in the Special Review, 40 CFR 162.11(a)(5)(iii) provides that a registrant or applicant "May submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." The benefits evidence submitted by registrants, applicants, and other interested persons will be considered by the Administrator when determining the appropriate regulatory action.

Registrants, applicants, or other interested persons who desire to submit benefits information should consider submitting information on the following subjects along with any other relevant information they desire to submit:

1. Biological and economic importance of captafol uses, including market studies and estimated quantities applied for those uses.

2. Alternative fungicides discussed in this document or any other which are available.

3. Nonchemical methods for all registered uses and application techniques, including any associated health effects and potential for water contamination.

4. The change in costs to captafol users for obtaining equivalent pest control with available substitute products or management techniques.

5. Assessment of the expected changes in level of disease control efficacy, crop yield, crop quality, crop injury, and environmental impacts associated with the use of alternative control measures.

6. Increased or reduced risks associated with the mixing, loading, applying, and disposing of alternative chemicals, and of other hazards associated with their potential increase

in use if captafol is not available. Describe type of application equipment, protective clothing, and mixing/loading disposing procedures for the alternative chemicals.

7. Cultural practices and other factors that impact on farmworker exposure to captafol and any alternative cultural or Integrated Pest Management practices which might limit the use of captafol.

II. Additional Grounds for Review

In the Guidance Document EPA is requiring, pursuant to section 3(c)(2)(B) of FIFRA, that additional product chemistry, toxicology, ecological effects, residue chemistry, and environmental fate studies of captafol be submitted. The Agency will review these studies to determine the extent to which other adverse effects may be associated with the use of this chemical.

III. Hazardous Waste Disposal

The Agency is also investigating the wastes generated from manufacturing captafol and may regulate them as hazardous under the Resource Conservation and Recovery Act.

IV. Rebuttal Submission Procedures

All registrants and applicants for registration are being notified by certified mail of the initiation of the Special Review on their products containing captafol.

The registrants and applicants for registration will have 45 days after the date this notice is received or until February 25, 1985 (whichever is later) to submit evidence in rebuttal to the Agency's presumption. Other interested parties may submit comments during the same period.

V. Duty to Submit Information on Adverse Effects

Registrants are required by section 6(a)(2) of FIFRA to submit any additional information regarding unreasonable adverse effects on man or the environment which comes to their attention at any time. Registrants of captafol products must immediately submit any published or unpublished information, studies, reports, analyses, or reanalyses regarding any captafol effects in animal species or humans, and claimed or verified accidents to humans, domestic animals, or wildlife which have not been previously submitted to EPA. These data should be submitted with a cover letter specifically identifying the information as being submitted under section 6(a)(2) of FIFRA. Registrants should notify EPA of any studies on captafol currently in progress, their purpose, the protocol, the approximate completion date, a

summary of all results observed to date, the name and address of the laboratory performing the studies, and a statement as to whether these studies are being conducted in accordance with the Good Laboratory Practices published in the Federal Register of November 29, 1983 (48 FR 53946).

V. Public Comment Opportunity

During the time allowed for submission of rebuttal evidence, specific comments are solicited on the presumptions set forth in this Notice and in the Guidance Document. In particular, any documented episodes of adverse effects on humans or domestic animals should be submitted to the Agency. Any information as to any laboratory studies in progress or completed should be submitted to the Agency with a statement as to whether those studies are in compliance with the Good Laboratory Practices specified in 48 FR 53946. Specifically, information on any adverse toxicological effects of captafol, its impurities, metabolites, and degradation products is solicited. Similarly, submission of any studies or comments on the benefits from the use of captafol is requested. All comments and information and analyses, which come to the attention of EPA, may serve as a basis for final determination of regulatory action following the Special Review.

All comments and information should be sent to the address given above, preferably in triplicate, to facilitate the work of EPA and others interested in inspecting them. The comments and information should bear the identifying notation [OPP-30000/43].

During the comment period, interested members of the public or registrants may request a meeting to discuss the risk issues and methods of reducing risks. Any records pertaining to such meetings, including minutes, agendas, and comments received will be filed under docket number OPP-30000/43.

Dated: December 19, 1984.

Steven Schatzow,
Director, Office of Pesticide Programs,
[FR Doc. 85-59 Filed 1-8-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30000/42; FRL-2746-3]

Triphenyltin Hydroxide; Special Review of Certain Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces that EPA is initiating a Special Review of all pesticide products containing the active ingredient triphenyltin hydroxide (TPTH). EPA has determined that TPTH which is registered as a fungicide and mite suppressant, produces teratogenic effects in rats and that sufficient exposure to applicators exists to meet the risk criterion described in 40 CFR 162.11. Accordingly, a Special Review of products containing TPTH has been initiated to determine whether registration of these products should be permitted to continue and, if so, under what terms and conditions. During the Special Review process, EPA will carefully examine the risks and benefits of using TPTH products and will determine whether additional regulatory actions are required.

DATE: Comments, evidence to rebut the presumptions in this Notice, and other relevant information must be received no later than 45 days from the date this notice is received or until February 25, 1985 (whichever is later).

ADDRESS: Written comments identified as "OPP-30000/42" should be sent by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. An edited copy of the comment containing material claimed to be CBI must be submitted (with the CBI portions deleted) for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All non-CBI written comments will be available for public inspection in Rm. 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Betty Shackleford, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm 717, CM #2, 1921 Jefferson Davis

Highway, Arlington, VA. (703-557-7400).

SUPPLEMENTARY INFORMATION: The term "Special Review" is the name now being used by EPA for the process previously called the Rebuttable Presumption Against Registration (RPAR) process. Modifications in the process will be proposed in regulations in the near future. Until other applicable final regulations are adopted, the present Special Review will adhere to RPAR procedures now in effect and set forth in 40 CFR 162.11.

EPA has determined that a Special Review will be conducted for all pesticide products containing TPTH as an active ingredient. EPA has also determined that data necessary to conduct the Agency's risk assessment must be developed on an accelerated basis, and that precautionary labeling is required to reduce risk during the Special Review process.

Issuance of this Notice means that potential hazards associated with the use of TPTH have been identified. These hazards will be examined further to determine the nature and extent of the risk, and considering the benefits of TPTH, whether such risks cause unreasonable adverse effects on the environment.

A document entitled "Guidance for the Interim Registration of Pesticide Products Containing TPTH" (Guidance Document) has been issued. (The Guidance Document is also referred to as a Registration Standard.) The Guidance Document is available to the public from the contact person named above. This Guidance Document explains the basis of EPA's decision to start a Special Review and also contains references, background information, data requirements, and other information pertinent to the continued registration of pesticides containing TPTH.

I. Initiation of a Special Review

A. General

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*). Before a product can be registered, it must be shown that it can be used without "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide" (FIFRA section 2(bb)). The burden of proving that a pesticide meets

this standard for registration is on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard for registration, the Administrator may cancel the registration under section 6 of FIFRA.

The Agency has created an administrative process for fully evaluating whether a pesticide satisfies or continues to satisfy the statutory standard for registration. This Special Review process provides an informal procedure through which EPA may gather and evaluate information about the risks and benefits of a pesticide's use. It also provides a means by which interested members of the public may comment on and participate in EPA's decision making process. The regulations governing this process are set forth at 40 CFR 162.11.

A Special Review is begun when EPA determines that a pesticide meets or exceeds one or more of the risk criteria set out in the regulations (40 CFR 162.11(a)(3)). The Agency generally announces the beginning of the Special Review by issuing a Position Document 1 (PD 1) which is published in the *Federal Register*. In addition, registrants of affected products will receive the PD 1 by certified mail. Registrants and other interested persons are invited to scrutinize the basis for the Agency's decision to initiate the Special Review and to submit data and information which rebuts or supports the Agency's determination of risk. Commenters may also suggest methods to reduce risks of use of the pesticide. In addition to addressing risk issues, commenters are encouraged to submit evidence and discussions of the biological, economic, social, and environmental costs and benefits of use of the pesticide. The public participation stage is described in more detail in Unit IV. This Notice constitutes Position Document 1 for pesticide products containing TPTH.

If risk issues are not satisfactorily resolved, EPA will proceed to evaluate the risks and benefits of TPTH in order to determine whether to propose regulatory actions to reduce the risks. After providing an opportunity for comments by the Scientific Advisory Panel, the Secretary of Agriculture, registrants, and the public on those actions and the reasons for them, EPA will issue an appropriate final notice. If EPA determines that the risks of use exceed the benefits, EPA will issue a notice of intent to cancel the registration of products intended for such use. The notice may state the intention to cancel registrations outright or may require certain changes in the composition,

packaging, application methods and/or labeling of the product. These changes would be intended to reduce the risks to levels that when considered against the benefits will not pose unreasonable adverse effects to man or the environment.

A notice initiating a Special Review is not a notice of intent to cancel the registration of a pesticide, and a Special Review may or may not lead to cancellation. This notice initiating the Special Review for TPTH products is an announcement of EPA's concern about the safety of the pesticide's use, and only after carefully considering the risks and benefits of TPTH and determining that it appears to cause unreasonable adverse effects on the environment, would EPA issue a notice of intent to cancel.

B. Presumption

EPA has determined that the use of pesticide products containing TPTH has exceeded one of the risk criteria in 40 CFR 162.11(a)(3)(ii)(B) which provides that a Special Review shall be conducted if the use of a pesticide "produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety." Studies submitted to the Agency in support of the continued registration of TPTH have shown that TPTH produces teratogenic effects in laboratory animals. Based on these data and on an evaluation of potential exposure of applicators to TPTH, the Agency concluded that TPTH has exceeded the risk criterion for initiation of a Special Review.

1. *Toxicological concerns.* As part of the data requirements necessary to maintain the contained registration of the pesticide, two independent laboratories conducted studies in Sprague-Dawley rats to ascertain the teratogenic potential of TPTH. In the first study, conducted in 1976 by Cannon Laboratories, Inc., varying dosage levels of technical grade TPTH were orally administered by gavage to pregnant rats on days 6 through 15 of gestation. Increases in the incidences of hydrocephalus (the abnormal accumulation of serious fluid within the cranium accompanied by enlargement of the head, prominence of the forehead, atrophy of the brain, mental weakness and convulsions) and hydronephrosis (distention of the pelvis and calyces of the kidney with urine, as a result of obstruction of the ureter with accompanying atrophy of the

parenchyma of the organ) above the incidences in concurrent control animals were observed in the fetuses at all dosage levels tested.

A second teratogenicity study was performed by Battelle Columbus Laboratories and submitted to the Agency in 1981. In this study, rats were mated and dosed with TPTH on days 5 through 19 of gestation. Increased incidences of hydronephrosis above the incidence in the concurrent control fetuses were again observed at all dosage levels tested. Although hydrocephalus was seen in only one fetus, an increased incidence of hydronephrosis (abnormal distention of the ureter of the kidneys with urine or with a watery fluid) above the concurrent control incidence occurred at all dosage levels tested. Based on these studies, the Agency has determined that TPTH produces teratogenic effects in laboratory animals. A "no-observed-effect-level" (NOEL) for these teratogenic effects has not been determined because these lesions were observed at all dosage levels. The "lowest-observed-effect-level" (LOEL) was 1.0 mg/kg/day.

To clarify whether some or all of the effects observed in the teratogenicity studies are true developmental anomalies, delayed maturation, or the like, the Agency has required a "postnatal" teratology study. The Agency believes this study will elucidate the nature, severity, and/or reversibility of the teratogenic effects manifested in the two studies referred to above.

In the postnatal teratology study, twice the number of dams typically observed in a teratology study are to be used. One half of the dams are to be sacrificed near parturition and the remaining with post-weaning sacrifice and examination of the pups. The specific test requirements are outlined in the Guidance Document. Results of the postnatal teratology study must be submitted to the Agency by December 7, 1985. In addition, the Agency is conducting a teratogenicity "screening test" at Research Triangle Park, N.C. This testing is being performed in two phases and is designed to provide insight into the severity of the observed teratogenic effects. Based on the results of these data, which will be available in March 1985, the Agency may initiate additional immediate regulatory actions.

2. *Applicator risk assessment.* The Agency has estimated potential applicator exposure to TPTH. Because most applicator exposure occurs by the dermal route, a risk assessment has been performed based on dermal

exposure to TPTH resulting from the air blast application to pecan trees. The risk assessment was limited to this site and application method because 72 to 82 percent of the pesticidal use of TPTH is for controlling fungal diseases in pecan culture. TPTH is generally applied by air blast application in pecan culture, although it may be applied aerially.

In calculating the dermal exposure risk calculation for pecan tree applicators, the Agency made the following assumptions.

a. Applicators have an average body weight of 70 kg.

b. Mixing/loading and pesticide application are done by the same individual.

c. Potential inhalation exposure would be minimal when compared to potential dermal exposure.

d. It was estimated that 3,000 cm² of the skin surface area would be exposed during the pesticide application. This is equivalent to wearing a short-sleeved, open-necked shirt, long pants, and neither head covering nor gloves.

e. Exposure during mixing/loading assumes a worker handles a 50 percent wettable powder (WP) formulation packaged in conventional bags.

f. In the absence of empirical dermal absorption data, the Agency assumed dermal absorption would be 100 percent.

Unit dermal exposure (mg/kg body weight/day) (mg/kg/bw/day) during application was calculated from the linear regression correlation derived from the Office of Pesticide Programs Exposure Assessment Branch data base for air blast application to orchards ($p < 0.01$). Exposure during mixing and loading of the wettable powder was calculated from the same data base. Application rates typically range from 1.5 to 18.4 oz active ingredient per acre (ai/A).

The Agency estimated a typical exposure value for a mixer/loader/applicator of 0.74 mg/kg/day, with a lowest value of 0.68 mg/kg/day and an upper value of 0.88 mg/kg/day. This range is derived from the range in application rates.

Because the teratogenic effects seen in the animal studies occurred at all test dosage levels, the Agency has been unable to determine "margins of safety" (MOS) (ratio of NOEL to exposure) from the available test results. Therefore, teratogenic "risk quotients" (ratio of LOEL to exposure) were calculated based on the LOEL.

This risk quotient determination for teratogenicity indicates that potential exposure of pesticide applicators in pecan culture to TPTH occurs at a level that is known to produce teratogenic

effects in laboratory animals, thereby resulting in a highly significant teratogenic risk for pregnant women.

3. *Dietary exposure.* To assess potential teratogenic hazards that might be associated with dietary exposure to TPTH, the Agency has performed a risk assessment for the food commodities

listed in 40 CFR 180.236. "Risk quotients" were again determined because a NOEL was not observed in the teratogenicity studies. The risk quotients are based on eating a single serving of the respective food items by a 60 kg pregnant woman. These data are presented in Table I.

were depressed at the lowest dosage level tested (2.5 ppm or 0.1 mg/kg/day). Although the Agency has classified this study as minimally acceptable, the small number of animals used in each test group as well as the absence of a NOEL for the observed effects have resulted in additional data requirements.

Exposure to TPTH also produced decreased testicular weights in rat pups in a three-generation reproduction study performed in 1987. In this study, the F₂ generation exhibited decreased testicular weights when compared to the concurrent controls at dosage levels of 1.0 ppm and above. A NOEL for the reproductive effects was estimated to be 0.025 mg/kg/day. This study has been classified as provisionally invalid because only summary data were submitted. Registrants should submit these supporting data, if available, to the Agency. In the event these data are not available, a new study as required in the Guidance Document must be submitted.

The oncogenic potential of TPTH cannot be determined at this time. In one study, female mice dosed with TPTH developed endometrial hyperplasia at the lowest dosage level tested, 1.05 mg/kg/day. The development of a test chemical-induced change in a reproductive organ is considered a serious adverse effect by the Agency and because of the low dosage at which the effect was observed it must be considered in the overall assessment of TPTH toxicity. Additional studies have been required on an expedited basis in the Guidance Document to clarify this concern.

The Agency has also performed a preliminary risk assessment, based on a 90-day inhalation study in rats and calculated applicator inhalation exposure at 0.0016 mg/kg/day, to determine potential risks to applicators by this exposure route. A NOEL was not established for the effects observed in the rat study (i.e., alopecia, nasal discharge, red ears, piloerection, etc.) and the resultant risk quotient (151) determination indicates it may be prudent to require respiratory protection since any "margin of safety" assessment would result in a lower safety factor. TPTH is in EPA Toxicity Category I (highest toxicity rating) by the inhalation exposure route.

Additional studies which have been submitted to support the continued registration of TPTH indicate the pesticide is highly toxic to aquatic invertebrates, warmwater fish and estuarine/marine organisms and is moderately to highly toxic to birds. These studies suggest continued use of

TABLE I.—DIETARY RISK QUOTIENT DETERMINATION FOR TERATOGENICITY

Commodity	Estimated serving size	Weight (kg) ¹	Tolerance (ppm)	TPTH		"Risk quotient" (LOEL of 1.0 mg/kg/day divided by mg/kg body weight)
				mg/serving	mg/kg/body weight b.w. = 60kg	
Carrots:						
Raw	1 cup	0.11	0.10	0.011	0.00018	5,900
Cooked	1 cup	0.15	0.10	0.015	0.00025	4,000
Sugar (beet)	¼ cup ²	0.12	0.10	0.012	0.00020	5,000
Pecans	¼ cup	0.06	0.05	0.003	0.00005	20,000
Peanuts	¼ cup	0.07	0.05	0.0035	0.00006	16,700
Potatoes	1 cup	0.20	0.05	0.010	0.00017	5,900
Kidney	3 oz	0.09	0.05	0.0045	0.00008	12,500
Liver	3 oz	0.09	0.05	0.0045	0.00008	12,500

¹From "Nutritive Value of American Foods," Agriculture Handbook No. 456, USDA, Washington, D.C., 1973.

²Estimated total daily intake.

This risk quotients presented in Table I indicate that the existing tolerances provide a substantial or ample level of protection from potential teratogenic effects that may be associated with dietary exposure to the parent TPTH. Because the risk quotient determinations are based on a single serving of the respective food commodities, individual dietary practices may augment or lessen the risks accordingly. However, adequate protection exists even if multiple servings of the food commodities listed in Table I are consumed.

The Agency does not expect residues of the parent TPTH to exceed the current existing tolerance levels. However, there is significant concern about the potential toxicological activity of the mono- and diphenyltin metabolites of TPTH and their contribution to the total food residue. A reassessment of the existing tolerances will be made once the analytical methodology and residue data, including storage stability data, for TPTH and its mono- and diphenyltin metabolites are submitted for the plant commodities listed in 40 CFR 180.236. Similar residues data and storage stability studies for processed commodities derived from peanuts, potatoes, and sugarbeets are also needed. Studies on processed commodities must include data for tetraphenyltin in addition to data for TPTH and the mono- and diphenyltin metabolites. Residue data and analytical methodology for meat, milk, poultry, and eggs are also being required. The above

information is being requested from the registrants in the Guidance Document.

The Agency is also aware that TPTH and its acetate and chloride analogues are used abroad. The treated commodities include dry beans (Bolivia), cocoa (Brazil), potatoes (Brazil, Cyprus, Ireland, Switzerland, and the United Kingdom), and rice (Brazil). The recommended international maximum residue limits for the triphenyltin derivatives do not include contributions that may be made by inorganic tin and di- and monophenyltin moieties. Subsequently, international commodities which do not have an existing tolerance listed in 40 CFR 180.236 may be subject to administrative action if found to contain TPTH residues.

C. Additional Effects of Concern

Additional data submitted to the Agency in support of the continued registration of TPTH have precipitated further concerns about the safety of the pesticide. At this time, the available data on these effects are insufficient to determine whether a Special Review risk trigger has been met or exceeded. However, the Agency believes the effects described below merit additional investigation and has required data to delineate their exact nature and extent.

TPTH has produced immunotoxic effects in mice and guinea pigs. A 90-day subchronic study using guinea pigs indicated that the pesticide may inhibit lymphopoiesis and produce atrophy of lymphoid tissues. In this study, performed in 1980, leukocyte counts

TPTH may have potentially deleterious effects on wildlife and aquatic organisms.

Data requirements are being mandated in the Guidance Document on an expedited basis to clarify the environmental fate of TPTH. These data include accumulation in rotational crops and fish, leaching, adsorption, desorption, aerobic and anaerobic soil metabolism, soil dissipation and photodegradation if the pesticide, re-entry data, avian reproduction and dietary studies, and a coldwater fish study.

Based on the evaluation of the results of the studies required above, the Agency will determine whether additional information and/or restrictions are necessary. Pivotal data requirements and an expedited submission schedule are summarized in Table II.

TABLE II.—DATA PIVOTAL TO THE SPECIAL REVIEW

Data requirements	Submission date
STUDIES PIVOTAL TO TERATOGENICITY	
Teratogenicity	Dec. 7, 1985
Postnatal teratogenicity	Do.
Teratogenicity (dermal exposure route)	Revised
Analytical methodology for plant and animal residues including metabolites and tetraphenyltin hydroxide	June 7, 1985
Residue storage stability	Dec. 7, 1985
Crop and processed commodities storage stability data including metabolites and tetraphenyltin hydroxide	June 7, 1985
STUDIES PIVOTAL TO ADDITIONAL CONCERNS	
Soil and water photodegradation	Do.
Mobility studies	Do.
Soil dissipation studies	Do.
Immunotoxicity studies	Jan. 7, 1986
Dermal penetration	Do.
General metabolism	Mar. 7, 1985
Residue determination for food use crops, tobacco, meat, milk poultry and eggs	June 7, 1985
Reproduction 2-generation	Sept. 7, 1986
Chronic toxicity	Dec. 7, 1985
Oncogenicity	Do.

¹Contingent on the results of the postnatal and standard teratogenicity and dermal penetration studies.

D. Current Regulatory Actions

Because the Agency has determined that TPTH produces teratogenic effects in laboratory animals at concentrations to which applicators may be exposed, the Guidance Document requires that a warning be added to the pesticide label stating that TPTH causes birth defects in laboratory animals and that exposure during pregnancy should be avoided. Additional label changes include the "Restricted Use" classification which limits the use of the pesticide to certified applicators or to persons directly under their supervision. Protective clothing including a long-sleeved shirt, long pants, impermeable gloves, hat, boots, and an approved pesticide respirator are also required.

In addition to the protective clothing described above, a face shield is required when the technical product is being handled. The Registration Standard also stipulates that no new permits will be issued for the experimental use of TPTH as an anti-fouling agent in marine paints, nor will any FIFRA section 3 registration applications be considered during the Special Review.

All currently registered TPTH products will remain registered while the Special Review is in progress. However, the Agency is deferring final decisions of the registration of any products containing TPTH as a sole active ingredient until the Special Review is concluded. No new uses for TPTH will be issued during this period. The Agency also will not approve pending requests for tolerances for TPTH or rice and soybeans or issue any new tolerances during the Special Review.

The Agency is also currently considering the issuance of a Data Call-in Notice pursuant to FIFRA section 3(c)(2)(B) in order to require registrants to submit specific information on the use, exposure potential, and benefits of TPTH.

E. Comments on the Initiation of the Special Review

Prior to the initiation of a Special Review, technical registrants receive private notification of the Agency's determination that the criteria to initiate a Special Review may have been met. This notification include information on the toxicity findings, route of exposure and related general information. Registrants then have 30 days following receipt of the notification to rebut the Agency's conclusions.

In response to the Agency's notification that a Special Review of TPTH was being considered, Uniroyal Corporation proposed amending their product label in an effort to reduce risks and obviate the Special Review of the pesticide. Uniroyal proposed classifying the pesticide as a restricted use chemical, a 24-hour reentry label statement, a prohibition for female applicators of childbearing age, and cancellation of all products except those packaged in water soluble bags.

The Agency believes the proposals submitted by Uniroyal are generally in agreement with the requirements stipulated in the Guidance Document. However, the Agency does not have the information necessary to determine if these and other measures will adequately reduce the risks from exposure to the pesticide to an acceptable level. This determination will

be made through the Special Review of TPTH.

F. Rebuttal Criteria

All registrants, applicants for registration, and other interested members of the public are invited to submit evidence either to support or to rebut the presumption that TPTH causes teratogenic effects in rats and may cause such effects in humans. Under 40 CFR 162.11(a)(4)(iii) the presumption initiating a Special Review must be rebutted by proving, in the case of acute and chronic toxicity criteria, "that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

G. Benefits Information

The Agency will conduct a comprehensive benefits review and analysis for TPTH during the Special Review process and will consider that information in setting forth the Agency's proposed regulatory decision in the Position Document 1/3 (PD 1/3). A preliminary analysis of the benefits of TPTH has been performed and is presented here.

The major use of TPTH is on pecans. Over 72 percent of the pesticide used annually is applied to this crop. Georgia is the primary pecan-producing State accounting for between one third and one half of the total annual production of pecans in the United States. New Mexico, Texas, Alabama, and Louisiana make up the remaining major pecan-producing States. Any one of the following States, Arkansas, Florida, Mississippi, North Carolina, Oklahoma, and South Carolina generally account for less than 3 percent of the total national production. Most of the TPTH applications occur in the Southeast because the environmental conditions are conducive to disease development.

Scab is the most important fungal disease in pecan culture both in the Southeast and Southwest. Preliminary data suggest that although TPTH is the pesticide most commonly used in pecan culture, registered alternatives are available for all pests with the exception of sooty mold which is of minor concern. It is estimated that without the use of any fungicide, there would be a substantial loss in the annual yield. Use of the alternative fungicide benomyl in pecan culture may reduce this loss significantly, although a major concern with the use of benomyl is the development of benomyl resistant strains of fungi. To date, fungal strains that attack pecans have not demonstrated a resistance to TPTH. For this reason, TPTH and benomyl are

often used on an alternating schedule or applied in combination. The chemical cost per acre difference between benomyl and TPTH is minor.

TPTH is also registered for use in controlling fungal diseases in sugarbeets, peanuts, carrots, and potatoes. On peanuts, TPTH is used to control early leafspot and incidentally contributes to mite suppression. TPTH is also registered for use on potatoes in controlling late and early blight. Late blight is the more serious concern in potato culture, especially in the Northeast. Use of TPTH for control of diseases of carrots appears to be minor but important for the control of *Cercospora* leafspot of sugarbeets. Benomyl is often applied for control for *Cercospora*, but TPTH is used where benomyl-resistant strains have developed. The efficacy and potential unreasonable adverse effects that may be associated with alternatives for TPTH such as benomyl, metiram, maneb, captafol, thiophanate-methyl, and others will be fully reviewed in Position Document 2/3.

In addition to submitting evidence to rebut the presumptions of risk in the Special Review, 40 CFR 162.11(a)(5)(iii) provides that a registrant or applicant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the presumption of risk is not rebutted, the benefits evidence submitted by registrants, applicants, and other interested persons will be considered by the Agency when determining the appropriate regulatory action.

Registrants, applicants or other interested persons who desire to submit benefits information should consider submitting information on the following subjects along with any other relevant information they desire:

1. Identification of the biological and economic importance of TPTH uses.
2. Identification of alternative chemical and nonchemical methods of control and any associated health effects and potential for human exposure.
3. Determination of any change in costs to TPTH users for obtaining equivalent disease control with available substitute products or management techniques.
4. Assessment of the expected changes in the level of efficacy, crop yield, crop quality, crop injury, and environmental impacts associated with the use of alternative control measures.
5. Identification of increased or reduced risks associated with the mixing, loading, and applying of

alternative chemicals, with their potential increase in use if TPTH were not available.

6. Identification of cultural and spray application practices, that impact on farmworker exposure to TPTH.

7. Identification of cultural or integrated pest management practices which are enhanced or limited by use of TPTH.

II. Rebuttal Submission Procedures

All registrants and applicants for registration are being notified by certified mail of the Special Review being initiated on their products containing TPTH.

The registrants and applicants for registration will have 45 days from the date this notice is received or until February 25, 1985 (whichever is later) to submit evidence in rebuttal to the Agency's presumption. Other interested parties may submit comments during the same period.

III. Duty To Submit Information on Adverse Effects

Registrants are required by section 6(a)(2) of FIFRA to submit any additional information regarding unreasonable adverse effects on man or the environment which comes to their attention at any time. Registrants to TPTH products must immediately submit any published or unpublished information, studies, reports, analyses, or reanalyses regarding any TPTH effects in animal species or humans, and claimed or verified accidents to humans, domestic animals, or wildlife which have not been previously submitted to EPA. These data should be submitted with a cover letter specifically identifying the information as being submitted under section 6(a)(2) of FIFRA. Registrants should notify EPA of any studies on TPTH currently in progress, their purpose, the protocol, the approximate completion date, a summary of all results observed to date, the name and address of the laboratory performing the studies, and a statement as to whether these studies are being conducted in accordance with the Good Laboratory Practices specified in 40 CFR Part 160, published in the Federal Register of November 29, 1983 (48 FR 53946).

IV. Public Comment Opportunity

During the time allowed for submission of rebuttal evidence, specific comments are solicited on the presumptions set forth in this Notice and in the Registration Standard. In particular, any documented episodes of adverse effects on humans or domestic animals should be submitted to the

Agency as soon as possible. Any information as to any laboratory studies in progress or completed should be submitted to the Agency as soon as possible with a statement as to whether those studies are in compliance with the Good Laboratory Practices specified in 40 CFR Part 160. Specifically, information on any adverse toxicological effects of TPTH, its impurities, metabolites, and degradation products is solicited. Similarly, submission of any studies or comments on the benefits from the use of TPTH is requested. All comments and information and analyses, which come to the attention of EPA, may serve as a basis for final determination of regulatory action following the Special Review.

All comments and information should be sent to the address given above, preferably in triplicate, to facilitate the work of EPA and others interested in inspecting them. The comments and information should bear the identifying notation [OPP-30000/42].

During the comment period, interested members of the public or registrants may request a meeting to discuss the risk issues and methods of reducing risks. Any records pertaining to such meetings, including minutes, agendas, and comments received will be filed under docket number OPP-30000/42.

Dated: December 17, 1984.

Steven Schatzow,
Director, Office of Pesticide Programs,
[FR Doc. 85-60 Filed 1-8-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30081A; FRL-2752-3]

Cypermethrin; Determination Concerning Continuing Conditional Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Conditional Registration.

SUMMARY: This notice sets forth the Agency's determination to issue conditional registrations, pursuant to section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), for products containing the synthetic pyrethroid, cypermethrin, for use on cotton to control various cotton insects. The Agency has determined that the benefits of use will outweigh the risks during the period of the conditional registration, and that the continuation of the conditional registration is in the public interest.

EFFECTIVE DATE: January 9, 1985.

ADDRESS: Written comments may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Timothy A. Gardner, Product Manager (PM) 17, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION:

I. Introduction

In the Federal Register of June 15, 1984 (49 FR 24865), EPA announced its decision to grant ICI Americas, Inc. (ICI), and FMC Corp. (FMC) conditional registrations of products containing the synthetic pyrethroid active ingredient, (\pm) alpha-cyano(3-phenoxyphenyl)methyl (\pm) *cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate (cypermethrin), for use on cotton to control various cotton insects, for a period which extended to December 31, 1984. That document set forth EPA's evaluation of the data that had been submitted, the product's regulatory history, and other facts about cypermethrin.

ICI and FMC have requested that the registrations be continued past the December 31, 1984 expiration date. The June 1984 conditional registrations of cypermethrin products were limited to the 1984 growing season in order to obtain public comment on the Agency's finding with regard to the registration of cypermethrin and to allow the manufacturers time to collect additional data to better assess the risks, if any, resulting from use of cypermethrin. In particular, the Agency required efficacy, applicator exposure, and dermal absorption data. Efficacy data were required to determine whether cypermethrin could be applied at lower application rates and at longer intervals between applications. The Agency required an applicator exposure study, using protective clothing and equipment, and a dermal absorption study to determine whether actual exposure was less than the worst-case exposure calculated originally.

II. Public Response to the June 15, 1984 Federal Register Notice and the Agency's Analysis of Comments

The Agency requested comments on its decisions to issue a conditional registration for a period extending to December 31, 1984, and to issue the

necessary tolerances for cypermethrin use on cotton under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) for a period extending to December 31, 1985.

Seventeen different commenters responded to the Federal Register notice, and all addressed the economic benefits of cypermethrin. Fifteen of these commenters favored the continued registration of cypermethrin after the 1984 season and the issuance of permanent tolerances for cypermethrin: South Texas Cotton and Grain Association, Inc.; Farm Bureau of Wharton County, Texas; National Cotton Council of America; Cotton and Grain Producers of the Lower Rio Grande Valley; five cotton growers; three cotton consultants; two entomologists; FMC Corp.; and ICI Americas, Inc. The major reason that commenters used to support the continued registration of cypermethrin focused on the cost effectiveness with which the product controlled the *Heliothis spp.* and boll weevil cotton insect pests. In addition, several commenters also stated that cypermethrin gave a better residual activity resulting in fewer applications per season, an economic savings to producers, and a reduction in the amount of pesticide in the environment.

Two commenters opposed the continued registration of cypermethrin on cotton: American Cyanamid Co. and Shell Oil Co. These commenters said that cypermethrin provides no better control of *Heliothis spp.* and boll weevils than does flucythrinate (Cyanamid's Pay Off[®]) or fenvalerate (Shell's Pydrin[®]). Therefore, use of cypermethrin offers no economic savings compared to use of Pydrin[®] or Payoff[®]. Shell submitted comparative biological performance data and economic exhibits to support the contention that fenvalerate is as effective as cypermethrin. These data show that fenvalerate provides control of *Heliothis spp.* and boll weevils that is statistically not significantly different from that provided by cypermethrin in small plot tests. Shell also indicated that its product does not pose oncogenic risks.

Several State entomologists, who are experts in insect control on cotton, believe that cypermethrin will provide greater control of the boll weevil under conditions of heavy infestations than other pyrethroids, although small field plots do not show this advantage. These entomologists indicated that during the 1984 growing season, when cypermethrin gained about 65 percent of the pyrethroid market, the use of the organophosphate and synthetic

pyrethroid combination declined substantially despite the fact that the percentage of acreage infested with the boll weevil was at high level.

In its original assessment of the benefits of cypermethrin the Agency found that:

1. Cypermethrin was a broad-spectrum insecticide capable of controlling both the boll weevil and *Heliothis spp.* without the addition of an organophosphate insecticide; and
2. Cypermethrin allows maximum control of insect pests with the minimum amount of product and with a minimum number of treatments per acre; and, therefore,
3. Cypermethrin is less costly than alternatives per acre treated.

Based on the information received from the commenters described above, the Agency's current conclusions are that although the benefits are not as substantial as originally believed, there are still significant benefits.

III. Discussion of Submitted Efficacy and Applicator Exposure Data

In June 1984, the Agency required that the registrants submit efficacy, dermal absorption, and applicator exposure data as a condition of registration. FMC Corp. submitted efficacy data, and ICI Americas, Inc., submitted applicator exposure and dermal absorption data within the time period required.

The Agency asked for efficacy data to determine whether the application rates could be lowered and/or application intervals could be lengthened. The data submitted to the Agency verified that in fact the dosage rates could be lowered from 0.06-0.12 to 0.06-0.10 lb ai/A, and the application intervals could be lengthened from 3-4 days to 5-7 days unless the boll weevil infestation is of concern. The registrants submitted revised labels to reflect the lower rates and extended application intervals. As a result of these data and labeling changes, the Agency concludes that several benefits accrue. The most significant benefit will be the lower exposure to man and the environment that will result from lower rates and fewer applications per year. In addition, since there will be fewer treatments per year where boll weevils are not of concern, expenses for pest control will be reduced. Also, the reduction of application rates will also lower the cost of pest control where cypermethrin is used.

The Agency's original applicator exposure assessment was based on surrogate applicator exposure studies and assumed 100 percent dermal absorption. Based on that analysis, the

Agency estimated that exposure ranged up to a maximum (typical case for mixer-loaders) of 24.0 milligrams per day.

The Agency required the submission of applicator exposure and dermal absorption data from the registrants to more accurately assess the real-life exposure that applicators (pilots) and mixer-loaders may expect when working with cypermethrin. In response to the Agency's request for exposure data, the registrants submitted a dermal absorption and an applicator exposure study.

It was determined that the dermal absorption data were gathered under such experimental conditions as to have no value in determining real-life dermal penetration of cypermethrin. Therefore, the study was not useful to the Agency's analysis. However, since the applicator exposure data described below showed a significant reduction in exposure to the applicators and mixer-loaders, the Agency has concluded that it is not necessary to repeat the dermal absorption study. A brief description of the applicators exposure study is set forth below.

Two pilots and two professional mixer-loaders who regularly worked with applying cypermethrin were monitored while performing their duties using different types of equipment and mixing-loading procedures. In addition, two volunteer mixer loaders worked under worst-case mixing-loading situations (12 times over a 6-hour period). Protective clothing including hoods, long-sleeved shirts, gloves, long pants, socks, and shoes were used to reduce exposure below the worst-case 100 percent exposure level as calculated during the original exposure assessment done by the Agency in June 1984.

Total urine collections were performed on these individuals, and the quantity of cypermethrin metabolites excreted was determined. From these data the systemic dose of cypermethrin was determined. By its nature, this dose determination includes the total cypermethrin absorbed by all possible routes of exposure: oral, inhalation, and dermal absorption. The data from these urine collections indicate a maximum systemic dose of 0.08 milligram per day for mixer-loaders.

Based on the actual study submitted by ICI Americas, Inc., the applicator exposure is substantially less (based on the available data, approximately 300 x less for the applicators at highest risk) originally estimated by the Agency in June 1984.

IV. Human Risk Assessment

The Agency has revised its risk assessment to reflect the new applicator exposure data. The Agency used the maximum systemic dose and the previous lung tumor and dietary exposure data to calculate risks for oncogenicity in humans. Extrapolation from the mouse lung tumor data was performed with the linearized multistage model with a Q_1^* of 2×10^{-2} . Average daily lifetime exposure was calculated using estimates of days worked per year (4 for aerial application and 26 for ground application) and assumed exposure for 40 out of 70 years of life.

Risk to the general population (via dietary exposure) was calculated using the multistage model which resulted in an excess lifetime risk of 1×10^{-6} , based on estimates of the actual residues expected. Calculations done at tolerance levels resulted in an excess lifetime risk of 1×10^{-8} , assuming that 100 percent of the crops are treated.

Upper limits to risks to applicators were also calculated. They were 1×10^{-7} or less for aerial application and less than 8×10^{-7} for ground application (mixing and loading).

Cypermethrin oncogenicity data showed statistically significant increases in tumors in one sex of one (of two) species at the highest dose tested. The tumors which exhibited this increase were benign lung tumors in female mice. There is no evidence that cypermethrin decreased the latency of onset for these tumors. Available mutagenicity data (Ames test, host-mediated assay, dominant lethal, and bone marrow cytogenic) indicate no mutagenic activity. Therefore, cypermethrin is classified as Group C (possible human carcinogen) according to the Agency's "Proposed Guidelines For Carcinogenic Risk Assessment," published in the Federal Register of November 23, 1984 (49 FR 46294). This is the weakest category for positive carcinogenicity evidence.

V. Data Gaps

Currently, there are four synthetic pyrethroids registered for use on cotton to control various cotton insects. These are permethrin, fenvalerate, flucythrinate, and cypermethrin. Except for the rarely used permethrin, all of the other pyrethroids are conditionally registered. Cypermethrin could not be unconditionally registered because two required studies, a soil dissipation and a

benthic organism study, are still outstanding. The soil dissipation study was originally submitted by the registrants; however, the study was inadequate and must be repeated. Both studies are to be submitted by April 30, 1986. Both fenvalerate and flucythrinate are conditionally registered pending receipt and review of the benthic organism study. New protocols are currently being developed for approval by the Agency.

VI. Determination of the Agency's Decision To Extend the Duration of the Conditional Registrations of Cypermethrin

Without further action by EPA the cypermethrin registrations would expire on December 31, 1984. Accordingly, the requested extensions are proper for considerations under FIFRA section 3(c)(7)(C).

EPA concludes that the expiration date for the registrations should be extended to December 1, 1986, to allow time for the submission and evaluation of the benthic organism and soil dissipation studies (due in April 1986) and an EPA decision whether the products may be registered under FIFRA section 3(c)(5).

On the basis of all available data, the Agency has determined that there is sufficient evidence to characterize the risk to humans as very low. The recently submitted exposure data show that the amount of exposure to workers handling cypermethrin is much less than originally calculated in June 1984. Therefore, the risk is much lower than originally assessed and, accordingly, the Agency is less concerned about the risk posed by cypermethrin.

EPA concludes that use of cypermethrin will not cause unreasonable adverse effects to the environment during the period of conditional registration, and the Agency finds that to continue the conditional registration of cypermethrin is in the public interest.

V. Procedural Matters

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support the continued conditional registration are available for public inspection in the office of the Product Manager listed above. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-767C), Office of Pesticide Programs.

* Q_1^* is a potency estimate and corresponds to the upper 95 percent confidence bound on the cypermethrin lung tumor dose-response curve.

Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202. Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should identify the product names and registration number(s) and specify the data or information desired.

Dated: December 31, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-391 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/44; FRL-2752-8]

Alachlor; Special Review of Certain Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Initiation of Special Review of Registrations of Pesticide Products Containing Alachlor; Notice of Availability of Position Document.

SUMMARY: This Notice announces that EPA is initiating a Special Review of all pesticide products containing the active ingredient alachlor. EPA has determined that alachlor produces tumors in laboratory rats and mice and that humans can be exposed to alachlor through consumption of treated crops, consumption of water, or contact during handling and use as a pesticide. Because alachlor induces oncogenic effects when fed to mammalian species and is contained in pesticides to which man is exposed, it meets or exceeds the risk criterion as described in 40 CFR 162.11(a)(3)(ii)(A). Accordingly, a Special Review of products containing alachlor is appropriate to determine whether additional regulatory actions, if any, are required. As part of the Special Review process, a Position Document describing EPA's current assessment of available information on alachlor is being made available to the public.

DATE: Comments, evidence to rebut the presumption in this notice, and other relevant information must be received on or before February 25, 1985.

ADDRESS: Written comments identified as "OPP-30000/44" by mail to:

Information Services Station, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment containing material claimed to be CBI must be submitted with the CBI portions deleted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All non-CBI written comments will be available for public inspection in Rm. 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Diane Ierely, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7451.

SUPPLEMENTARY INFORMATION: The term "Special Review" is the name now being used by EPA for the process previously called the Rebuttable Presumption Against Registration (RPAR) process. The process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any final Notice of Intent to Cancel pesticide registrations which may be issued under FIFRA section 6(b). The Special Review process is described at 40 CFR 162.11 and is usually initiated because one or more of the risk criteria identified in that section have been exceeded, as revealed by testing of a pesticide's active ingredient.

EPA has determined that a Special Review will consider the risks and benefits of all pesticide products containing alachlor and is making public its initial analyses of the risks and benefits through this notice and through the availability of the Position Document 1 (PD 1) prepared in conjunction with this notice.

Pesticide products containing the active ingredient alachlor have been registered in the United States since 1969. The active ingredient is manufactured only by the Monsanto Company, which is the sole registrant of products containing alachlor. Alachlor products are registered to control weeds by primarily preemergent treatment of areas cropped to a wide variety of food and feed commodities. Weed control in corn and soybeans accounts for about

98 percent of alachlor usage. Pursuant to FIFRA section 3(g), EPA conducts a comprehensive program to review the existing data on registered pesticide active ingredients and to impose data requirements and use conditions appropriate for continued registration of products with those active ingredients. The resulting requirements for continued registration are imposed on registrants through the Registration Standard for each active ingredient. As a part of that program, the Agency has evaluated the available data on alachlor. The review revealed that data show alachlor causes tumors in test animals and therefore meets one of the Agency's risk criteria for intensive review of the risks and benefits to determine whether continued registration will cause unreasonable adverse effects on the environment. 40 CFR 162.11(a)(3)(ii)(A).

As a result of the review of the alachlor data base pursuant to FIFRA section 3(g), EPA has also issued a document entitled "Alachlor Registration Standard." That document was issued on November 20, 1984, and identifies the registration data requirements which have not yet been met for alachlor. The Registration Standard also identifies requirements for modifications in the terms and conditions of alachlor registrations which are designed to address the risks associated with continued use during the period necessary to conduct and complete the administrative processes initiated by this announcement of an opportunity for public participation in the alachlor Special Review. The Standard also imposes requirements that the registrant submit data which EPA has found are necessary to maintain registrations in effect during this administrative review period.

II. Preliminary Assessment of Risks

A. Toxicity

EPA has reviewed a wide battery of tests designed to permit evaluation of the toxicity of alachlor. Based upon the results of these short-term and long-term laboratory studies, the Agency has determined that the principal public health concern about alachlor is its potential as a human carcinogen. Feeding studies have demonstrated the tumor-producing effects of alachlor, which include the production of lung tumors in mice and stomach, thyroid, and nasal turbinate tumors in rats. The data from these studies show that alachlor has demonstrated biologically and statistically significant oncogenic responses at multiple sites at multiple doses in both sexes of one rodent

species and at one dose in one sex of a second species (mice). Several of the tumor observations were replicated in the second study in the rat. Further, the stomach tumors in the rat are rare in the strain tested and were remarkable in extent of malignancy in these studies.

On the basis of all available information, the clear weight of the evidence is that alachlor causes tumors in animals. Under these circumstances, the substance should be considered and regulated as a probable human carcinogen.

Other toxic properties of alachlor may be important to human health as well, although none prompt the level of concern appropriate for the clear tumor-production evidence. One serious toxic effect worthy of note is the tendency of alachlor to induce irreversible ocular lesions. This effect is called uveal degeneration syndrome in rats. In its more severe form, this eye disease includes degeneration of the iris and cataract formation.

B. Exposure

Exposure to alachlor from pesticide usage may occur through consumption of treated crops (directly or from foodstuffs derived from animals who eat treated feed), consumption of contaminated drinking water, or direct absorption from dermal or inhalation contact during agricultural use. Because of the widespread and extensive use of alachlor, large numbers of Americans may be exposed through each of these routes and many persons may be subject to all three routes of exposure. Each of these routes of exposure, the population subject to the exposure, and EPA's estimates of magnitudes of exposure are discussed in this unit.

1. *Dietary exposure from treated crops.* Alachlor is registered for use on field corn, soybean and a number of other food and feed crops. Approximately 95 percent of the annual production is used on field corn and soybeans, with 5 percent used on peanuts and the other registered uses. Thus, the major dietary exposure contribution is from field corn and soybeans.

Dietary exposure to alachlor occurs by consumption of treated commodities and the products of animals that have consumed feed containing alachlor residues. EPA has estimated dietary exposure from these sources based on the maximum legal residue levels. There are few data on the actual residue levels of Alachlor and EPA has required the registrant to provide additional data to understand this route of exposure. Available data indicate that alachlor residues appear in corn, soybeans,

beans, peanuts and sorghum. The highest measured residue levels are cause for concern about lifetime consumption alachlor residues in a normal diet.

Determination of actual alachlor residues is complicated by lack of adequate analytical methodology. Ordinarily, pesticide residues are measured to include the parent compound and any metabolites which may be toxicologically important. This approach is important because often one cannot determine whether consumption of the parent compound, the metabolites, or a combination produced adverse effects in tested animals. Radio-labelled studies of alachlor residues in soybeans demonstrate that one major type of alachlor metabolite present in treated soybeans is not measured by the analytical method used for residue measurements. Because this metabolite type appears to account for approximately half of the alachlor residues in soybeans, the actual levels of residues are uncertain, even for the available limited data.

The problem of assessing potential dietary exposure is compounded by the lack of livestock metabolism/feeding studies. Thus, an estimate of actual residues in important dietary components like meat, milk, and eggs cannot be accurately quantified.

EPA will access the actual dietary exposure to alachlor in the Special Review by review of the data submitted in response to the Registration Standard.

2. *Exposure through contaminated drinking water.* In areas where alachlor is used in agriculture, available data show that some sources of drinking water contain residues of alachlor. The principal contamination of drinking water appears to occur where surface water bodies receiving agricultural runoff also serve as drinking water supplies. People residing in areas of high alachlor use, such as the corn belt, who obtain drinking water from systems draining from streams, lakes, and reservoirs are most likely to be subject to exposure through this route. Nationally, slightly less than half of the population obtains drinking water from surface sources. Public water systems would not be expected to remove alachlor during treatment and alachlor has been found in limited tap water sampling in areas where surface water supplies are contaminated. Alachlor may also contaminate drinking water taken from ground water wells and has been detected in limited ground water sampling. Limited data from model simulations indicate that alachlor could result in exposure to residues in

drinking water by leaching through soils to ground water.

Monitoring data over several years at multiple locations in the corn belt area show a pattern of alachlor surface water contamination which is consistent with 10-year predictions of residues in streams derived from complex modeling of runoff and resulting residue levels. All of the available evidence supports conclusions that alachlor will run off to surface waters following application, that timing and levels of contamination are strongly correlated with rainfall patterns following application, and that levels vary widely over the year following spring application. In general, the evidence indicates that the average year-long levels of alachlor in surface water range from 1 to 5 ppb in areas of heavy use. These average levels reflect several (winter) months of no residues as well as spring and summer months when average residues can be much higher, such as 30 to 40 ppb for high exposure months. Peaks in excess of 100 ppb likely occur a few days out of most years. There can be substantial variability among years because of major differences in rainfall. A reasonable estimate for an average concentration in a peak year would be about 15 ppb.

EPA has required that the registrant conduct additional monitoring of alachlor's behavior in the environment in order to improve further the understanding of potential for alachlor residues in drinking water derived from surface and ground water sources.

3. *Occupational exposure.* Persons handling alachlor during any stage of agricultural use can be exposed to the chemical because of inhalation or contact with the skin. Large numbers of persons handle alachlor for a brief (1-day to 6-day) period during the annual application. As many as 1 million persons may be involved in at least one major phase of the handling/application process. A reasonable estimate of the population exposed for the 1-day to 6-day period is 600,000. In addition, 90,000 to 180,000 customs applicators may be exposed to alachlor throughout the approximately 30-day application season. The lower estimates of number of applicators (custom or farmer) assumes that the same person performs mixing/loading as well as application. Therefore, the fewer persons who are exposed, the higher the individual potential for exposure. A study has been conducted to measure levels of exposure to alachlor during key use steps such as mixing and loading of pesticide into application equipment and application of pesticide in the field. This study

measured deposits on sampling patches attached to the body and in air samples taken near breathing zones.

The results of the exposure study show that dermal exposure is far more important than inhalation of alachlor, and that mixing and loading is the portion of the use process which ordinarily leads to the highest exposure for ground application processes. (Aerial applications led to high levels of exposure for certain groups of workers and this historically minor use pattern will be prohibited beginning with the 1985 use year). Of course, customs applicators experience higher exposures due to their longer periods for working with alachlor. This study did not measure exposure during some potentially high exposure phases of use such as equipment repair and may represent more idealized care in handling than would occur outside test circumstances.

Results and analyses based on this study show that large numbers of persons are exposed to meaningful amounts of alachlor during use and that a statistically significant number of users are exposed to levels of serious potential health concern.

C. Health Risks From Exposure To Alachlor

Assessments of the public health consequences from exposure to substances with adverse health potential properly take account the size and nature of the exposed population, the severity and certainty of the toxic potential, and the magnitude and reliability of estimates of levels of exposure. Because the clear weight of the evidence supports the position that alachlor is a probable human carcinogen, exposure to the substance raises health concerns. Alachlor has the potential to cause significant adverse effects through contamination of surface waters used as drinking water sources throughout widespread, populated areas of the corn belt and through exposure to persons, especially custom applicators, involved in mixing and loading of alachlor. Alachlor also has the potential to cause adverse effects through exposure to persons consuming treated crops, exposure to handlers of the pesticide during agricultural use, and exposure to consumers of contaminated ground water or contaminated surface water in other areas of lower alachlor use. These later adverse effects may also prove to be independently significant, depending on the results of future monitoring efforts.

Quantitative estimates of cancer risk in humans are not intended to provide precise measures of likely cancer rates

among exposed populations but are used rather to indicate the upper bound range of potential excess human health risk. Even for comparative purposes, estimates of risk are based on varying levels of uncertainty about the data on toxicity and the estimates of exposure. In the case of alachlor, the quantitative estimates of cancer potency are based on an appropriate study of tumor causation in animals and are approximately the same regardless of how the available data on tumor causation are analyzed for quantitative assessment purposes. Moreover, the estimates of exposure to workers and through drinking water are based on generally good data and reasonable, careful analyses of the data.

The 95 percent upper bound risk estimates indicate that commercial mixer-loaders may face risks of 10^{-3} and most classes of farmer users to be within a risk ranging from 10^{-3} to 10^{-6} . Persons living in high alachlor use areas (e.g. Midwestern U.S.) have estimated 95 percent upper bound risks ranging from 10^{-3} to 10^{-6} due to contaminated surface drinking water.

Quantitative estimates of risks for exposure to alachlor-treated crops are far less reliable because of great uncertainties about actual exposure levels. However, limited available data now indicate maximum potential risks ranging from 10^{-4} to 10^{-5} .

In sum, the potential health risks from alachlor use as a pesticide under present terms and conditions appear substantial and, in the absence of major benefits from continued use, appear likely to cause unreasonable adverse effects on the environment.

III. Preliminary Assessment of Benefits

EPA has evaluated the likely impacts on the agricultural economy which would result if alachlor products were entirely removed from the U.S. market. This assessment provides a measure of the benefits of continued alachlor use without restrictions which could affect the current costs of using alachlor. For the benefits assessment, EPA considered available alternatives chosen because of efficacy and cost and evaluated costs of production associated with alachlor and the alternatives. For the major crops of corn and soybeans as well as all of the minor crops, except peanuts, a shift to alternatives should not result in significant production losses. Several alternative pesticides are available for use alone or in combination; and most growers should be able to identify a weed-control strategy without alachlor which would give comparable control. Based on this assumption and estimates of

comparative production costs, EPA estimates that alachlor provides annual economic benefits to growers ranging from \$40 million to \$345 million with approximately \$157 million being the most likely benefits. Only about \$20 to \$25 million of these farm income benefits of alachlor are reflected as lower consumer costs.

The estimated economic benefit of continued alachlor use by corn growers is about \$118 million per year.

Estimates of increased yields for corn range from zero to 6.6 bushels/acre. In advertising comparisons between alachlor and one major alternative, metolachlor, Monsanto claims in average four bushel/acre yield advantage in corn. If this claim is used as the basis for assuming an across-the-board four bushel/acre yield advantage for alachlor over all alternative control options, the net advantage of continued alachlor usage on corn would be approximately \$330 million to \$430 million annually. This estimate is likely the highest assessment of the benefits of alachlor.

Whatever the level of initial losses associated with withdrawal of alachlor from the market, it should be noted that such economic impacts would be expected to decline after 2 to 3 years as existing or new weed control methods are fully implemented. After a period of 5 to 8 years, farmers and markets should fully adjust to the unavailability of a herbicide like alachlor.

IV. Identification of Regulatory Measures To Address Risks From Alachlor Use

On the basis of what is now known about the risks and benefits of continued alachlor use, as well as any additional information which is developed during the Special Review, the Agency will determine the appropriate regulatory measures to govern registration for alachlor products. The possible regulatory measures range from continuation of registration without changes in the terms and conditions of registration to cancellation of registrations for alachlor products. Through the opportunity for rebuttal and comment on the alachlor Special Review, EPA solicits comment and suggestions on the proper regulatory approach to address the risks posed by alachlor use. The Agency has identified several possible measures to control those risks, including cancellation of registrations for all or some uses. These options are briefly identified here. EPA also encourages commenters to identify and analyze any additional approaches to management of risks from alachlor.

If cancellation of alachlor registrations is the appropriate regulatory choice, the Agency will evaluate whether registrations should be cancelled for some or all uses, when the cancellation action should be made effective, and what provisions, if any, should be established to govern sale or use of existing stocks. Because the vast majority of alachlor is used in corn and soybean farming, there may be little benefit to continuing registrations for low volume uses if the registrations for the two major uses are cancelled. EPA will evaluate whether all uses should be cancelled and specifically solicits comments regarding whether and under what circumstances alachlor use on these low volume crops would produce significant benefits.

Prior to deciding to issue any notice of intent to cancel registrations for alachlor products, EPA will consider whether modifications in the terms and conditions of registration can reduce risks to reasonable levels in light to the benefits of continued use under those terms. If such requirements can be identified, EPA likely will issue a notice of intent to cancel alachlor registrations unless the additional terms and conditions of registration are implemented.

As a part of the Special Review, EPA will seek to identify possible requirements which could provide meaningful reduction in alachlor's risks without causing offsetting adverse economic or other consequences. Among the possible requirements are the following ideas, each briefly discussed here. Comments on these and other possible risk reduction methods are invited.

1. Classification for Restricted Use, thereby requiring use only by or under the direct supervision of certified applicators.

FIFRA requires that a pesticide be classified for restricted use if it is otherwise found to cause unreasonable adverse effects on the environment. Restricting use of alachlor to certified applicators should help reduce accidental or careless excess occupational exposure to alachlor. Such users might also be better able to make informed choices about personal risks.

2. Requiring that alachlor be marketed only for use in closed systems.

Currently, about half of alachlor is marketed in large, reusable drums or in bulk tanks for use with transfer probes and pumping systems for "closed" transfer into mixing and application equipment. These systems ordinarily prevent handling of open containers and should reduce exposure from that phase of use. Data on the exposure-reduction

effectiveness of closed systems do not show definitive benefits and the alachlor exposure study submitted to EPA fails to document any improvement in net exposure from "closed" systems under the conditions of that study. However, well-engineered and well-maintained closed transfer systems should theoretically provide real reductions in occupational exposure to alachlor.

3. Requiring that all alachlor be incorporated into the soil at application.

Under present registration terms, alachlor can be surface-applied or soil-incorporated and only about 25 percent is incorporated under present use practices. Soil incorporation should reduce the amount of alachlor available for runoff and could therefore, reduce levels of alachlor contamination of surface water bodies. However, soil incorporation should increase the amount of alachlor available to leach through soil to ground water. This option will be carefully evaluated in light of these trade-offs in environmental behavior of alachlor following different application techniques.

4. Limiting permissible application rates to 2 lbs./acre of active ingredient.

Under recently adopted requirements, alachlor registrations now permit use of up to 4 lbs./acre active ingredient on soybeans and up to 8 lbs./acre active ingredient on corn, with rates ranging to 5 lbs./acre for the various minor uses. Based on USDA surveys, the average rate of alachlor usage is 2.1 lbs./acre. By requiring that all use be limited to the 2 lbs./acre rate, EPA could obtain reductions in occupational exposure and run off volumes proportional to the reduced volume which might result. Monsanto has argued that heavy weed infestation or soil/organic matter conditions sometimes require higher application rates to achieve efficacy. Comment on this issue is invited, especially from users who apply alachlor at the higher rates.

5. Restricting registration to microencapsulated (ME) formulations.

Monsanto has asserted that the ME formulation reduces exposure of applicators to alachlor compared to other formulations at comparable rates of use. However, no supporting data have been supplied and no relative advantages or disadvantages of this formulation have yet been established.

6. Modifications and extensions of the requirements imposed in the alachlor Registration Standard.

In order to address alachlor's risks during the Special Review period, EPA required changes in the registration terms through the Registration Standard. The primary thrust of those

requirements is to improve the quality and quantity of information available to users about alachlor's hazards and about ways to minimize exposure during handling. The requirements are fully identified in the Alachlor Registration Standard and are fully discussed in the PD 1 issued in conjunction with this Notice. The label warnings on tumor effects and water contamination could be strengthened and amplified. The registrant training program for users could be altered in curriculum or approach. Instructions relating to equipment, handling and application could be amplified or made more mandatory. Experience with these restrictions will be evaluated by EPA to the extent practicable consistent with the time period over which the Special Review is conducted.

Finally, if EPA determines that the benefits of continued alachlor use outweigh the risks and, further, that measures to reduce risk result in offsetting reductions in benefits, then EPA likely will provide that alachlor registrations may continue in effect without further modifications in registration requirements.

V. Rebuttal Submission Procedures

All alachlor registrants and applicants for registration are being notified by certified mail of the Special Review being initiated on their products containing alachlor. The registrants and applicants for registration will have 45 days from the date this notice is received or until February 25, 1985 (whichever is later) to submit evidence in rebuttal to the Agency's presumption. Other interested parties may submit comments during the same period.

VI. Duty To Submit Information on Adverse Effects

Registrants are required by section 6(a)(2) of FIFRA to submit any additional information regarding unreasonable adverse effects on man or the environment which comes to their attention at any time. The registrant of alachlor products must immediately submit any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects associated with alachlor in animal species or humans, and claimed or verified accidents to humans, domestic animals, or wildlife which have not been previously submitted to EPA. These data should be submitted with a cover letter specifically identifying the information as being submitted under section 6(a)(2) of FIFRA. In light of this Special Review and the requirements of FIFRA section

6(a)(2), the registrants should notify EPA of any studies on alachlor currently in progress, their purpose, the protocol, the approximate completion date, a summary of all results observed to date, the name and address of the laboratory performing the studies, and a statement as to whether these studies are being conducted in accordance with the Good Laboratory Practices specified in 40 CFR Part 160 as published in the Federal Register (48 FR 53946). Specifically, information on any adverse toxicological effects of alachlor, its impurities, metabolites, and degradation products is solicited. Similarly, submission of any studies or comments on the benefits from the use of alachlor is requested. All comments and information and analyses which come to the attention of EPA may serve as a basis for final determination of regulatory action following the Special Review.

VII. Public Comment Opportunity

During the time allowed for submission of rebuttal evidence, specific comments are solicited on the presumptions set forth in this Notice and in the Guidance Document. In particular, any documented episodes of adverse effects on humans or domestic animals should be submitted to the Agency as soon as possible. Any information as to any laboratory studies in progress or completed should be submitted to the Agency as soon as possible with a statement as to whether those studies are in compliance with the Good Laboratory Practices specified in 48 FR 53946. Specifically, information on any adverse toxicological effects of alachlor, its impurities, metabolites, and degradation products is solicited. Similarly, submission of any studies or comments on the benefits from the use of alachlor is requested. All comments and information and analyses, which come to the attention of EPA, may serve as a basis for final determination of regulatory action following the Special Review.

All comments and information should be sent to the address given above, preferably in triplicate, to facilitate the work of EPA and others interested in inspecting them. The comments and information should bear the identifying notation OPP-30000/44.

During the comment period, interested members of the public or registrants may request a meeting to discuss the risk issues and methods of reducing risks. Prior to such meetings, the Agency will place an agenda and list of meeting participants in the public docket. Any member of the public interested in obtaining a copy of the agenda prior to

the meeting with the Agency to discuss issues in connection with this Special Review should notify the contact person listed in this Notice. Any records pertaining to such meetings, including minutes, agendas, and comments received will be filed under docket number OPP-30000/44.

Dated January 2, 1985.
Steven Schatzow,
Director, Pesticide Programs.
[FR Doc. 85-591 Filed 1-8-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30000/45; FRL-2752-7]

Dinocap; Special Review of Pesticide Products Containing Dinocap

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA is initiating a Special Review of all pesticide products containing the active ingredient dinocap. EPA has determined that dinocap is teratogenic in laboratory animals. Dinocap meets or exceeds the risk criteria as described in 40 CFR 162.11. The Agency has determined that handling or applying dinocap may pose significant risks to pregnant women causing teratogenic effects (birth defects) through dermal contact and inhalation of the chemical. Accordingly, a Special Review of products containing dinocap is appropriate to determine whether registration of these products should be permitted to continue and, if so, under what terms and conditions. During the Special Review process, EPA will carefully examine the risks and benefits of using dinocap products and will determine whether additional regulatory actions are required.

DATE: Comments, evidence to rebut the presumptions in this Notice, and other relevant information must be received 45 days from the date this Notice is received or until February 25, 1985.

ADDRESS: Written comments identified as "OPP-30000/45" should be sent by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment containing material claimed to be CBI must be submitted with the CBI portions deleted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Room 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703-557-7420).

SUPPLEMENTARY INFORMATION: The term "Special Review" is the name now being used by EPA for the process previously called the Rebuttable Presumption Against Registration (RPAR) process. Modifications in the process will be proposed in regulations in the near future. Until other applicable final regulations are adopted, the present Special Review will adhere to RPAR procedures now in effect and set forth in 40 CFR 162.11.

EPA has determined that a Special Review will be conducted for all pesticide products containing dinocap as an active ingredient. EPA has also determined that data necessary to refine the Agency's risk analysis for teratogenicity must be developed on an accelerated basis.

Issuance of this Notice means that potential hazards associated with the use of dinocap have been identified. These hazards will be examined further to determine the nature and extent of the risk, and considering the benefits of dinocap, whether such risks cause unreasonable adverse effects on the environment.

The Agency identified hazards through a review and evaluation of studies submitted to the Agency during the last year. These studies, consisting of three teratology studies conducted on rabbits, are discussed in detail in Unit LB of this Notice. These studies were submitted to the Agency by Rohm & Haas Company in response to Data-Call-In Notices sent by the Agency to the Company. These Notices, sent under authority of section 3(c)(2)(B) of FIFRA, required the company to conduct these studies to support the continued

registration of dinocap-containing pesticide products. As a result of the Agency's review and evaluation of these studies, the Agency has concluded that dinocap is teratogenic to exposed animals and may also be teratogenic to pregnant women exposed to the chemical.

I. Initiation of a Special Review

A. General

A pesticide product may only be sold or distributed in the United States if it is registered or exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. *et seq.*). Before a product can be registered, it must be shown that it can be used without "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide" (FIFRA section 2(bb)). The burden of proving that a pesticide meets this standard for registration is on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard for registration, then the Administrator may cancel the registration under section 8 of FIFRA.

The Agency has created an administrative process for fully evaluating whether a pesticide may no longer satisfy the statutory standard for registration. This Special Review process provides an informal procedure through which EPA may gather and evaluate information about the risks and benefits of a pesticide's use. It also provides a means by which interested members of the public may comment on and participate in EPA's decisionmaking process. The regulations governing this process are set forth in 40 CFR 162.11.

A Special Review is begun when EPA determines that a pesticide meets or exceeds one or more of the risk criteria set out in the regulations (40 CFR 162.11(a)(3)). The Agency generally announces the beginning of the Special Review by issuing a Position Document (PD) 1 which is published in the Federal Register. In addition, registrants of affected products will receive the PD 1 by certified mail. Registrants and other interested persons are invited to scrutinize the basis for the Agency's decision to initiate the Special Review and to submit data and information which rebut or support the Agency's determination of risk.

If EPA determines that the risks of use exceed the benefits, EPA will issue a notice of intent to cancel the registration

of products intended for such use. The notice may state the intention to cancel registrations outright or it may require certain changes in the composition, packaging, application methods and/or labeling of the product. These changes would be intended to reduce the risks to levels that when considered against the benefits will not pose unreasonable adverse effects on the environment.

A notice initiating a Special Review is not a notice of intent to cancel the registration of a pesticide, and a Special Review may or may not lead to cancellation. This notice initiating a Special Review for dinocap products is an announcement of EPA's concern about the safety of the pesticide's use, and only after carefully considering the risks and benefits of the pesticide and determining that the pesticide appears to cause unreasonable adverse effects on the environment, would EPA issue a notice of intent to cancel.

B. Presumption

EPA has determined that registered products and applications for registration of pesticide products containing dinocap meet or exceed the risk criteria in 40 CFR 162.11(a)(3)(ii)(B). That section provides that a Special Review shall be conducted if the use of a pesticide "produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety. . . ." On the basis of the scientific studies and other information reviewed by the Agency, EPA has concluded that this risk criterion has been exceeded by pesticide products containing dinocap. The following is a brief summary of the data upon which the Agency based its conclusions.

Two primary and one range-finding teratology studies involving dinocap were submitted to the Agency by Rohm & Haas. In the range-finding study 7 groups of 6 female New Zealand white rabbits were administered 0, 10.0, 31.0, 100.0, 215.0, 464.0, or 1000.0 mg/kg/day respectively of dinocap technical by gavage on days 7 through 19 on gestation. The study was designed primarily to provide information about maternal toxicity. Upon review of the results of this study the Agency concluded that the no observable effect level (NOEL) for maternal toxicity, measured by decreased body weight gain during the dosing period, appeared to be less than the lowest dose (10.0 mg/kg/day) tested.

The second Rohm & Haas dinocap study was a complete (primary) teratology study in which 5 groups of 18 female New Zealand rabbits were administered 0, 3.0, 12.0, 48.0, or 64.0 mg/kg/day technical dinocap by gavage on days 7 through 19 of gestation. The results indicated that the NOEL for maternal toxicity, measured by decreased maternal weight gain, was 12 mg/kg/day and the NOEL for teratogenic effects was less than 3 mg/kg/day, the lowest dose tested. The teratogenic effects observed in this study were primarily neural tube or skull malformations.

The third Rohm & Haas teratology study was undertaken for the purpose of establishing a NOEL for the teratogenic effects of dinocap. Because effects were observed at the lowest dose tested (3 mg/kg) in the study discussed above, the third study used (40, 48, 48, 24 dems per group, respectively) dose levels of 0, 0.1, 0.5 and 48 mg/kg/day for 4 groups exposed during days 7 to 20 of gestation. The number of pregnant animals at day 29 of gestation were 35, 40, 41 and 12 from the 0, 0.1, 0.5 and 48 mg/kg/day dose levels. Effects observed at the highest dose level include decreased weight gain, decreased implantation efficiency, decreased viability index, and increased resorptions. Effects were observed at the lowest doses tested; however, the significance of these effects is not clear. The single instance of hydrocephaly at 0.5 mg/kg and an accessory skull bone at 0.1 mg/kg/day prevented the Agency from concluding that either dose level was a NOEL; however it is possible that these effects were not compound related. These two findings appear to be within the reported historical control incidences. However, further definition of classification "accessory skull bone" is needed as well as information regarding the submitted historical control data, and regarding the grading of hydrocephaly prior to the determination of the significance of those malformations. The NOEL for teratogenicity is unclear.

Although it is not clear at this time whether a NOEL for teratogenic effects has been established by the third study, the Agency used a provisional NOEL of 0.5 mg/kg/day for purposes of performing risk estimates. If the Agency's analysis of the additional information regarding the third Rohm & Haas teratology study warrants changing this provisional NOEL, the risk assessments will be revised accordingly.

Mixer/loader, applicator, and dietary exposure assessments suggest that there is no margin of safety for mixer/loaders

and applicators but approximately an 800-fold margin of safety for dietary exposure assuming a NOEL of 0.5 mg/kg/day and 100 per cent dermal absorption for mixer/loader and applicator exposure. Thus, it is the exposure from handling and applying dinocap for agricultural and home garden uses that is of primary concern.

The mixer/loader and applicator assessments were conducted for major uses (apples, pears, grapes and cucurbits) with the common application methods (air blast and boom sprayers) and formulation types at the maximum application rates. The use of protective clothing was not assumed since most labels do not have this restriction. Also, 100 percent dermal absorption is assumed and exposure is represented by average values from surrogate exposure studies because of the lack of actual exposure data.

Daily exposure values varied considerably between mixer/loader and applicators and between uses. The lowest daily exposure (applications of sprays to apples and pears) approximates 8.5 mg/kg and the highest daily exposure (applications of sprays to grapes and cucurbits) is 2X greater.

The existing toxicology data base includes several types of studies. The positive rabbit teratogenic effect is the only recognized serious health effect; however most of the toxicology data base has not been reviewed. The rat teratology study has been reviewed. It is negative, but it is not scientifically adequate for use in regulatory decisions. Currently, dinocap is scheduled for reregistration in FY 86.

C. Risk Reduction Measures and On-Going Studies

The producer of dinocap, Rohm & Haas has agreed to undertake a number of studies and actions intended to help resolve questions about dinocap and reduce risks associated with the use of that product. The studies are scheduled to be completed by March 1, 1985 and the analysis of the results of these studies will be completed by the Agency by April 1, 1985. The studies which will be conducted by Rohm & Haas consist of the following:

Teratology study on rabbits using the dermal route of exposure.

Mixer, loader, applicator exposure study.

Dislodgeable residue study (how much residue a worker would be exposed to working around the sprayed crops).

Oral and dermal pharmaco-kinetic and metabolism study in female rabbits (how the pesticide compound is transported in the body).

A skin absorption/penetration study in the Rhesus monkey (to simulate human skin absorption rates).

In addition to conducting the foregoing studies, a number of other actions have been or will be taken by Rohm & Haas.

The manufacturer has voluntarily suspended the further marketing of their dinocap pesticide products in the United States until April 1, 1985.

The manufacturer has initiated an education program to inform its customers (other formulating companies), State and agricultural regulatory agencies, apple grower associations, and distributors of the company's decision and the reasons for the actions taken.

The manufacturer has cautioned its customers against using dinocap products already on the market for home/garden and greenhouse use until EPA completes its April 1, 1985, evaluation.

The manufacturer has offered to buy back all unformulated products for the home/garden and greenhouse market.

Rohm & Haas has also proposed to add a statement to their labels which would require that a mixer/loader wear a face shield or goggles, and that field workers wear protective clothing to enter treated fields while the spray is still wet.

The Agency believes that very little dinocap will be used prior to April 1, 1985. Normally, most of the use of dinocap occurs between early spring and late fall and is used in the production of apples. The only use (less than 1 percent) which may occur during this interim period, is for home garden, home lawn and/or greenhouse use sites. Customers of dinocap for these use sites have been warned by the manufacturer not to use the product until after the Agency concludes its April 1, 1985 evaluation. For these reasons, the Agency expects that there will be very little mixer/loader and field worker exposure prior to April 1, 1985. Thus, the Agency has concluded that the continued registration of products containing dinocap will not cause unreasonable adverse effects on the environment in this interim period.

D. Rebuttal Criteria

All registrants, applicators for registration and other interested members of the public are invited to submit evidence either to support or to rebut the presumption (as listed in Unit LB of this Notice) that dinocap poses a risk of teratogenic effects. Under 40 CFR 162.11(a)(4)(iii) the presumption initiating a Special Review must be rebutted by sustaining the burden of

proving, in the case of the chronic toxicity criterion, "that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

E. Benefits Information

Under section 3 of the FIFRA, the Agency's decisions on pesticide use must consider benefits as well as risks. Rohm & Haas, the sole U.S. producer of the active ingredient, annually produces less than 300,000 pounds of active ingredient. Most of this is used in the U.S. as exports and imports are negligible. This volume is considered a low production and use volume compared to other pesticides. Excluding Rohm & Haas there are about 40 other registrants/formulators with about 140 products that contain dinocap. Dinocap was first registered in the late 1950's and has been used both as a fungicide and to a lesser extent as a miticide.

Approximately 91 percent of dinocap is used on apples to control powdery mildew and to suppress mite populations. It may be applied from early spring to late summer, from the delayed dormant stage of the flower bud and petal stage of the tree's development until shoot growth is complete. It is applied to an estimated 20 percent of the U.S. apple acreage. For certain varieties of apples, it is used on as much as 80 percent of the crop. Approximately 60 percent of dinocap is used in the East and 31 percent in the North Central U.S. The remaining 9 percent of use is in the Eastern, Western, regions of Texas and across the U.S. for home gardens. Home garden use accounts for an estimated 0.7 percent of dinocap use. Use in California account for 2 to 3 percent of all dinocap use. Greenhouse use is negligible.

Benefits analysis indicates that dinocap may have important benefits in powdery mildew control programs for apples in the East and Northwest. Of the 13 registered fungicides for apple powdery mildew only dinocap is recommended in the East and Northwest for continuous use during the early cover spray periods. Other fungicides may have drawbacks such as phytotoxicity or resistance. Dinocap is also recommended to be alternated with benomyl for powdery mildew control on cucumbers and other cucurbits. Dinocap's miticide effects are consequential to its mildew control; it is rarely applied primarily as a miticide.

Other minor use sites include grapes, oranges, grapefruit, peaches, cherries, tomatoes, melons, cucurbits and floral crops. Home garden and home lawn sites account for less than one percent

of all dinocap use. Use for home lawns is limited to California. Greenhouse use is also negligible. Application is by air blast sprayers for orchard trees, boom sprayers for field crops, handheld backpack, hydraulic sprayers and pressurized cans for greenhouse, and home garden use.

The most viable alternatives to dinocap for use for apples are: calcium polysulfide, sulfur, triadimefon and triforine. For dinocap use on grapes the viable alternatives are: calcium polysulfide, folpet, sulfur and triadimefon.

In addition to submitting evidence to rebut the presumptions of risk in the Special Review, 40 CFR 182.11(a)(5)(iii) provides that a registrant or applicant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the presumption of risk is not rebutted the benefit evidence submitted by registrants, applicants, and other interested persons will be considered by the Administrator when determining the appropriate regulatory action.

Registrants, applicants, or other interested persons who desire to submit benefit information should consider submitting information on the following subjects along with any other relevant information they desire to submit:

1. The biological and economic importance of dinocap uses including market studies and estimated quantities applied for those uses.
2. The alternative chemical and nonchemical cultural methods of control for registered uses and application techniques.
3. Assessment of the expected changes in level of efficacy, yield, crop quality or crop injury effects associated with the use of alternatives.
4. The increased or reduced risks associated with the mixing, loading, application, and disposal of alternative chemicals, and other hazards associated with the potential increase in use if dinocap was not available.
5. The cultural practices, spray applications, pre and postharvest activities, or other factors that may have an effect on farmworker exposure to alternative chemicals. Information with regard to alternative cultural and integrated pest management (IPM) is particularly solicited.

II. Rebuttal Submission Procedures

All registrants and applicants for registration are being notified by certified mail of the initiation of the Special Review on their products containing dinocap.

The registrants and applicants for registration will have 45 days after the date this notice is received or until February 25, 1985 (whichever is later) to submit evidence in rebuttal to the Agency's presumption. Other interested parties may submit comments during the same period.

III. Duty To Submit Information on Adverse Effects

Registrants are required by section 6(a)(2) of FIFRA to submit to EPA any additional information regarding adverse effects on man or the environment which comes to their attention at any time. Registrants of dinocap products must immediately submit any published or unpublished information, studies, reports, analyses, or reanalyses regarding any dinocap effects in animal species or humans, and claimed or verified accidents involving humans, domestic animals, or wildlife which have not been previously submitted to EPA. These data should be submitted with a cover letter specifically identifying the information as being submitted under section 6(a)(2) of FIFRA. Registrants should notify EPA on any studies on dinocap currently in progress, their purpose, the protocol, the approximate completion date, a summary of all results observed to date, the name and address of the laboratory performing the studies, and a statement as to whether these studies are being conducted in accordance with the Good Laboratory Practices, as published in the *Federal Register* of November 29, 1983 (48 FR 53946).

IV. Public Comment Opportunity

During the time allowed for submission of rebuttal evidence, specific comments on the presumption set forth in this Notice are solicited from the public. In particular, any documented episodes of adverse effects on humans or domestic animals should be submitted to the Agency. Any information as to any laboratory studies in progress or completed should be submitted to the Agency with a statement as to whether those studies are in compliance with the Good Laboratory Practices specified in 48 FR 53946. Specifically, information on any adverse toxicological effects of dinocap, its impurities, metabolites, and degradation products is solicited. Similarly, submission of any studies or comments on the benefits from the use of dinocap is requested. All comments and information and analyses, which come to the attention of EPA, may serve as a basis for final determination of regulatory action following the Special Review.

All comments and information should be sent to the address given above, preferably in triplicate, to facilitate the work of EPA and others interested in inspecting them. The comments and information should bear the identifying notation OPP-30000/45.

During the comment period, interested members of the public or registrants may request a meeting to discuss the risk issues and methods of reducing risks. Any records pertaining to such meetings, including minutes, agendas, and comments received will be filed under docket number OPP-30000/45.

Dated: January 2, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-592 Filed 1-8-85; 8:45 am]

BILLING CODE 5560-50-M

[OPP-66106A; PH-FRL 2753-4]

Dibromochloropropane; Intent To Cancel Registrations of Pesticide Products Containing Dibromochloropropane (DBCP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel registrations of pesticide products containing DBCP.

SUMMARY: Products containing dibromochloropropane (DBCP) are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act. Registrations for uses of DBCP other than for soil fumigation in pineapple culture in Hawaii were previously cancelled. Only registrations of pesticide products containing DBCP that were labelled for use in fumigating pineapple fields in Hawaii were permitted to continue. Recent evidence indicates that past use of DBCP as a soil fumigant on pineapple fields has led to contamination of ground water used for drinking water, and that the properties of DBCP include its continued potential to leach to ground-water supplies in Hawaiian soils. EPA has determined that continued use of DBCP products in Hawaii would cause unreasonable adverse effects on the environment. EPA has also determined that continued use of DBCP would provide benefits to the growers of pineapples who currently use DBCP, but that those benefits are outweighed by the risks of use over any lengthy future period. This notice announces EPA's intent to cancel the remaining registrations for DBCP products. In this Notice, careful use of the remaining stock of DBCP in limited

geographic areas is permitted until December 31, 1986.

DATE: Requests for a hearing by a registrant must be received on or before February 8, 1985 or within 30 days from receipt by mail of this Notice, whichever occurs later. Requests for a hearing by any other adversely affected party must be received on or before February 8, 1985.

ADDRESS: Requests for a hearing must be submitted to:

Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

The administrative record for this action is available for public inspection at:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Betty Shackelford, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 717, CF#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7400).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. The Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), sections 3(a) and 12(a)(1). A pesticide registration is a license allowing a pesticide product to be sold and distributed for a specified use or uses in accordance with label instructions and precautions, and other terms and conditions of registration. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" [FIFRA section 3(c)(5)]. The term "unreasonable adverse effects" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of the pesticide" [FIFRA section 2(bb)]. This standard requires a finding that the benefits of the use of a pesticide product exceed the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or

in accordance with commonly recognized practice.

The burden of providing that a pesticide product satisfies the standard for registration is on the proponents of initial or continued registration. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide product or require modification of the terms and conditions of registration whenever he determines that the pesticide appears to cause unreasonable adverse effects on the environment. After issuance of a notice of intent to cancel the registration of a pesticide product, any person adversely affected by the action may request an administrative hearing to challenge the action pursuant to FIFRA section 6 (b) and (d).

B. Factual Background

Dibromochloropropane, frequently abbreviated DBCP, is the common name for the pesticide 1,2-dibromo-3-chloropropane, a soil fumigant used as a nematicide. The Agency has taken a series of regulatory actions since 1977 to reduce potential risks of this pesticide to humans and the environment.

On September 8, 1977, the Administrator issued a notice of intent to suspend pesticide registration of DBCP for certain uses based upon the determination that it poses an "imminent hazard" to public health, which was published in the *Federal Register* of September 26, 1977 (42 FR 48915). That action was based on information showing that male plant workers, exposed to DBCP, had experienced low and zero sperm counts, on animal test data indicating DBCP was carcinogen in laboratory animals, and on laboratory studies demonstrating DBCP caused heritable genetic damage.

On September 15, 1977, the Agency's Office of Pesticide Programs issued a notice of rebuttable presumption against registration (RPAR) in order to gather and study more information about DBCP, which was published in the *Federal Register* of September 22, 1977 (42 FR 48028).

Because of the notice of intent to suspend was not contested, on October 27, 1977, registrations for use of DBCP on 19 food crops were suspended, and protective measures to reduce risks to applicators were required to be implemented for all remaining uses. Notice of this action was published in the *Federal Register* of November 3, 1977 (42 FR 57543). As required by section 6(c)(1) of FIFRA, a notice of intent to cancel the registration for the 9 food crop uses and to require changes to the terms and conditions of use for the remaining uses of DBCP was

simultaneously issued in the *Federal Register* on November 3, 1977 (42 FR 57545).

Subsequently, the Administrator amended his notice of intent to cancel to expand the number of crops for which registrations were to be cancelled to 23 and to impose further use restrictions and label precautions to protect applicators; notice of the action was published in the *Federal Register* of September 13, 1978 (43 FR 40911). In response to requests for a hearing by a coalition of farmworkers, migrant farmworker organizations and public interest groups, the Administrator also announced his intent to hold hearings to determine whether DBCP registrations for certain other uses should be cancelled; notice of this action was published in the *Federal Register* of March 2, 1979 (44 FR 11822).

Subsequent to the cancellation notice, however, new information was received by the Agency indicating contamination of ground-water supplies by DBCP in several areas, residues in additional crops and in air at sites outside the application area. The Administrator then issued a notice of intent to suspend all registrations of DBCP on July 18, 1979; notice of the action was published in the *Federal Register* of July 24, 1979 (44 FR 43335).

The suspension action was contested and a full administrative suspension proceeding was conducted. After the suspension hearings were completed, Administrative Law Judge Gerald Harwood issued a recommended decision that registrations for all uses be suspended. In the *Federal Register* of October 29, 1979 (44 FR 65161) the EPA Administrator issued a final decision to suspend registrations of DBCP for all uses except for use on pineapple fields in Hawaii.

Use of DBCP in fumigation of pineapple fields was not suspended because the Administrator concluded that DBCP residues were not likely to appear in the fruit, that the few workers potentially exposed would not be exposed to levels greater than one part per billion DBCP as an 8-hour average (the Occupational Safety and Health Administration's workplace standard), and that hydrologic and geologic considerations unique to Hawaii warranted resolving any uncertainties about ground-water contamination during continued registration on an interim basis.

On October 29, 1979, the Administrator also issued a notice of intent to cancel all uses of DBCP not previously cancelled, including use on pineapple fields in Hawaii. He

concluded that use of DBCP in accordance with current terms and conditions of registration and widespread and commonly recognized practice appeared generally to cause unreasonable adverse effects on the environment and that the labeling of DBCP products does not comply with the Provisions of FIFRA; notice of this action appeared in the *Federal Register* of November 9, 1979 (44 FR 65170).

On March 5, 1981, the Administrator withdrew the notice of intent to cancel registrations for use on pineapple fields in Hawaii; notice of this action was published in the *Federal Register* of March 31, 1981 (46 FR 19592). This action was based on several factors. First, registrants had submitted requests to amend their product labeling to provide further reductions in potential exposure to workers. Further, additional information was provided to the Agency concerning drinking water contamination by DBCP, examination of pineapples for DBCP residues and air levels of DBCP following application. Finally, registrants agreed to meet additional data requirements concerning ground-water monitoring and food residue studies, which had been imposed by the Agency. Based on these factors, the Administrator concluded that exposure to DBCP resulting from use on Hawaiian pineapple fields could be reduced to extremely low levels. Accordingly, this use of DBCP in fumigating pineapples in Hawaii was allowed to continue, subject to amended terms and conditions for registration of pesticide products which were implemented in part to limit worker exposure. Notice of this action was published in the *Federal Register* of March 31, 1981 (46 FR 19597).

At the same time the Agency withdrew the notice of intent to cancel registrations of DBCP for use in Hawaiian pineapple production, the Administrator accepted requests from registrants for voluntary cancellation of all other registered uses of DBCP, as published in the *Federal Register* of March 31, 1981 (46 FR 19596). In that notice, the Administrator amended terms and conditions for registration of pesticide products for use on pineapple field in Hawaii (46 FR 19597).

Although the use of DBCP for Hawaiian pineapples has been allowed to continue under stringent conditions, the Agency has remained concerned about any exposure to the chemical. In the period since the close the cancellation hearing, the Agency has obtained significant new information about the nature and extent of ground-water contamination by DBCP in

Hawaii. This information has changed the Agency's assessment of the risk-benefit balance for the continued use of DBCP in Hawaii.

Accordingly, EPA issued a proposed notice of intent to cancel registrations of pesticide products containing DBCP for use in soil fumigation of pineapples in Hawaii. That proposed cancellation notice was submitted to the Secretary of Agriculture and the Scientific Advisory Panel (SAP) pursuant to FIFRA sections 6(b) and 25(d). Notice of its availability was published in the *Federal Register* of January 12, 1984 (49 FR 1556).

C. Content of This Notice

This notice announces the Agency's intent to cancel the registrations of pesticide products containing DBCP for use as a soil fumigant on pineapple fields and provides notice of the availability of scientific studies supporting this decision. The Agency has determined that no remedial changes can be made in the registration of DBCP for this use to avoid unreasonable adverse effects on the environment; the Agency, therefore, has determined that registrations for this use should be cancelled. Unit I of this notice presents the Agency's determinations on the health risks and economic benefits of this use of DBCP. Details of the Agency's decision are set forth in Unit III of this notice, which includes provisions for use of existing stocks and disposal requirements. Unit IV contains the comments received by EPA from the U.S. Department of Agriculture and the Scientific Advisory Panel following their review of the proposed notice of intent to cancel. It also includes the Agency's response to these comments.

Unit V sets out the procedures by which a registrant or other person adversely affected by this notice may request a hearing to challenge the determinations set forth in this notice and to avoid automatic cancellation at the end of 30 days from publication of this Notice, or from receipt of this Notice by the registrant, whichever is later.

II. Determination on Risks and Benefits of the Pesticidal Uses of DBCP

In reaching the decisions set forth in this Notice, the Agency has considered information on health risk, environmental effects and the economic and social benefits associated with the pesticidal use of DBCP. This unit summarizes the Agency's bases for its decision to cancel the registrations of pesticide products containing DBCP.

A. Use of DBCP as a Pesticide

Approximately 130,000 pounds active ingredient of DBCP are used as a pesticide in the U.S. annually. All of this active ingredient currently is used as a pre-plant soil fumigant in Hawaiian pineapple production on the island of Maui. DBCP is applied before planting in combination with Telone II® and is chisel infected directly into the pineapple beds to control nematodes which can seriously damage the pineapple plants. The beds are then covered with a black plastic mulch and pineapple crowns are planted through the mulch.

B. Determination on Risk

Based upon the evidence of record in the suspension proceeding, the Administrator concluded that DBCP causes cancer in laboratory animals and must be regarded as posing risks of cancer to humans; that DBCP is a testicular toxin in humans which is capable of affecting testicular function and interfering with spermatogenesis; and that DBCP is an animal and human mutagen which causes mutations both in somatic (body) and gametic (germinal) cells—the latter of which can result in the transmission of heritable effects to future generations. Those findings were published in the *Federal Register* of November 9, 1979 (44 FR 65170).

He also concluded that human exposure to DBCP would be of concern if it occurred as a result of consumption of drinking water contaminated with DBCP; consumption of residues of DBCP in pineapples grown in soil treated with DBCP; inhalation of ambient air levels of DBCP in or around treated fields; and dermal contact with DBCP either during application and related procedures, or from residues in soil or on bark and foliage.

As discussed in Unit I.B. of this Notice, the Administrator later decided to withdraw the notice of intent to cancel registration of DBCP for use in fumigating pineapple fields. In reaching this decision, the Administrator concluded that the evidence of potential contamination of ground water in Hawaii was not adequate, there was no defensible evidence of DBCP residues occurring in pineapples grown in fumigated soils, and that exposures to fumigation applicators could be maintained at adequately low levels; notice of this action was published in the *Federal Register* of March 31, 1981 (46 FR 19593). However, new information has been obtained by the Agency which alters its conclusions about the risks with respect to DBCP

contamination of ground water in Hawaii. This potential exposure route and the other routes of exposure are addressed below.

1. *Ground Water Contamination.* The EPA decision to withdraw the cancellation of DBCP registrations for use in Hawaii on pineapple fields was based in part on the fact that widespread monitoring of drinking water supplies demonstrated that there were only a very few positive findings in drinking water and only at very low levels, as discussed in the Federal Register of March 31, 1981 (46 FR 19593). An extensive discussion of these findings and the hydrologic and soil properties in Hawaii are contained in that notice of withdrawal.

In March 1981, the available monitoring data did not indicate that DBCP contamination of drinking water in Hawaii could present a significant risk to public health.

However, knowledge of hydrologic and soil properties in Hawaii did not provide definitive information indicating that contamination of drinking water sources with DBCP could not occur.

To resolve the uncertainties and lack of data, the Agency undertook work with the State of Hawaii to carry out an extensive monitoring program. The Agency also requested that leaching studies be conducted to further the understanding of the movement and persistence of DBCP in Hawaiian soils. The program included extensive, periodic sampling at several sites through out the Hawaiian islands, as well as intensive soil monitoring at one specific site.

New information now available to the Agency indicates that DBCP leaches through various types of soil, including Hawaiian soils. DBCP is also known to be persistent in both soil and water. These factors strongly suggest the potential to contaminate ground water in Hawaii. This potential is now borne out by recent monitoring data.

The ground-water monitoring conducted over the last 2 years has provided new evidence which prompts more serious concern for contamination of ground-water supplies. These findings include detectable levels of DBCP in ground water at seven new sites. Levels have ranged from 20 parts per trillion (ppt) to as high as 2700 ppt in a seepage site at Maliko Gulch, Hawaii. However, most of the samples showed contamination in the range of 50 to 500 ppt. Sites which have been identified as contaminated include wells and shafts which tap the basal aquifers in Oahu and Maui. Contamination of these basal aquifers is of particular concern because such aquifers provide the principal

source of fresh water in the State of Hawaii. Some of the wells, shafts, tunnels or springs which have been found to be contaminated during the last two years have been used for drinking water supplies. The Agency has been unable to quantify the levels of risk of adverse reproductive effects and heritable mutagenic damage because no-observed-effect-levels (NOEL) were not seen for these effects in animal studies. However, the Agency has developed quantitative estimates of the risks of cancer from consuming drinking water contaminated by DBCP. The EPA's Carcinogen Assessment Group (CAG) has estimated the excess lifetime cancer risk rates for different DBCP exposures. For the typical contamination levels cited above, 50 ppt to 500 ppt, the Agency has determined that the upper bound estimates of excess cancer risks are in the range of 9×10^{-6} (or 9 excess cancers per 1,000,000 exposed persons) to 9×10^{-5} (or 9 excess cancers per 100,000 exposed persons), respectively, for a lifetime consumption. These risk estimates assume 70 years of drinking 2 liters of contaminated water per day by a 60-kilogram adult. Because of the location and geography of the State, ground-water supplies in Hawaii are particularly vital and the potential disruptions to life in the State resulting from any significant contamination of drinking water could be severe.

2. *Food Residues.* The Administrator's 1979 decision suspending all uses of DBCP, except the use on pineapple fields, noted that this particular use is not likely to result in DBCP residues in the fruit, as discussed in the Federal Register of November 9, 1979 (44 FR 65165). Additional data presented to the Agency since the suspension proceeding showed no detectable DBCP residues in a variety of samples taken by Del Monte Corporation and by FDA as described in detail in the Federal Register of March 31, 1981 (46 FR 19594). The Agency has no evidence at this time to indicate that the public is likely to be exposed to any unreasonable risk from residues in pineapples grown in fumigated soils.

3. *Handling and Application.* In his decision not to suspend the pineapple use, the Administrator found that only a small number of workers were involved and that they were unlikely to be exposed to more than the 1 part per billion (ppb) (8 hour time weighted average) DBCP standard set by the Occupational Safety and Health Administration (OSHA); that finding was published in the Federal Register of November 9, 1979 (44 FR 65165). Since the suspension decision, the Pineapple Growers Association of Hawaii submitted additional data which tended

to confirm the technological feasibility of achieving the 1 ppb standard during application of DBCP as discussed in the Federal Register of March 31, 1981 (46 FR 19595). However, the available data were limited in scope. Further, no data were available on potential exposures during transfer and loading, during equipment repair, or for the full range of dosage rates and application methods.

The amended registrations for DBCP use in pineapple production required periodic monitoring to assure that the 1 ppb DBCP average for 8 hours is being maintained. In addition, the amended labeling required closed loading, transfer and application systems; protective clothing during loading, transfer or repairs; and special equipment design and testing. Extensive training and medical monitoring of all workers is required.

A pilot study conducted by the University of Hawaii in 1980 examined sperm counts and related parameters in pineapple workers and certain residents on Molokai. The Agency's statistical analysis showed no statistically significant differences in sperm counts between workers and residents. However, the unusually low sperm counts in the 13 pineapple field workers raised questions about whether the OSHA workplace standard can be maintained and/or whether adverse effects can occur below the OSHA standard.

To explore these questions further, in January 1981, the National Institute for Occupational Safety and Health (NIOSH) initiated a comprehensive study of men working in pineapple culture who are potentially exposed to DBCP. NIOSH and the Hawaii Pesticide Hazard Assessment Project of the Pacific Biomedical Research Center (PBRC), University of Hawaii, worked jointly on the investigation which was conducted on two pineapple plantations on Maui, Hawaii. Sampling of air concentration around workers was conducted during February 25 to March 6, 1981, and July 14 through 24, 1981. Medical evaluations of study participants were conducted before field preparation had begun in February-March of 1981, at mid-season in July, and after preparation had been ended in October. Of the 114 men who were examined and interviewed, 74 were from potentially exposed job categories and 40 were from non-exposed categories. Fifty-six exposed and 19 non-exposed workers contributed semen samples in the pre-, mid- and post-season sampling.

In February 1982, an interim report from NIOSH to the Agency provided the

results of the environmental monitoring and sperm count analysis. Exposures to DBCP were low, ranging from 20 parts per billion to none detected. Analyses of the sperm count data revealed no significant differences among exposure groups. The interim report indicated that the detailed work records of time spent in DBCP-exposed fields or other job categories would be evaluated before the investigation could be completed. The report also noted, however, that the information should not substantially change from the interim findings.

The Maui Pineapple Company, the only current user of DBCP, has implemented all the requirements for worker protection and continues to approach worker protection from DBCP in a careful and responsible manner. Based upon the available evidence, the Agency has concluded that exposures to DBCP through handling or application are likely to be extremely low and are not likely to present an unreasonable risk to workers.

C. Determination on Benefits

DBCP is applied as a pre-plant soil fumigant in combination with Telone II* on Hawaiian pineapple acreage for control of the root-knot nematode, *Meloidogyne javanica* (Treub), and reniform nematode, *Rotylenchulus reniformis* (Linford). Currently, the Maui Pineapple Company is the only U.S. pineapple producer using DBCP. Maui Pineapple Company grows approximately 8,000 acres of pineapple on two plantations on the island of Maui.

Generally, the acreage is treated with DBCP and Telone II* combination at planting. Pineapples are a perennial crop, and DBCP is only applied pre-plant. Approximately 1,900 of the 8,000 pineapple acres are treated annually with 130,000 pounds of DBCP active ingredient. Pre-plant application of DBCP to a field provides nematode control over the multi-year production cycle. The adequacy of nematode control can be a decisive factor in whether two or three harvests can be made from a field prior to replanting of the field for a new production cycle.

If DBCP were unavailable for use on Hawaiian pineapple, Maui Pineapple Company would be expected to incur long-run average annual adverse economic impacts ranging from approximately \$3.3 million to \$5.5 million. Because pineapples are a perennial crop and DBCP is applied pre-plant once per 4 to 5 year production cycle, the full extent of economic impacts will not be realized until approximately 5 years after withdrawal of DBCP from the market.

The magnitude of the adverse economic impacts within the estimated range is dependent on the extent of the efficacy of Nematicur*, a post-plant nematicide recently registered for use on pineapples. If found sufficiently efficacious, Nematicur* would be applied post-plant through drip irrigation systems to supplement the nematode control obtained with pre-plant applications of Telone II*. The withdrawal of DBCP from the market will not increase the volume of Telone II* applied above the current levels because Telone II* is used in combination with DBCP, and is being used at the registered limits of application.

The oligopolistic nature of the pineapple industry combined with the involvement of the companies in most aspects of the pineapple industry, ranging from cultivation to marketing, complicates quantitation of the impact of a DBCP withdrawal. However, if Nematicur* is found to perform inadequately, significant losses in pineapple production would be expected to raise pineapple product prices at the consumer level, unless supplies from other locations become available. Imported pineapples, from North Central Latin America, may provide supply increases sufficient to offset the price effects of reduced production on Maui.

More detailed information on the economic impacts resulting from cancellation of the DBCP pineapple registration can be found in the Agency's "Benefit Analysis of DBCP Use on Pineapples" prepared in support of this regulatory action.

D. Determination of Unreasonable Adverse Effects

EPA has analyzed the relative risks and benefits of the continued use of DBCP in Hawaii pineapple production as a soil fumigant and has determined that such use will cause unreasonable adverse effects on the environment. As summarized above, the continued use of DBCP as a soil fumigant poses risks of adverse reproductive effects, heritable mutagenic damage, and cancer from consumption of contaminated drinking water. Possible long-term contamination of drinking water could affect a large number of people in the Hawaiian Islands if use were to occur in much of the current land used in pineapple culture. Although the economic benefits from this use in Hawaii are substantial, the long-term risks of human exposure through ground-water contamination outweigh these benefits. The Agency finds that this use pattern can cause unreasonable adverse effects on the environment. Moreover, the continued

use of existing stocks under the restrictive terms of this Notice, as described in Unit III, will protect users from immediate loss of all benefits of use of DBCP, while likely avoiding any continuing risk of drinking water contamination.

Continued use through 1986, under the existing stocks provisions, therefore will not result in unreasonable adverse effects on the environment. Accordingly, EPA intends to cancel remaining registrations of DBCP products for use in fumigating pineapple fields in Hawaii, while permitting continued use in accordance with the existing stocks provision.

III. Regulatory Action

Based upon the assessments summarized above, the Agency has determined that the use of DBCP in the production of pineapple poses risks greater than the social, economic, and environmental benefits of that use. Therefore, the Agency has decided to cancel registrations of DBCP-containing products for use as a soil fumigant on pineapples in Hawaii. This Unit of the notice announces EPA's intent to cancel this use of DBCP and establishes procedures to be followed in the use or disposal of existing stocks of pesticide products containing DBCP. It also describes the procedures by which registrants and other adversely affected persons can request a hearing to challenge the cancellation action.

A. Notice of Intent To Cancel

All registrations for pesticide products containing DBCP are cancelled, effective at the end of the 30-day period following receipt of this notice by the affected registrants or its publication in the *Federal Register*, whichever occurs later.

B. Existing Stocks and Disposal Provisions

A pesticide product whose registration is cancelled is no longer registered. FIFRA prohibits any person from distributing, selling, offering for sale, holding for sale, shipping, delivering for shipment, or receiving (and having so received) delivering or offering to deliver, to any person any pesticide which is not registered.

However, section 12(a)(1) of FIFRA permits existing stocks of a cancelled pesticide to be sold, distributed, and used in accordance with terms and conditions established by the Administrator pursuant to FIFRA section 6(a)(1). This unit of the notice establishes the terms and conditions governing sale, distribution and use of

existing stocks of DBCP labeled for soil fumigant use on pineapples.

1. Existing stocks are defined as any pesticide product containing DBCP as an active ingredient whose registration is cancelled by this Notice, and which is present within the territorial United States on the date of publication of this notice in the Federal Register.

2. Within 30 days from receipt of this notice, any person holding existing stocks of DBCP, as defined in Unit III.B.1 above, must provide EPA with a written request in order to qualify for the provisions for existing stocks provided by this notice, and must provide the Agency with an itemized inventory of those stocks. Requests for an existing stocks provision should be submitted to the Agency at the address previously provided in this notice.

If a person holding DBCP stocks does not submit the required request and inventory information, any existing stocks of the cancelled pesticide in the possession of such person must be disposed of in accordance with the requirements of Unit III.B.8 below, within 120 days of publication of this notice.

3. Existing stocks may be used only to the extent permitted in Unit III.B. 4, 5, and 6.

4. Existing stocks of DBCP may be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, received, or (having been so received) delivered or offered for delivery to any other person for use in the territorial United States only if use will be, (a) in compliance with the provisions of Unit III.B. 5 and 6, below; (b) for disposal in compliance with the provisions of Unit III.B.8, below or in a manner which would not violate FIFRA section 12 if the product were still registered.

5. Existing stocks of DBCP may be used only in accordance with all of the following limitations and conditions:

a. Existing stocks of DBCP may be used only as a pre-plant soil fumigant in pineapple fields on the island of Maui in the State of Hawaii.

b. These existing stocks may be used on Maui only until January 1, 1987, in accordance with the terms and conditions established by unanimous agreement of the panel to be established pursuant to this notice hereafter referred to as the "DBCP Use Panel". The panel shall consist of voting representation from EPA and from the State of Hawaii except that the State of Hawaii is not required to participate and may request that EPA make the determination. EPA will provide the appropriate technical staff and the U.S. Geological Survey (USGS) also will be asked to provide technical assistance.

Persons wishing to use stocks which have been qualified for the existing stocks provision as defined in Unit III.B.2 may apply for determination by the DBCP Use Panel to identify those fields on the island of Maui where existing stocks may be used by submitting such requests to Betty Shackelford at the address previously indicated in this notice. Determination for use of existing stocks of DBCP may be requested for one or more fields. Applicants requesting determinations by the panel should identify all fields and times for DBCP treatment in a single request for determination by the panel. Any subsequent request for determination by the same applicant must show good cause for not having included those requests with the initial request for determination. Minor modifications to a determination previously made by the panel may be permitted by EPA on an individual basis without reconvening the Use Panel if it is determined that such modifications are within the scope of the initial determination.

The DBCP Use Panel will consider determination requests in accordance with the guidelines described below.

(1) As soon as possible after receipt of any request for approval to use existing stocks, the panel will convene a public information-gathering meeting in the State of Hawaii or at a site to be designated after public notice of at least 15 days. The notice will describe any requests for determination to permit use of DBCP which have been received by the Agency. Copies of the requests will be made available before the meeting upon request. Members of the interested public will be invited to present written and oral commentary on the requested DBCP usage. The panel may request other public presentations or schedule other public meetings if it deems they are necessary.

(2) The panel may request any reasonable documentation or supplementary presentations of information from the person(s) requesting a determination permitting use of existing stocks of DBCP.

(3) The panel shall consult with the USGS, to the extent practicable, and may consult with any other public or private experts.

(4) The panel shall base its determination to permit use of DBCP existing stocks upon a finding that such use "will not be likely to result in contamination of potable water supplies with currently detectable levels of DBCP." In making its decisions, the DBCP Use Panel shall consider whether the particular field is upgrade of a potable water supply, whether a cone of

depression induced by pumping potable water supplies may intersect the leachate from the particular pineapple field, and such other factors as the panel may deem appropriate. An aquifer or a portion of an aquifer will not be considered potable if its quality (as determined by relevant factors including salt water intrusion, nitrate levels, total dissolved solid levels, and bacteria levels) would render the aquifer unsuitable for use as a drinking water supply. Present and future uses of the water will be considered.

(5) The panel may approve use of existing stocks for any qualified field or fields and for any period of one or two years, but in no event shall approval be granted for any use after December 31, 1986. To the extent possible, the panel should reach a determination on every request for DBCP use presented. The panel may impose other conditions on use consistent with this Notice and the responsibilities designated for the panel under this Notice. Approval of use must be by both voting representatives, unless Hawaii requests that the decision be made by the EPA representative alone. Approval may be conditioned on a requirement for monitoring of soil and/or ground water in or around fields treated with DBCP. The panel's determinations and a short statement of the reasons for the decision will be published in the Federal Register.

(6) All requests for determination, submissions to the use panel, determinations by the panel, comments or other materials related to panel determinations will be placed in docket OPP-66106A and will be available to the public for inspection.

c. No use of DBCP as a pre-plant soil fumigant in pineapple fields will be permitted after December 31, 1986.

6. Except as set forth in Unit III.B.5, use of existing stocks of DBCP shall be in accordance with the terms and conditions of its labeling and the requirements of the March 5, 1981, amendment to registrations of DBCP for use of pineapple fields.

7. After December 31, 1986, existing stocks of DBCP pesticide products may not be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, or received for delivery. Any stocks of pesticide products containing DBCP after December 31, 1986, shall be disposed of in compliance with the requirements of Unit III.B.8.

8. Existing stocks of pesticide products containing DBCP must be disposed of in the manner prescribed by regulation pursuant to the Resource Conservation and Recovery Act.

C. Pending Tolerance Revocation

EPA shortly will propose regulations to implement appropriate tolerance revocation and/or modification actions which reflect the changed registration status of the various DBCP uses.

IV. Comments of the United States Department of Agriculture and the Scientific Advisory Panel

A. Comments of the United States Department of Agriculture

The proposed Notice of Intent to Cancel Registration of DBCP Products for pineapple use was transmitted to the Secretary of Agriculture on January 6, 1984, as required by sec. 6(b) of FIFRA. In response, EPA received a letter dated March 15, 1984, and signed by Charles L. Smith, Coordinator, Pesticides and Pesticide Assessment. The text of the letter is as follows:

This is in response to your letter of January 6 to Secretary Block regarding dibromochloropropane (DBCP). The Department interposes no objection to the draft notice concerning DBCP forwarded with your letter. We understand that negotiations between EPA and officials on the Island of Maui are taking place and we would encourage the continuation of those talks to a mutually acceptable resolution.

The comments of USDA do not require any response. The support of USDA is helpful in reaching the decision to issue the cancellation notice. The DBCP use panel will be engaging in the discussions with Maui officials and others which appear to be contemplated by the USDA letter.

B. Comments of the Scientific Advisory Panel

The Scientific Advisory Panel (SAP) replied to the Agency's request for comment as to the impact on health and the environment of the action proposed pursuant to FIFRA section 25(d). The Agency received a letter dated March 4, 1984, and signed by Robert E. Menzer, Chairman, FIFRA Scientific Advisory Panel. The complete text of the SAP reply is as follows:

As you requested, the Scientific Advisory Panel has reviewed the Agency's final notice of intent to cancel use of dibromochloropropane in Hawaii. Each member of the Panel reviewed the materials supplied by the Agency and either sent me written comments or provided comments by telephone. The following is a synopsis of the Panel's views as individuals. I should emphasize that there was no Panel meeting nor did any individual discuss with other individuals other than myself the content of the proposed notice.

As you know, the proposed notice reverses the former action of the Agency taken on March 5, 1981, which withdrew an intent to

cancel registrations of DBCP for use on pineapples in Hawaii. The present notice indicates that new information is now available to the Agency which shows that DBCP leaches through various types of soil, including Hawaii soils. Since DBCP is known to be persistent in both soil and water, these factors strongly suggest the potential to contaminate water in Hawaii. The Agency indicates that this potential is now borne out by recent monitoring data. The Agency's position appears to be that ground-water monitoring conducted over the last 2 years has provided new evidence which prompts a serious concern for contamination of ground-water supplies.

Speaking to this point in its 191 notice, the Agency indicated that "Application of DBCP to pineapples in Hawaii in accordance with the amended terms of registration does not appear likely to result in significant exposure potential from contaminated drinking water, contaminated food or feed or occupational sources." The Agency has supplied members of the Panel with information indicating several reports of findings of DBCP in drinking water supplies in Hawaii. The data received by the Panel include one report on recent ground water monitoring, a memorandum from Stuart Z. Cohen dated December 21, 1983 with an attached two-page table. The table reports results of analyses of 27 water samples obtained from 11 different water sources. Of the 27 analyses, 15 are old, i.e., the data were obtained in 1980 and presumably were available and considered in the Agency's 1981 decision to allow continued use of DBCP on pineapples. The remaining 12 samples were analyzed between 1981 and 1983. In most cases where water from the same source was analyzed several times between 1980 and 1983, DBCP residues appeared to decline with time. More recently analyzed samples generally contained lower DBCP residues than earlier samples or no detectable amounts. Furthermore, the highest residues were found in seepage water samples, not in samples from sources whose water might be used or consumed by humans. Thus, the Panel feels that the ground-water residue data made available to it by the Agency do not show alarming new findings or significantly higher risks to public health than previously believed on the basis of ground water contamination.

The other two areas of concern to the Agency, namely, food residues and worker exposure, are essentially unchanged from the 1981 withdrawal notice. No additional data have been provided in either case.

The Panel does not disagree with EPA's desire to discontinue to remaining pesticidal uses of DBCP. However, based on the data made available to the Panel it is difficult to support EPA's contention that the health risks associated with the use of DBCP on pineapples in Hawaii under the stringent restrictions imposed in 1981 have greatly increased between 1981 and the present. If the proposed notice of intent to cancel is based on additional data not supplied to the Panel which would support the notice, then the Panel would like to review that data. In the present instance, with the lack of any additional data beyond the few new water

monitoring reports it is difficult to see how the situation has changed between 1981 and the present. The Panel supports the cancellation of DBCP on pineapples in Hawaii but does so on the basis of the proven high toxicity of the compound.

Unanswered issues not dealt with in the Agency's notice involve what alternative nematicides will be used instead of DBCP and how they compare to DBCP regarding ground water contamination and soil residues, residues in pineapple, and worker safety. Will the use of alternative nematicides also be subject to stringent supervision and ongoing monitoring programs of ground water and treated produce as were established for DBCP? If not, will the overall public health and safety be improved by cancellation of DBCP?

The SAP has supported the Agency's determinations that the risks of DBCP justify cancellation, placing specific emphasis on the proven high toxicity of the compound. The SAP correctly noted that the specific ground-water monitoring data supplied to the panel with the proposed cancellation notice were primarily the data available before the Administrator's determination to withdraw the earlier cancellation notice for the pineapple use of DBCP. Other, more recent data were not supplied prior to the response of the SAP to the proposed Notice. Given the overall conclusions of the SAP to the proposal, EPA has decided not to request additional consideration of DBCP by the panel.

The SAP also raises questions about the alternatives to DBCP. As noted in the Agency's determination on benefits (Unit 2.B.), the nematicides Telone II[®] and Nemacur[®] are the likely choices for nematode control if DBCP is not available. The use of Telone II[®] is not expected to increase, but Nemacur[®] use could be expanded if the pesticide proves sufficiently effective in pineapple culture. The Agency has evaluated the available studies of the acute and chronic toxicity in other contexts and has generally concluded that Nemacur[®] is acutely toxic and has been classified for "restricted use" by certified applicators. This action was taken because the available data places Nemacur[®] in EPA Toxicity Category I by the dermal exposure route, and in Toxicity Category II for the inhalation exposure route.

The available toxicological data on Nemacur[®] are a 2-year dog feeding study with a no-observed effect level (NOEL) of 0.025 mg/kg/day (1.0 ppm); an 18-month mouse oncogenicity study with a NOEL of 7.5 mg/kg/day (50 ppm) and no observed oncogenic effects at all levels tested (2, 10, and 50 ppm); a 2-year rat feeding study with a NOEL for

ChE inhibition of 9.15 mg/kg/day (3 ppm); a 3-generation rat reproduction study with a NOEL of 1.5 mg/kg/day (30 ppm); and teratology studies using rats and rabbits with NOEL's of 0.5 mg/kg and 0.4 mg/kg, respectively. An oncogenicity study in a second species (rat) is currently being conducted and is expected to be completed in 1986. Mutagenicity studies required by 40 CFR 158.135 are incomplete for Nemacur®.

The potential for leaching into ground water by Nemacur® has not been fully assessed. However, Nemacur® has been recommended for inclusion into a ground-water monitoring program spearheaded by the Office of Pesticide Programs and the Office of Drinking Water, EPA. A final list of analyses for the survey has not yet been determined. Nemacur® is in a group which has received second priority. Moreover, environmental fate data will be required for Nemacur® as a part of the Agency's ongoing Data Call-In program. The purpose of this effort is to allow the early evaluation of the potential for ground-water contamination.

C. Other Comments

In addition, EPA has received letters from the USGS and from the Natural Resources Defense Counsel (NRDC) addressing matters relating to the Agency's January 12, 1984 proposed Notice of Intent to Cancel DBCP. The USGS explained that formal voting membership in a panel empowered to approve use of existing DBCP stocks might be inconsistent with their advisory scientific mission. USGS offered continued assistance to EPA in evaluating the hydrogeology of the aquifer(s) underlying Maui pineapple fields.

NRDC objected to the proposed determination that use of existing stocks until January 1, 1987, in accordance with the proposed conditions would not cause unreasonable adverse effects on the environment. NRDC's primary objections to the proposal may be summarized as follows:

1. DBCP use on Maui may pose risks to ground water which cannot be avoided through determination of a use panel.
2. EPA has inadequate information to assess potential pineapple residues during the use period.
3. Any emergency use of existing stocks would risk unreasonable adverse effects.

NRDC specifically requested a further discussion by the Agency of the reasons for believing that panel assessments of potential water contaminations in Maui can be meaningfully conducted.

After consideration of the NRDC positions, EPA has determined that its proposed provision for use of existing stocks through 1986 is appropriate and consistent with the requirements of FIFRA. Storage and disposal of existing stocks also pose potential environmental risks because of container corrosion and the potential for leaching from land disposal sites. A substantial body of information is available to assess DBCP use on Maui during this limited period. Over the permitted use period, no field will be treated more than once. Before authorizing that treatment, the use panel will consider the detailed mapping, Maui monitoring data, soil leaching studies from Maui, hydrogeologic data, and water use information which are available. The panel must provide for public participation in their deliberations and is provided with means to consider all available information and expertise.

NRDC concerns about potential residues in pineapples cannot provide a basis for denying use of existing stocks in light of the available residue information, all of which currently indicates that residues are unlikely. EPA will evaluate any additional residue data which becomes available and could alter the provisions for use of existing stocks if new data warranted such a change.

Finally, EPA will consider NRDC's objections to any emergency use of existing stocks should any request for such emergency use be submitted to the Agency. In the absence of any specific request for emergency use, NRDC's objections cannot be evaluated.

V. Procedural Matters

This notice announces the Administrator's intent to cancel the registration of each product containing dibromochloropropane (DBCP) as an active ingredient. As provided by FIFRA section 6(b), the cancellation for each such product becomes final and effective at the end of 30 days from receipt by the registrant, or publication of this Notice (whichever is later), unless within that time a request for a hearing on the cancellation of that product is made by a person adversely affected by the Notice. This unit of the notice explains how registrants and other adversely affected parties may request a hearing on the set forth in this Notice.

A. Procedure for Requesting a Hearing

Any registrant adversely affected by the cancellation of one or more DBCP products as described above may request a hearing on the cancellation of

registrations for specific products within 30 days of receipt of this notice, or within 30 days from publication of this notice in the *Federal Register*, whichever occurs later. Any other person adversely affected by the cancellation of DBCP registrations as described above may request a hearing within 30 days of publication of this notice in the *Federal Register*.

Each person who requests a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings, 40 CFR Part 164. These procedures require, among other things, that (1) each request must identify the specific registration(s) by registration number(s) and the specific use for which a hearing is requested, (2) each request must be accompanied by objections that are specific for the identified pesticide products for which a hearing is requested, and (3) each request must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M-3708, 401 M St., SW., Washington, D.C. 20460.

B. Consequence of Filing or Failing to File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on the cancellation of any registration pursuant to this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for Hearings under FIFRA section 6 (40 CFR Part 164). In the event of a hearing, cancellation of the registrations for DBCP use on pineapple which are the subject of the hearing will not become effective except pursuant to an order of the Administrator or his designate at the conclusion of the hearing. The hearing will be limited to specific registrations for which the hearing is requested.

2. *Consequences of failure to file in a timely and effective manner.* If no hearing is requested regarding specific registration(s), the cancellation of such registrations becomes effective 30 days after publication of this Notice, or receipt by the affected registrant, whichever comes later.

C. Separation of Functions

In the event of a hearing, the Agency's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from

discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives (40 CFR 164.7). The entire staff of the Agency except the immediate offices of the Administrator, the Deputy Administrator and Administrative Law Judges are designated as the trial staff to represent the Agency as a party in this case. From the date of this Notice until the final Agency decision in this case, neither the presiding Administrative Law Judge, the Judicial Officer, the Deputy Administrator, the members of the staff of the immediate office of the Deputy Administrator, the members of the staff in the immediate office of the Administrator, nor the Administrator shall have any *ex parte* communication with the trial staff or any other interested person not employed by EPA, on the merits or any of the issues involved in this proceeding.

Dated: January 2, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-568 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2754-3]

Clean Air Scientific Advisory Committee, Science Advisory Board Subcommittee on the National Ambient Air Quality Standard Setting Process; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Clean Air Scientific Advisory Committee's (CASAC) Subcommittee on the National Ambient Air Quality Standard (NAAQS) Setting Process will be held on January 22-23, 1985 in Room 1112, U.S. Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will begin at 9:00 a.m. on January 22 and will adjourn at approximately 2:00 p.m. on January 23. This meeting had been previously scheduled for December 6-7, 1984 in Washington, D.C. but was cancelled because there was insufficient time to prepare background materials.

The purpose of this meeting is for the Subcommittee: (1) To be briefed by the Agency on the status of research being conducted in support of developing NAAQS for carbon monoxide, nitrogen dioxide, sulfur dioxide and particulate matter; and (2) to examine the process whereby the Agency sets NAAQS, with

emphasis on the role of the criteria document and staff paper in that process. The Subcommittee will gather information from the Agency and the interested public on means to improve this process. Members of the public wishing to make statements concerning the NAAQS process must contact Mr. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board, by close of business January 15, 1985 in order to obtain space on the agenda.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Mr. Robert Flaak by close of business January 18, 1985. The telephone number is (202) 382-2552.

Dated: December 28, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85-708 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2754-2]

Science Advisory Board, Ground Water Research Review Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Ground Water Research Review Committee (GWRRRC) of the Science Advisory Board will be held at the National Academy of Sciences, 2101 Constitution Avenue, N.W., Room 250, Washington, D.C. on January 24-25, 1985. The meeting will begin at 9:00 a.m. and will last until approximately 5:00 p.m. each day.

The agenda will be devoted primarily to briefings of ground water research activities in Federal agencies other than the Environmental Protection Agency.

Since the announcement of the Committee's formation (see Federal Register Notice, Volume 49, Number 232, November 30, 1984) one member, Mr. David Miller, of Geraghty and Miller, 6800 Jericho Turnpike, Syosset, New York, has been added. This completes the Committee membership.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382-2552, or Terry F. Yosie, Director, Science Advisory Board, at (202) 382-4126. Public comment will be accepted at the meetings. Written comments will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comments must contact Mr. Torno prior to January

21, 1985, in order to be placed on the agenda.

Dated: January 2, 1985.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85-707 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-416]

Midland/Western Federal Savings and Loan Association of Denver, CO; Final Action Approval of Conversion Application

Dated: December 27, 1984.

Notice is hereby given that on December 10, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Midland/Western Federal Savings and Loan Association of Colorado, Denver, Colorado, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Topeka, Kansas, Post Office Box 176, Topeka, Kansas, 66601.

By the Federal Home Loan Bank Board,

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85-562 Filed 1-8-85; 8:45 am]

BILLING CODE 6720-91-M

No. AC-417

Western Federal Savings Bank Mayaguez, Final Action Approval of Conversion Application

Dated: December 27, 1984

Notice is hereby given that on December 12, 1984, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Western Federal Savings Bank, Mayaguez, Puerto Rico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 85-561 Filed 1-8-85; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Intent To Terminate Agreement Approval

Agreement No.: T-2315.
Title: Boston Docks Services Association.
Parties:
ITO Corporation of New England
Glynn & Dempsey, P.C.
Synopsis: The parties to the referenced agreement having provided notice of the termination of the Association, the Commission hereby gives notice of its intent to terminate its previously granted approval of Agreement No. T-2315 effective December 26, 1984, the date the Commission received the parties' termination notice.

By Order of the Federal Maritime Commission.

Dated: January 4, 1985.

Francis C. Hurney,
Secretary.

[FR Doc. 85-638 Filed 1-8-85; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Farmers National Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in

lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 30, 1985.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Farmers National Bancorp*, Annapolis, Maryland; to acquire 100 percent of the voting shares of Atlantic National Bank, Ocean City, Maryland.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bement Bancshares, Inc.*, Bement, Illinois; to acquire 100 percent of the voting shares of First National Bank of Ivesdale, Ivesdale, Illinois and 69 percent of the voting shares of The American Bank, Cerro Gordo, Illinois.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mainline Bankshares of Portland, Inc.*, Portland, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of The Peoples Bank, Portland, Arkansas.

2. *Schmid Bros. Investment Co., Inc.*, St. Louis, Missouri, and its subsidiary, *Financial Bancshares, Inc.*, St. Louis, Missouri; to acquire 95.07 percent of the voting shares of Bank of St. Mary, St. Mary, Missouri.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Firstbank Holding Company and Firstbank Holding Company of Colorado*, Denver, Colorado; to acquire 100 percent of the voting shares of First Bank of Breckenridge, N.A., Breckenridge, Colorado (In Organization).

Board of Governors of the Federal Reserve System, January 3, 1985.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 85-554 Filed 1-8-85; 8:45 am]
BILLING CODE 6210-01-M

PNC Financial Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval

under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors, not later than January 30, 1985.

A. Federal Reserve Bank of Cleveland (Lee S. Admams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.*, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, *Advance Investment Management, Inc.*, Weirton, West Virginia, in acting as an investment or financial advisor to the extent of providing portfolio investment advice to any person other than an investment company registered under the Investment Company Act of 1940.

Board of Governors of the Federal Reserve System, January 3, 1985.

James McAfee,
Associate Secretary of the Board
[FR Doc. 85-555 Filed 1-8-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration

[Docket No. 84G-0384]

Fuji Oil Co., Ltd.; Filing of Petition for Affirmation of GRAS Status
Correction

In FR Doc. 84-33691 appearing on page 50477 in the issue of Friday, December 28, 1984, make the following correction:

In the second column, in the "SUMMARY" paragraph, in the third line from the bottom, "plam" should have read "palm".

BILLING CODE 1505-01-M

[Docket No. 84F-0427]

The Dow Chemical Co.; Filing of Food Additive Petition
AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing to amend the food additive regulations to provide for the safe use of hydrogen peroxide for sterilizing food-contact surfaces prepared from polystyrene and rubber-modified polystyrene resins.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3841) has been filed by The Dow Chemical Co., 1803 Building, Door 7, Midland, MI 48640, proposing that the food additive regulations be amended in 21 CFR 178.1005 to provide for the safe use of hydrogen peroxide for sterilizing food-contact surfaces prepared from polystyrene and rubber-modified polystyrene resins complying with 21 CFR 177.1640.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the

Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 31, 1984.

Richard J. Ronk,
Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-559 Filed 1-8-85; 8:45 am]

BILLING CODE 4150-01-M

[Docket No. 84F-0441]

Ralston Purina Co.; Filing of Food Additive Petition; Correction
AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that announced that Ralston Purina Co. had filed a petition proposing that the food additive regulations be amended to provide for the safe use of gamma radiation for microbial disinfection of laboratory diets for rats, mice, and hamsters. This document adds a docket number.

FOR FURTHER INFORMATION CONTACT: Agnes B. Black, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-27854 appearing on page 49181 in the issue of Tuesday, December 18, 1984, insert "Docket No. 84F-0441" in the heading of the document.

Dated: January 2, 1985.

Lester M. Crawford,
Director, Center for Veterinary Medicine.

[FR Doc. 85-557 Filed 1-8-85; 8:45 am]

BILLING CODE 4150-01-M

Health Resources and Services Administration
National Advisory Council on Nurse Training; Rechartering

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 [5 U.S.C. Appendix I], the Health Resources and Services Administration announces the rechartering by the Secretary, HHS, on December 6, 1984 of the following Advisory Council:

Council and Termination Date

National Advisory Council on Nurse Training—Continuing

Authority for this Council is continuing and a Charter will be filed no later than December 24, 1986, in

accordance with section 14(b)(2) of Pub. L. 92-463.

Dated: January 3, 1985.

George T. Lewis,
Acting Advisory Committee Management Officer HRSA.

[FR Doc. 85-556 Filed 1-8-85; 8:45 am]

BILLING CODE 4150-16-M

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
Establishment of the Sand Bayou Unit as an Addition to Bon Secour National Wildlife Refuge, Mobile and Baldwin Counties, AL
AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the area of land and water in Baldwin County, Alabama, hereinafter referred to as the Sand Bayou Unit, delineated on the attached map, is being added to the Bon Secour National Wildlife Refuge by the Secretary of the Interior. This addition will be protected and administered in accordance with the Congressional Acts, Treaties, and Executive Orders which cover the operation of units in the National Wildlife Refuge System.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Butts, Chief, Branch of Planning, Division of Realty, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303; telephone (404) 221-3543 or FTS 242-3543.

SUPPLEMENTARY INFORMATION: The act to provide for the selection of additional lands for inclusion within the Bon Secour National Wildlife Refuge was enacted by Congress on July 9, 1984 (Pub. L. 98-347). It provided that within six months after enactment, the Secretary would designate approximately two thousand acres of land and water within the additional selection area as land which the Secretary considers appropriate for the refuge, and publish in the Federal Register a detailed map depicting the boundaries of the land designated.

Maps of the project are available for public inspection in the Wildlife Resources Office, Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

Dated: December 17, 1984.

James W. Pullim, Jr.,
Regional Director, Fish and Wildlife Service.

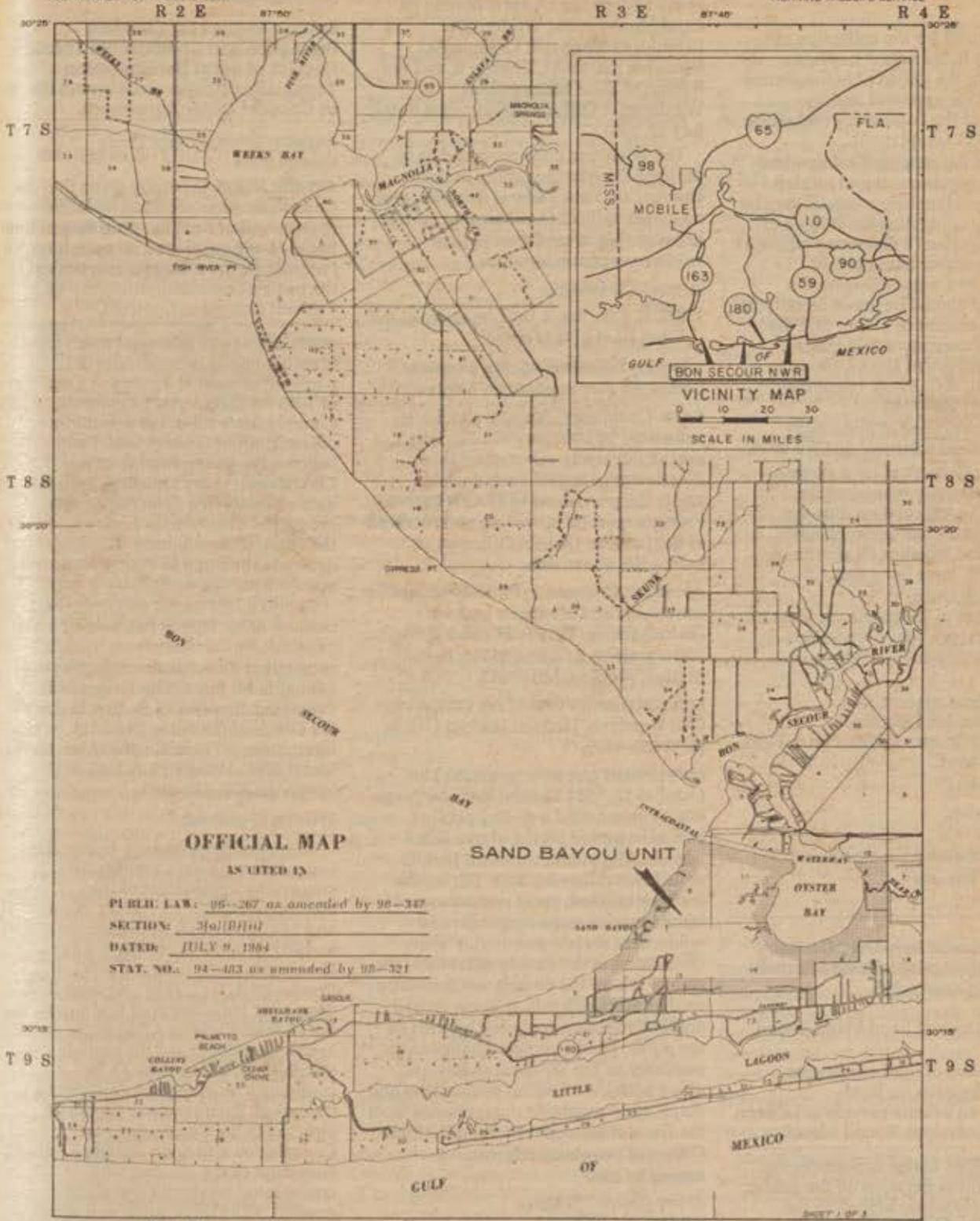
BILLING CODE 4310-55-M

BON SECOUR NATIONAL WILDLIFE REFUGE

BALDWIN AND MOBILE COUNTIES, ALABAMA

UNITED STATES DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE



OFFICIAL MAP

AS CITED IN

PUBLIC LAW: 95-267 as amended by 98-327

SECTION: 3(a)(1)(H)

DATED: JULY 9, 1984

STAT. NO.: 94-403 as amended by 98-321

SAND BAYOU UNIT

R 2 E

R 3 E

R 4 E

COMPILED IN THE DIVISION OF REALTY FROM SURVEYS BY U.S.G.S.

ST. STEPHENS MERIDIAN

0 2000 4000 8000 12000 16000 FEET

0 1/2 1 2 MILES

2'00" MEAN DECLINATION 1980

ATLANTA, GEORGIA APRIL 1980

Bureau of Land Management

Bureau Forms Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Copies of the proposed information collections requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's clearance officer at the phone number listed below.

Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, D.C. 20503, telephone number (202) 395-7340.

Title: Conveyance of Federally-Owned Mineral Interests, 43 CFR 2720.

Abstract: Owners of land surface overlying federally-owned mineral interests. The information aids the Bureau to determine the applicant's eligibility and whether all statutory requirements have been met.

Frequency: Once.

Description of Respondents: Owners of land surface whose ownerships overlie federally-owned mineral interests.

Annual Responses: 100.

Annual Burden Hours: 400.

Bureau Clearance Officer: Jesse Felix at 202-653-8853.

January 2, 1985.

James M. Parker,

Director.

[FR Doc. 85-598 Filed 1-8-85; 8:45 am]

BILLING CODE 4310-84-M

Final Wilderness Inventory Decision for BLM-Administered Island Parcels in Jackson County, MS

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of final wilderness inventory decision for BLM-Administered islands parcels in Jackson County, Mississippi; Round Island.

SUMMARY: This notice announces the final wilderness decision on the public island parcels administered by the Bureau of Land Management in Jackson County, Mississippi. This is done under

the authority of section 603 of the Federal Land Policy and Management Act, and in accordance with guidelines in the September 27, 1978, Bureau of Land Management Wilderness Inventory Handbook, Organic Act Directive No. 78-81, Change 3; and the Bureau of Land Management Washington Office Memorandum dated July 22, 1981.

The following units proposed to be dropped from further study in the October 16, 1984, *Federal Register*, are no longer subject to wilderness review because they were found to lack wilderness characteristics:

St. Stephens Meridian

T. 9 S., R. 6 W., Sec. 3, Lot 1 (16.54 acres) and Sec. 4, Lot 1 (32.44 acres)

During the initial 45-day comment period, no comments were received.

DATE: Comments/Protests should be submitted by February 8, 1985. Any person adversely affected by this decision may appeal such decision under the provisions of 43 CFR Part 4. Protests must be in writing and received at the Jackson District Office on or before the above date.

ADDRESS: Comments/Protests should be sent to District Manager, Jackson District Office, Bureau of Land Management, P.O. Box 11348, Delta Station, Jackson, MS 39213.

FOR FURTHER INFORMATION CONTACT: Carl Gammon, Jackson District Office, (601) 960-4405.

SUPPLEMENTARY INFORMATION: The October 16, 1984 *Federal Register* (page 40451) announced a 45-day public comment period on the above listed parcels. The public comment period ended November 30, 1984. During the comment period, press releases were issued to encourage response; and wilderness review summaries were distributed to the county officials in the county where the parcels are located, as well as state officials, interest groups and individuals expressing interest in the public island parcels. Copies of the summary of the Wilderness Review, along with the situation evaluations and maps, were available upon request from the District Manager, Jackson District Office, at the above address.

Sammy St. Clair,

Acting District Manager.

[FR Doc. 85-598 Filed 1-8-85; 8:45 am]

BILLING CODE 4310-GJ-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-199]

Certain Anodes for Cathodic Protection and Components Thereof; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement.

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Farwest Corrosion Control Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 4, 1985.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: January 3, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-647 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-208, 209, and 210 (Preliminary)]

Barbed Wire And Barbless Wire Strand From Argentina, Brazil, And Poland; Determinations

On the basis of the record¹ developed in investigations Nos. 731-TA-208, 209, and 210 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Argentina, Brazil, and Poland of barbed wire and barbless wire strand, provided for in items 642.02 and 642.11, respectively, of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On November 19, 1984, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Forbes Steel & Wire Corp., Canonsburg, PA. The petitions were also supported by CF&I Steel Corp., Pueblo, CO, Davis Walker Corp., Los Angeles, CA, and Oklahoma Steel Wire Corp., Madill, OK. The petitions allege that barbed wire and barbless wire strand from Argentina, Brazil, and Poland are being, or are likely to be, sold in the United States at LTFV. Accordingly, effective November 19, 1984, the Commission instituted preliminary antidumping investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office

of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 29, 1984 (49 F.R. 46816). The conference was held in Washington, DC, on December 12, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission's determinations in these investigations were made in an open "Government in the Sunshine" meeting held on January 2, 1985.

The Commission transmitted its report on these investigations to the Secretary of Commerce on January 3, 1985. A public version of the Commission's report, Barbed Wire and Barbless Wire Strand From Argentina, Brazil, and Poland (Investigations Nos. 731-TA-208, 209, and 210 (Preliminary), USITC Publication 1631, January 1985), contains the views of the Commission and information developed during the investigations.

By Order of the Commission.

Issued: January 2, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-646 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-220 (Final)]

Certain Carbon Steel Welded Pipes and Tubes From Spain; Postponement of Hearing

AGENCY: International Trade Commission.

ACTION: Postponement of hearing.

SUMMARY: On January 2, 1985, the Commission received notice from the International Trade Administration, U.S. Department of Commerce (Commerce) that Commerce has postponed for 90 days its final determination in this countervailing duty investigation on certain carbon steel welded pipes and tubes from Spain. The Commission's public hearing on this investigation, scheduled for Monday, January 7, 1985, is hereby postponed indefinitely. This postponement is pursuant to § 201.14(b) of the Commission's Rules of Practice and Procedure.

EFFECTIVE DATE: January 3, 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia S. Wilson (202-523-0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

Authority: This notice is published pursuant to § 201.14 of the Commission's rules (19 CFR 201.14).

By order of the Commission.

Issued: January 4, 1985

Kenneth R. Mason,

Secretary.

[FR Doc. 85-640 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-236 and 237 (Preliminary)]

Certain Castor Oil Products From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-236 and 237 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of hydrogenated castor oil and 12-hydroxystearic acid, provided for in items 178.20 and 490.26, respectively, of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by February 11, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: December 27, 1984.

FOR FURTHER INFORMATION CONTACT: Bill Schechter (202-523-0300), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on December 27, 1984, by the American Manufacturers of Castor Oil Products (AMCOP), Wayne, New Jersey.

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an

¹ The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on January 17, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Bill Schechter (202-523-0300) not later than January 14, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before January 22, 1985, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must

be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: December 31, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-643 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-203]

Certain Floppy Disk Drives and Components Thereof; Receipt of Initial Determination Terminating Respondents of the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Jay J. Ahn, Herbert Berger and Edward Wilka.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 2, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the

forementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: December 31, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-648 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[701-TA-235 (Preliminary)]

Iron Ore Pellets From Brazil; Correction

In FR Doc. 84-33947, published in the *Federal Register* beginning on page 50314 in the issue of Thursday, December 27, 1984, the effective date appeared incorrectly. It should have been December 20, 1984 instead of January 20, 1985. The incorrect date appeared in the sixteenth line of the first column on page 50315.

By Order of the Commission.

Issued: January 3, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-644 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-196 (Final)]

Certain Red Raspberries From Canada

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-196 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to

determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh and frozen red raspberries in containers of a gross weight of over 20 pounds, provided for in items 146.54, 146.56, and 146.74 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Commerce will make its final LTFV determination on or before April 30, 1985, and the Commission will make its final injury determination by June 3, 1985, (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: December 18, 1984.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202-523-0368) or Stephen Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain red raspberries from Canada are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on July 5, 1984 by the Washington, Raspberry Commission, Olympia, WA, the Oregon Caneberry Commission, Salem, OR, the Red Raspberry Committee of the Northwest Food Processors Association, Portland, OR, the Red Raspberry Member Group of the American Frozen Food Institute, McLean, VA, Rader Farms, Orting, WA, Ron Roberts, Gresham, OR, and Shuksan Frozen Foods, Inc., Lynden, WA, which represent approximately 40 packers and 750 growers of red raspberries in the United States. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable

indication that an industry in the United States was threatened with material injury by reason of imports of the subject merchandise (49 FR 34424, Aug. 30, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on April 11, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on April 25, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 10, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on April 15, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 22, 1985.

Testimony at the public hearing is

governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)), as amended by 49 FR 32569, Aug 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 2, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 2, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: January 3, 1985.

Kenneth R. Mason

Secretary.

[FR Doc. 85-645 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-202]

Certain Telephone Base Housings and Related Packaging and Printed Materials; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: GTE Communications Systems Corp and Keytronics, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 4, 1985.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be

granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: January 4, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-641 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-185]

Certain Rotary Wheel Printing Systems; Commission Decision Not To Review Initial Determination Terminating Respondents Tokyo Juki Industrial Co., Ltd. and Juki Industries of America, Inc.

AGENCY: International Trade Commission.

ACTION: Termination of respondents on the basis of a settlement agreement.

SUMMARY: The Commission has determined not to review an initial determination (ID) to terminate Tokyo Juki Industrial Co., Ltd. and Juki Industries of America, Inc. as respondents in the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: George Holoch, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0148.

SUPPLEMENTARY INFORMATION: Notice of the ID was published in the Federal Register of December 5, 1984, 49 FR 47581. No petition for review was filed, nor were any comments from Government agencies or the public received.

This action is taken pursuant to the authority of 19 U.S.C. 1337 and 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

By order of the Commission.

Issued: December 31, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-642 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Decision Not To Review Initial Determination Terminating Respondent; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review a Commission administrative law judge's initial determination (ID) granting a joint motion to terminate the above-captioned investigation with respect to respondent Tops Equipment & Tools Co., Ltd., on the basis of a consent order settlement between Tops and complainant Delta International Machinery Corp. The Commission accordingly has issued the proposed consent order.

SUMMARY: By virtue of the Commission's decision not to conduct a review, the ID has become the Commission's determination (19 CFR 210.53(h), as amended at 49 FR 46123 (Nov. 23 1984)).

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION:
Background

Investigation No. 337-TA-174 is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain woodworking machines, by reason of the following unfair acts: (1) Patent infringement, (2) common-law and registered trademark infringement, (3) passing off, (4) false representation of manufacturing source, and (5) false and deceptive advertising. (See 48 FR 55786 (Dec. 15, 1983); 49 FR 23464 (June 6, 1984).) The complainant is Delta International Machinery Corp. (See 49 FR 23463 (June 6, 1984).)

On November 7, 1984, complainant Delta and respondent Tops Equipment & Tools Co., Ltd., filed a joint motion (No. 174-45) requesting termination of the investigative with respect to Tops and the entry of a consent order based on the terms of settlement agreement between Delta and Tops. On November 23, 1984, the Commission investigation attorney filed a response supporting the motion.

On November 29, 1984, the presiding administrative law judge issued an ID granting the motion. Copies of the ID were served on other Federal agencies on November 30, 1984, and notice of the

ID was published in the Federal Register of December 5, 1984 (49 FR 47582). Although the Commission solicited written comments on the ID, none were received.

No party filed a petition for review, and the Commission determined that reviewing the ID on the Commission's own motion under 19 CFR 210.55, as amended at 49 FR 46123 (Nov. 23, 1984), was not warranted. By virtue of the Commission's decision not to conduct a review, the ID became the Commission's decision not to conduct a review, the ID became the Commission's determination (19 CFR 210.53(h), as amended at 49 FR 46123 (Nov. 23, 1984)).

Termination of the investigation as to respondent Tops furthers the public interest by conserving the resources of the Commission and the parties.

Public Inspection

The ID, the consent order, the settlement agreement, and all other nonconfidential documents on the record of the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0471.

By order of the Commission.

Issued: January 4, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-649 Filed 1-8-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30576]

Hillsdale County Railway Company, Inc.; Exemption From 49 U.S.C. 10901 and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of (a) 49 U.S.C. 10901 the acquisition and operation by Hillsdale County Railway Company, Inc. of a 15.9-mile rail line between milepost 51.6 at the Indiana State line and milepost 35.7 at Pleasant Lake, in Steuben County, IN, and (b) 49 U.S.C. 11301 the issuance of notes.

DATES: This exemption will be effective on February 8, 1985. Petitions for stay must be filed by January 22, 1985, and petitions for reconsideration must be filed by January 29, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30576 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Charles J. Lapp, Hillsdale County Railway Company, Inc., 50 Monroe Street, Hillsdale, MI 49242

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or call toll free (800) 424-5403.

Decided: January 2, 1985.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioner Lamboley concurred with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 85-579 Filed 1-8-85; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-No.11)]

Intrastate Rail Rate Authority; Kentucky

AGENCY: Interstate Commerce Commission.

ACTION: Notice of certification.

SUMMARY: The Commission has extended the provisional certification of the Railroad Commission of Kentucky under 49 U.S.C. 11501(b), to regulate intrastate rail transportation. This extension will permit it to modify its standards and procedures as required in the full decision.

DATES: The provisional certification of the Railroad Commission of Kentucky will expire on March 11, 1985, unless prior to that date the State of Kentucky submits revised standards and procedures complying with the requirements stated in the full decision.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: December 21, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-578 Filed 1-8-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Emission of Air Pollutants; Southland Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Southland Corporation*, Civil Action No. 84-5156, has been lodged with the United States District Court for the District of New Jersey. The consent decree establishes a compliance program for the Great Meadows plant owned and operated by Southland Corporation, to bring the plant into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.* and the New Jersey State Implementation Plan ("SIP"), relating to the emission of volatile organic substances ("VOS"), and requires payment of a civil penalty.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Southland Corporation*, D.J. Ref. No. 90-5-2-1-617.

The consent decree may be examined at the office of the United States Attorney, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102; at the Region II office of the Environmental Protection Agency, 28 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of \$1.10 (10 cents per page

reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-599 Filed 1-8-85; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Loss of Offsite and Onsite AC Electrical Power

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the *Federal Register* on February 24, 1977 (42 FR 10950). One of the general criteria notes that major degradation of essential safety-related equipment can be considered an abnormal occurrence. The following description of the incident also contains information on the remedial actions planned and taken.

Date and Place—On July 26, 1984, Susquehanna Steam Electric Station Unit 2 experienced an event involving a temporary loss of all AC power including failure of the emergency diesel generators (EDGs) to supply power to the engineered safety system (ESS) busses. Susquehanna Units 1 and 2 are boiling water reactor nuclear power plants operated by Pennsylvania Power and Light Company (the licensee) and located in Luzerne County, Pennsylvania. Unit 2 had received a full power operating license on June 27, 1984. With the unit operating at 30% power, the licensee was conducting planned startup testing at the time of the event. Unit 1 operated at 100% power throughout the event at Unit 2.

Nature and Probable Consequences

A loss of offsite power is an event which may occur one or more times during the life of a nuclear power plant; all plants are designed to respond to such events. The purpose of the startup test ("Loss of Turbine Generator and Offsite Power") was to demonstrate that the dynamic response of Unit 2 was in accordance with design. Initial conditions of the test required Unit 2 to be at approximately 30% power and its electrical distribution system to be separated and isolated from the Unit 1 system. The test would be initiated by

opening the Unit 2 turbine-generator output breakers and simultaneously opening the Unit 2 output breaker from the startup transformer, i.e., turbine generator trip (load reject) and loss of offsite power, respectively. Thirty minutes after the test initiation, the test would be terminated. The test results would then determine whether test acceptance criteria are satisfied, i.e., (1) all safety systems such as the reactor protection system (RPS), EDGs, reactor core isolation cooling (RCIC) system and high pressure coolant injection (HPCI) system, must function properly without manual assistance, and (2) HPCI and/or RCIC action, if necessary, shall keep reactor water level above the initiation level of the core spray system, low pressure coolant injection (LPCI) system, and automatic depressurization system (ADS).

Separation and isolation of electrical supplies for this test required (1) feeding all Unit 1 4160V ESS busses from the Unit 1 startup transformer, (2) feeding all Unit 2 4160V ESS busses from the Unit 2 startup transformer, (3) racking out all feeder breakers from the Unit 1 startup transformer to the Unit 2 4160V ESS busses, (4) racking out the 13.8 kV tie breaker between Unit 1 and Unit 2 auxiliary busses, and (5) placing all common loads on Unit 1 supplies. This electrical configuration and other test prerequisites were established by 1:05 a.m. on July 26, 1984.

The startup test was initiated at 1:37 a.m. by opening the Unit 2 main generator output breakers and the Unit 2 startup transformer feeder breaker to the Unit 2 startup bus. This resulted in a reactor scram due to turbine control valve fast closure on the simulated load reject, deenergization of the 13.8 kV busses and deenergization of the four Unit 2 4160V ESS busses. The turbine bypass valves properly opened automatically to limit the initial pressure transient and the loss of power to the RPS motor generator sets properly initiated primary and secondary containment isolations. The above sequence was as expected; however, the operator at the electrical distribution panel noted that none of the four EDGs started and that the feeder breakers from the two Unit 2 ES transformers to the four 4160V busses remained closed. These breakers should have automatically opened and the diesels should have started upon ESS bus deenergization due to the deenergized startup transformer. As a result of the diesels not starting, and providing emergency AC power, all AC power for Unit 2 was lost.

As discussed later, this total loss of AC power resulted in most

instrumentation in the control room failing downscale which complicated operator response to the event. Also as discussed later, simultaneously with the total loss of AC power, the plant was further degraded due to the lack of DC power to the ESS bus logic circuitry for all four electrical divisions. The operators were unaware of this lack of DC power since the plant design did not provide control room annunciation of this. The consequences of the deenergized ESS bus logic circuitry resulted in loss of the following functions: (1) Automatic transfer capability of ESS busses to alternate power sources, (2) automatic diesel generator start on loss of bus sources, (3) ability to re-energize 4160V ESS busses from an offsite source from the control room, (4) automatic bus load shedding, (5) degraded grid and undervoltage protection, (6) 4160V bus feeder breaker overcurrent or differential current protection, and (7) core spray or residual heat removal (RHR) pump automatic or manual start capability even with bus power available; hence the low pressure emergency core cooling systems (ECCS) were disabled.

Upon noting that the EDGs did not start, the operator opened the feeder breakers from the two Unit 2 ESS transformers to the four 4160V ESS busses. When the EDGs still did not start, the operator manually started all four diesels. EDG D tripped on overvoltage and B tripped on overvoltage and underfrequency. EDG C stabilized at an idle. EDG A exhibited large frequency oscillations and was manually tripped by the operator. The operator tried to manually close the EDG C breaker onto the associated ESS bus, but the breaker did not close (probable operator error). The operator next attempted to close the Unit 2 startup bus feeders to the two Unit 2 ESS transformers, but the feeder breakers would not close due to the deenergized condition at the startup bus. The operator then reenergized the startup bus by closing the Unit 2 startup transformer feeder breaker to the startup bus and reenergized the two Unit 2 ESS transformers. The operator next attempted to close the Unit 2 ESS transformers feeder breakers to the 4160V ESS busses, but the feeder breakers would not close. The Unit Supervisor then instructed a Nuclear Plant Operator (non-licensed) in the Unit 2 reactor building to rack in the feeder breakers from the Unit 1 startup transformer to the four Unit 2 4160V ESS busses.

As the Unit 1 feeder breakers to the Unit 2 4160V ESS busses were racked in, the preferred Unit 1 and 2 ESS transformer feeder breaker to each 4160V ESS bus closed, reenergizing the bus, and the EDGs B, D, and A automatically started at 1:48 a.m., 1:50 a.m., and 1:54 a.m., respectively. At 1:50 a.m., the licensee declared an Unusual Event (the least severe category in the NRC's emergency classification system). Power was restored to the first bus within 11 minutes and the last bus 17 minutes into the event. When power was restored to all four Unit 2 ESS busses, EDGs A, B, and D had High Priority alarms and were remote-manually shut down. The operator in the EDG building reset the High Priority alarm on EDG A, but could not reset the High Priority alarm on EDGs B & D (operator error).

As mentioned previously, during the loss of all AC power to Unit 2, most instrumentation in the control room failed downscale. However, DC powered instrumentation available to the operators included two narrow range instruments (0-60 inches) for monitoring reactor water level and the HPCI and RCIC supply pressure indicators for monitoring reactor pressure. The full core display provided erroneous indication that all rods had not inserted into the core, which initially confused the operators, but operators did believe the reactor was shut down because the source range monitor instrumentation indication and reactor pressure trends supported that conclusion. The control room operators had no indication of suppression pool temperature and no indication of reactor water level, below narrow range instrument zero. Personnel stationed at the local instrumentation racks as part of the startup test provided information to the control room when reactor water level dropped below this zero reading.

During the event, one safety relief valve controlled reactor pressure and removed decay heat by lifting eight times. At 2:18 a.m., RCIC was manually initiated at -28" reactor water level on the wide range instrument (a level above the automatic initiation level of -31") to restore reactor vessel level. At 2:30 a.m., the licensee terminated the Unusual Event declaration.

There was no direct impact on public health or safety by the event. Even though some safety-related equipment designed to mitigate the consequences of design basis accidents, in the unlikely event that one occurred, was disabled, the HPCI and RCIC systems were available to provide makeup water to protect the core until power was

restored. During the event, no make up water was being added to the reactor vessel. However, had the water level decreased sufficiently, HPCI and RCIC would have automatically initiated to restore water level. These systems do not depend upon the availability of AC power. As discussed previously, RCIC was manually initiated before the automatic initiation level was reached.

Cause or Causes

The causes of this event are attributed to inadequate implementation of corrective action for previously identified problems, inadequate human engineering of the local control panels, ineffective verification, imprecise procedures, inadequate operator training, and operator error.

The process utilized to rack out each of four Unit 1 startup transformer supplies to Unit 2 4160V ESS busses (one of the steps necessary before initiating the startup test) was incorrectly performed. The normal practice for racking out a 4160V breaker is to ensure the breaker is in the open position, enter the breaker cubicle and open the DC knife switch supplying DC control power for the breaker, and then to rack out the breaker. However, for these four breakers the operator was confronted with two DC knife switches and mistakenly opened the wrong switch, thereby removing DC power to the ESS bus logic circuitry for the bus rather than the DC control power to the breaker. The operator repeated the above error on all four 4160V ESS busses. As discussed previously, one of the consequences of removing DC power to this ESS bus logic circuitry was to prevent EDG start on loss of bus sources.

The Unit 1 startup transformer supply breakers to the Unit 2 4160V ESS busses are located in the 01 cubicle of each bus. Each 01 cubicle has two knife switches whereas all other breakers in the 4160V ESS bus have only one knife switch. The knife switch labels used in cubicles containing a single knife switch read "BREAKER CONTROL SWITCH AND TRIP CIRCUIT FUSES." This knife switch removes DC control power for the breaker. The operators commonly refer to this knife switches as "DC control power". The 01 cubicle breaker labels for the two knife switches read: "BREAKER CONTROL SWITCH AND TRIP CIRCUIT FUSES" (for the knife switch that removes DC control power for the breaker) and "DC CONTROL" (for the knife switch that provides DC power to the ESS bus logic circuitry for the bus). When the non-licensed operator opened the first 4160V ESS 01 cubicle door, he called the control room,

informed them he was at the breaker and requested confirmation that they desired the breaker be racked out and DC control power removed. After receiving confirmation from the control room, the operator subsequently opened the knife switch labeled "DC CONTROL" and racked out the breaker. An experienced startup test engineer was with the operator to verify the adequacy of his actions, but did not detect the error. The same operator and startup test engineer repeated the same action at each of the 4160V ESS busses.

No alarm indicated of these actions was available in the control room, although an examination of local indicator lights on the front of the cubicle door would have shown an abnormality, i.e., the bus feeder protection relay power light would have been extinguished. Also, an examination of the breaker position lights in the control room as the knife switch was opened in the breaker cubicle could have alerted operators that the incorrect knife switch had been opened. (Opening the knife switch labeled "BREAKER CONTROL SWITCH AND TRIP CIRCUIT FUSES" should have deenergized all indicating lights associated with the breaker. This would not have occurred when the knife switch labeled "DC CONTROL" was opened.) This anomalous indication that could have alerted the control room of the error was subsequently lost when the breaker was racked out.

During the investigation of the event by the licensee and NRC, two previous events were identified involving improper operations of the "DC CONTROL" knife switch during the preoperational test program in June and October, 1983. Following the second event, the licensee had conducted additional operator training. The non-licensed operator who performed the breakers alignments on July 26 1984, did not receive this particular training nor had he previously, according to his recollection, racked out a 4160V breaker in an 01 cubicle. He was, however, an experienced operator who had performed numerous breaker rackouts.

The difficulties associated with the manual start of the EDGs and reset of the High Priority alarms were primarily due to inadequate procedures, inadequate operator training and operator error. The trips of EDGs B and D both were the result of the frequency sensitivity of the overvoltage relays coupled with the manual voltage adjust having been set, per procedure, at too high a level. The underfrequency trip of EDG B is believed to have been received a result of the shutdown of EDG B

following the overvoltage trip. It should be noted that during an automatic initiation of the EDG these two trip signals would be bypassed.

The cause of the frequency oscillations of EDG A which led the operator to manually trip this EDG has not been determined. Seven successful manual starts of EDG A were performed after the event with no observed frequency oscillations. The inability to manually load EDG C onto the dead ESS bus is believed to have been caused by operator error, in that post-event analysis determined the capability to have been available even under event conditions, and subsequent testing was performed to demonstrate this capability.

The difficulties associated with reset of the High Priority alarms on EDGs B and D were due to the operator not being aware that the design required that the protection relay seal-in reset button be operated prior to the system reset button. In addition, operating procedures were not available locally at the EDG and, even if they were, existing procedures did not specify this particular reset sequence. The proper reset sequence determination was made during the event by the licensee by review of the EDG control schematics and required approximately thirty five minutes to complete and actually reset the alarms.

Some control room indicators were lost for longer than necessary due to lack of training and procedures on how to reset equipment after a loss of power.

Actions Taken To Prevent Recurrence

Licensee—Immediately after the incident, the licensee initiated an investigation into the cause(s) and instituted immediate and long-term corrective actions. Immediate corrective actions included: Revising labeling of knife switches, adding cautions labels for ESS logic circuitry knife switches, and painting the ESS bus logic circuitry knife switch handles red; providing training in the proper rackout operation; revising procedures to include status of breaker position indicating light checks; performing seven successful starts on EDG A; revising procedures and providing training in EDG operation and alarm reset; successfully testing the EDG C's capability to close manually on a dead bus; examining all fuses in the DC control system for size and type; revising the reset procedure for the full core display and training operators in the methods to get rod position information; revising procedures to reset the suppression pool temperature monitoring system after a loss of power; and revising surveillance procedures to assure monthly surveillance

procedures do not adversely affect EDG automatic start capability.

The long-term corrective actions include: Review and determination of adequacy of the station program for independent verification; review of station standard electrical operating practices for acceptability; development of operating instructions for each type breaker rackout, including light observance during the manual sequence; incorporation of proper terminology into training procedures; revision of procedures, drawings, and checkoff lists; review and evaluation of the EDG testing program to determine adequacy; determination of adequacy of procedures for remote emergency start of EDGs; development of procedures for remote manual emergency start of EDGs; evaluation of overvoltage protection; determination whether instrumentation available on loss of AC power is sufficient in number, location, and range for on-shift staff to safely handle a loss of AC power; performance of as-built verification of fuse size, type, and labeling on all 13.8 kV, 4160V, 480V load centers and DC power circuits; review of all surveillance, preventive maintenance, startup test, and operating procedures that require entry into the 13.8 kV, 4160V, 480V, and DC cubicles for technical adequacy and adequacy of control; and evaluation of the present design for compliance with Regulatory Guide 1.47 with respect to annunciation of loss of DC control power.

The licensee's immediate corrective actions were completed prior to NRC permission to restart the plant. The licensee plans to identify to the NRC the status and/or schedule for completing the long-term items.

The licensee assessed the event's impact and lessons learned on Unit 2 and applied the appropriate immediate and long term corrective actions to Unit 1 as well.

NRC—NRC resident inspectors and a region-based specialist were in the control room witnessing the conduct of this test. They observed the event and the recovery. On July 26, 1984, a team of NRC technical specialists were sent to the site to investigate the circumstances of the event. On July 26, 1984, a Confirmatory Action Letter was issued by the NRC Region I Administrator documenting his discussions with the licensee's Senior Vice President-Nuclear to bring Unit 2 to a cold shutdown condition and to not restart Unit 2 until a thorough investigation of the cause, its implication, and deficiencies thus identified are corrected, and the Regional Administrator or his designee has been briefed and has approved the Unit restart. NRC issued a Confirmatory

Order on July 27, 1984, confirming, effective immediately, the actions that were the subject of the Confirmatory Action Letter of July 26, 1984.

On July 30, 1984, the licensee briefed the NRC team on the results of the licensee's investigation, the implications, and the corrective actions taken and planned. The NRC investigation results were consistent with the licensee's. On July 31, 1984, the NRC witnessed the successful testing of EDG C's ability to manually load on a dead bus. Subsequently to these two actions, and following the conditions of the Order, the Regional Administrator approved restart of Unit 2 on July 31, 1984.

The NRC investigation, while not fully documented at the time of this report, has identified several possible generic implications from this event which may require further review. These include:

1. Adequacy of annunciation and control room indications.
2. Restart capability of emergency diesel generators under abnormal conditions.
3. Adequacy of human engineering aspects including labels, administrative controls, and independent verification requirements.

An NRC inspection report was prepared and later sent to the licensee on September 18, 1984. As noted in the forwarding letter, certain activities appeared not to have been conducted in full compliance with NRC requirements. These items will be the subject of separate correspondence at a later time. NRC Region I personnel held an enforcement conference with licensee representatives on October 9, 1984.

On October 19, 1984, the NRC issued Inspection and Enforcement Information Notice No. 84-76 ("Loss of All AC Power") to inform all licensees holding an operating license or construction permit of the event.

Dated in Washington, D.C. this 4th day of January 1984.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 85-855 Filed 1-8-85; 8:45 am]

BILLING CODE 7580-01-M

Ad Hoc Advisory Committee for Review of Enforcement Policy; Request for Written Comments

On March 3, 1982, the Nuclear Regulatory Commission adopted a comprehensive statement of enforcement policy, applicable to matters involving the public health and safety, the common defense and security, and the environment. 47 FR

0987 (March 9, 1982). The policy was based on an interim policy published on October 7, 1980 (45 FR 66755). The policy statement specified criteria for the issuance of notices of violation, imposition of civil penalties, and issuance of orders with the principal criterion being the "severity" of the violation. The policy statement established five "severity levels", and provided guidance for classifying violations in each category. As a general rule, no sanctions were to be imposed for low-hazard violations (those classed in Severity Levels IV or V), while more serious violations (those in Severity Levels I-III) would be subject to the imposition of civil penalties and, in some cases, appropriate orders. The policy statement presented a formula for establishing the "base civil penalty" for violations, based on their severity level and activity category, and standards for adjusting base penalties for escalating or mitigating factors.

On March 2, 1984, the Commission made several revisions to the enforcement policy, including an increase in the base penalty (from \$80,000 to \$100,000) for the most severe categories of violations and increases in the percentages by which base amounts may be adjusted. 49 FR 8583 (March 8, 1984). The revised policy statement also directed an "in-depth study of the enforcement program" to be conducted "by a small committee of individuals from outside the agency to be selected by the Commission."

On August 31, 1984, (49 FR 35273, Sept. 6, 1984) the Commission established the AD Hoc Advisory Committee for Review of the Enforcement Policy to undertake this study. In aid of its undertaking, the Committee is soliciting comments from interested persons on the extent to which the NRC's enforcement policy has served the purpose announced by the Commission upon its promulgation, namely:

to promote and protect the radiological health and safety of the public including employees health and safety, the common defense and security, and the environment by:

- Ensuring compliance with NRC regulations and license conditions;
- Obtaining prompt correction of noncompliance;
- Deterring future noncompliance; and
- Encouraging improvement of licensee's performance, and by example, that of industry, including the prompt identification and reporting of potential safety problems. 47 FR 9989 (March 2, 1982).

The Committee recognizes that comments were solicited on the revised Enforcement Policy (49 FR 8583, March 8, 1984) and has reviewed the comments

received in response to that request. Additionally and more particularly, the Committee now invites comments from the public on the effect, if any, that the enforcement policy has had, on:

1. The prompt detection and correction of violations by licensees;
2. The prompt reporting of violations by licensees;
3. The prevention of violations by licensees;
4. The safety record of licensees;
5. The morale of licensees and their employees;
6. The public's confidence in the Commission's enforcement program; and
7. The willingness of workers and members of the public to report alleged violations.

To the extent that the enforcement policy has had an appreciable effect, positive or negative, to what particular feature of the policy, if any, is that effect attributable? In this connection, the Committee particularly invites comments relating to the following features of the enforcement policy:

1. Are the tables of civil penalty levels set at appropriate amounts?
2. Upward and downward adjustment of base civil penalties;
3. Classification of violations by Severity Level;
4. Policy on material false statements;
5. Relative emphasis on negative and positive incentives;
6. Progressive escalation of enforcement sanctions;
7. Enforcement procedures such as enforcement conferences, publicity policy, etc; and
8. Supplement 8 of the revised enforcement policy.

In addition, comments are requested on the following questions:

1. Under what circumstances, if any, should the NRC impose sanctions directly on individuals responsible for violations?
2. What has been the effect of regionalization on the enforcement program and its implementation?
3. Does the present system identify root causes of violations so that effective corrective actions can be taken? Are lessons learned effectively promulgated to the industry and, if so, by what means?
4. Should the NRC consider increasing its reliance for compliance or licensee self-identification or evaluations of third parties?

Following its review of the comments received the Committee may wish to have representative viewpoints summarized orally to the Committee during a public meeting. Commenters should indicate if they would be willing to make such a presentation and, if so,

indicate a person to contact concerning a possible presentation. If presentations are requested, the Committee may, depending upon the number of comments received and the number of persons expressing a willingness to be heard, ask several commenters to consolidate their presentations.

Comments are due on or before February 28, 1985. Comments received after this date will be considered if it is practical to do so. Comments should be submitted to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch. Deliver comments to: Room 1121, 1717 H Street, NW, Washington, D.C. between 8:15 a.m. and 5:00 p.m. weekdays. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.

For further information contact Karen Cyr, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-7269.

Dated at Washington, DC this 3rd day of January, 1985.

John C. Hoyle,
Advisory Committee, Management Officer.
[FR Doc. 85-654 Filed 1-8-85; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Waste Management; Meeting

The ACRS Subcommittee on Waste Management will hold a meeting on January 17, and 18, 1985, in Room 1046, 1717 H Street, NW., Washington, DC.

Although the meeting will be primarily an Executive Session, it will be open to public attendance.

The agenda for the subject meeting will be as follows:

Thursday, January 17, 1985—8:30 a.m. until the conclusion of business

Friday, January 18, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review: (1) The methodology used by DOE in selecting the three recommended High-Level Waste Repository sites; and (2) the NRC Waste Management Standard Review Plan for Draft Environmental Assessments.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a

transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee and consultants will then discuss the subject topics; representatives of the NRC and DOE Staffs and other interested persons may also be invited to participate in these discussions.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EST.

Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 4, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-653 Filed 1-8-85; 8:45 am]

BILLING CODE 7590-01-M

Availability of NUREG-1061 Volume 4, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Evaluation of Other Dynamic Loads and Load Combinations."

The Nuclear Regulatory Commission announces the availability of NUREG-1061, Volume 4, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Evaluation of Other Dynamic Loads and Load Combinations" which was prepared by the NRC Piping Review Committee Task Group on Evaluation of Other Dynamic Loads and Load Combinations.

The NRC Piping Review Committee was established by the Executive Director for Operations of the USNRC to make a comprehensive review of the NRC requirements in the area of nuclear power plant piping. The activities of this

Review Committee were divided into four tasks handled by appropriate task groups. These are:

- Pipe Crack Task Group;
- Seismic Design Task Group;
- Pipe Break Task Group; and
- Dynamic Load and Load

Combination Task Group.

Each task group is preparing a report appropriate to its scope to be published as a volume of NUREG-1061. In addition, the Piping Review Committee will prepare an overview summary report, NUREG-1061, Volume 5, that rationalizes the areas of overlap and summarizes Committee conclusions and recommendations.

NUREG-1061, Volume 4 treats questions of Event Combinations, Response Combinations, Stress Limits and Dynamic Allowables, Water Hammer Loadings and Piping Vibration Loads. Principal recommendations call for the decoupling of seismic and pipe rupture loads under certain conditions, for new procedures for multiply supported piping with independent inputs, for increases in design yield strength for pipe whip restraints, for the proper consideration of the potential for water hammer in the development of design specifications and for revisions to the SRP to allow the conduct of vibration tests in accordance with ANSI/ASME OM3. The report includes a summary of newly assembled foreign information in these areas, qualitative value impacts, a number of consultant position papers and nuclear industry comments on drafts of the report.

Copies of NUREG-1061, Volume 4 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Comments or questions on this document should be addressed to J. A. O'Brien, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 443-7860. Comments received within 45 days of the date of this Federal Register Notice will be considered in action taken on the implementation of this report.

Dated at Bethesda, Maryland this 20th day of December 1984

L. C. Shao,

Co-Chairman, NRC Piping Review Committee.

[FR Doc. 85-658 Filed 1-8-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-10859; License No. 37-14600-01; EA 84-131]

Applied Health Physics, Inc.; Order Modifying License Effective Immediately

I

Applied Health Physics, Inc. (the "licensee"), Bethel Park, Pennsylvania, is the holder of specific byproduct material license No. 37-14600-01 issued by the Nuclear Regulatory Commission (the "NRC") pursuant to 10 CFR Part 30 which authorizes the licensee to receive, possess, store and dispose of byproduct material.

II

On March 21, 1984, an inspection was conducted by a representative of the State of Washington, of radioactive waste material shipped from the licensee's field site in Hebron, Ohio to a burial site in Richland, Washington. During the inspection, many violations of NRC/DOT requirements were identified. On July 16, 1984, an NRC inspection was conducted at the licensee's facility in Bethel Park, Pennsylvania to review the circumstances associated with the violations. The violations involved: shipments of radioactive material in packages that were not strong and tight; packages that were improperly braced and improperly labelled; and packages accompanied by shipping papers that had been improperly completed in several respects. These violations are described in the Notice of Violation and Proposed Imposition of Civil Penalties issued this date.

Collectively, these violations demonstrate that adequate control was not exercised over the shipment of radioactive waste to the burial site and indicate the need for improved control to prevent similar violations in the future.

At an enforcement conference on November 2, 1984, the licensee's president acknowledged the need for such improvements and made certain commitments, including: (1) The transmittal to Region I of an upgraded quality assurance program for transportation; (2) the president's acceptance of personal responsibility for implementation of the program until such time as another individual is trained to assume this responsibility; and (3) training of all appropriate licensee personnel regarding implementation of the program. Region I has reviewed the description of the upgraded program and considers it acceptable. I have determined that the

public health, safety, and interest requires that the commitments regarding implementation of the upgraded program be incorporated into License No. 37-14600-01 by means of an Immediately Effective Order.

III

In view of the foregoing, and pursuant to secs. 81, 161(b), 161(o), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 30, it is hereby ordered effective immediately that:

License No. 37-14600-01 is modified by the addition of the following, as Condition 19: The licensee shall implement and comply with all statements, representations, and procedures contained in the "Quality Assurance program for the Packing, Shipment and Disposal of Radioactive Materials," dated October 1984.

IV

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. Any request for a hearing shall not stay the immediately effectiveness of this order.

If a hearing is to be held concerning this Order, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

Dated at Bethesda, Maryland this 3d day of January 1985.

For the Nuclear Regulatory Commission,
James M. Taylor,
Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 85-856 Filed 1-8-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-20277 License No. 49-23121-01 EA 84-124

Community Hospital; Order Confirming Suspension of Use of Licensed Material

I

Community Hospital, 2000 Campbell Drive, Torrington, Wyoming, 82240 [the "licensee"] is the holder of byproduct

material license No. 49-23121-01 issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") pursuant to 10 CFR Part 35. The license was issued on March 15, 1984, amended in its entirety on September 17, 1984, and is due to expire on March 31, 1989. The license authorizes the use, storage, and transfer of byproduct material as described in the licensee's applications dated November 29, 1983, and September 4, 1984; and letters dated February 22, 1984, and February 29, 1984. This license authorizes, among other things, the use of molybdenum-99/technetium-99m (Mo-99/Tc-99m) generators for the production of technetium-99m for certain diagnostic studies on humans.

II

An initial NRC inspection was conducted at the licensee's facility on October 30, 1984. The licensee had used technetium-99m prepared unit doses during the period March 15 to October 1, 1984, and had begun using Mo-99/Tc-99m generators on October 1, 1984, as authorized by a license amendment dated September 17, 1984. During the inspection, the NRC inspector identified a number of violations as described in the Notice of Violation which is being issued with this Order. The violations involved: (1) Failure to have an authorized user present or immediately available during the use of licensed material, (2) failure to hold radioactive waste for decay and monitor such waste prior to disposal, (3) failure to use licensed material in accordance with statements in the license application, (4) failure to properly evaluate the technetium-99m eluted from a generator for the presence of molybdenum-99 activity, and (5) failure to maintain records for the disposal of radioactive waste.

On October 31, 1984, at the request of the Region IV staff, the licensee committed by telephone to discontinue the use of and place all licensed material in storage. On November 1, 1984, the Region IV staff again confirmed this action by telephone and received written confirmation from the licensee by a telegram dated November 1, 1984. On November 9, 1984, an Enforcement Conference was held with the licensee by the Region IV staff to discuss the inspection findings and the actions taken or planned by Community Hospital to bring the licensed program into full compliance with NRC requirements.

In summary, Community Hospital has failed to implement the controls necessary for the safe use of licensed material on humans. This lack of

adequate control resulted in numerous violations of NRC requirements and showed a lack of understanding and consequent disregard for the Commission's safety requirements. The licensee has agreed to suspend the use of licensed material until certain remedial measures are taken. The NRC has determined that the public health, safety, and interest requires immediate suspension of use of the licensed material until the measures specified in this Order are taken to provide the Commission with reasonable assurance that Community Hospital will comply with Commission requirements.

III

Accordingly, pursuant to secs. 81, 161b, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 30, and 35, it is hereby ordered that:

A. Effective immediately, the licensee shall suspend the use of licensed byproduct material and keep all byproduct material in the licensee's possession in locked storage until completion of the actions specified in sections III.B.1, III.B.2, III.B.3 and III.C of the Order. The suspension shall continue until the licensee informs the Regional Administrator, Region IV, that the required actions in sections III.B.1, III.B.2, III.B.3 and III.C have been completed and the Regional Administrator informs the licensee in writing that the suspension of use of material is rescinded. The rescission of suspension is subject to the conditions in sections III.B.4 and III.B.5.

B. Community Hospital shall obtain the services of one or more independent consultants to perform, as a minimum, the action indicated below. The independent consultant(s) shall have the qualifications to provide personnel training, develop procedures, and perform audits as described below. Community Hospital shall submit to the NRC Region IV office, for approval, the name(s) of the consultant(s) including a resume of the qualifications of each individual who will provide the required services.

The independent consultant(s) shall:

1. Provide a minimum of 20 hours of classroom training for the nuclear medicine technician which shall include: (1) The principles and practices of radiation safety, (2) the "hands-on" use of Mo-99/Tc-99m generators (including performance of Mo-99 breakthrough tests), (3) the use of the dose calibrator (including the required calibrations), (4) the use of radiation survey instruments, and (5) a review of the documentation and record-keeping requirements associated with the licensed program. A written report of the training given shall be documented and retained by Community Hospital for future inspection by the NRC.

2. Provide a minimum of 2 hours of training for service personnel such as housekeeping, security, and nursing staff according to the requirements of 10 CFR 19.12.

3. Assist in establishing written procedures for conducting Mo-99 breakthrough tests.

4. Be present to observe and provide any additional training during resumption of use of licensed materials including observing the tests conducted on the dose calibrator, the eluting of the Mo-99/Tc-99m generator, performance of Mo-99 breakthrough tests, and to assure that proper radioactive material handling techniques are being applied. The consultant(s) shall also verify that all required surveys, measurements, and tests are performed and that records accurately reflect the results. A written report of these observations prepared by the consultant(s) shall be retained by Community Hospital for future inspection by the NRC.

5. At least once every 30 days for a period of 3 months after resumption of use of licensed materials conduct an audit of the NRC licensed activities at Community Hospital. The audits shall verify that all required surveys, measurements, and tests are properly performed and that the results are properly documented. The audit findings shall be documented by the consultant(s) and retained by Community Hospital for future inspection by the NRC.

C. A detailed drawing of the facilities where licensed material is used must be submitted to the Region IV office for approval and license amendment.

D. The Regional Administrator, Region IV, may for good cause relax or rescind all or part of the above conditions upon written requests by the licensee.

IV

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order. Any request for hearing shall be submitted to the Deputy Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 25 days of the date of this Order. A copy of the request also shall be sent to the Executive Legal Director at the same address and to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. A request for hearing shall not stay the effectiveness of section III.A of this Order.

If a hearing is to be held concerning this Order, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

Dated at Bethesda, Maryland this 31st day of December 1984.

For the Nuclear Regulatory Commission,
James M. Taylor,
Deputy Director, Office of Inspection and Enforcement.

Notice of Violation

Community Hospital
2000 Campbell Drive
Torrington, Wyoming 82240
[Docket No. 30-20277, License No. 49-23121-01, EA 84-124]

An NRC inspection of activities authorized by NRC Byproduct Material License 49-23121-01 was conducted on October 30, 1984. During this inspection, multiple examples of failure to comply with NRC requirements were identified. The violations represent a significant breakdown in the management control of the licensed program. On November 9, 1984, an Enforcement Conference was held with the licensee by the Region IV staff to discuss these violations, their causes, and the corrective actions taken or planned to improve compliance with NRC requirements.

In accordance with 10 CFR 2.201 and the General Policy and Procedure for NRC Enforcement Actions, 10 CFR Part 2, Appendix C, as revised, 49 FR 8583 (March 8, 1984), the particular violations are set forth below:

1. License Condition 12 states, in part, that licensed material is authorized for use by, or under the supervision of, a specific individual named in the license.

Contrary to this requirement, on October 30, 1984, the named user of licensed material, who is also the Radiation Safety Officer, was out of state and not immediately available while licensed material was being used.

2. License Condition 15 requires, in part, that radioactive waste shall be held for decay for a minimum of 10 half-lives, shall be monitored to determine that its radioactivity cannot be distinguished from background, and shall have all radiation labels removed or obliterated.

Contrary to this requirement, as of October 30, 1984, according to the nuclear medicine technician, radioactive waste was disposed of daily from a waste container in the nuclear medicine lab to normal trash without being monitored prior to being emptied. On October 30, 1984, the NRC inspector observed in the waste container a radiopharmaceutical bottle that measured 4.0 mR/h at contact and disposable gloves and syringes that measured 0.5 to 1.0 mR/h.

3. License Condition 16 requires, in part, that licensed activities be conducted in accordance with statements, representations, and procedures contained in the applications dated November 29, 1983, and

September 4, 1984; and letters dated February 22 and 29, 1984. Items 7, 10, 16, and 17 of the applications commit to following the recommendations of Regulatory Guide 10.8.

a. Appendix B of Regulatory Guide 10.8 requires, in part, that the Radiation Safety Committee meet quarterly.

Contrary to this requirement, the committee had not conducted any meetings during the period March 15, 1984, to October 30, 1984.

b. Appendix D, Section 1.D, of Regulatory Guide 10.8 requires the licensee to maintain records of calibrations of survey meters.

Contrary to this requirement, on October 30, 1984, records were not available to confirm that the survey meters being used by the licensee had been initially calibrated prior to use or anytime thereafter.

c. Appendix D, section 2.A, of Regulatory Guide 10.8 states, in part, that the dose calibrator be tested daily for instrument constancy, initially and annually for instrument accuracy, at installation and quarterly for instrument linearity, and at installation for geometrical variation.

Contrary to these requirements, on October 30, 1984, there were no records to substantiate the initial testing of the dose calibrator by the manufacturer nor had the licensee conducted any tests during the period March 15, 1984, to October 30, 1984. In addition, the licensee did not possess any calibration sources to perform the daily constancy or initial and annual accuracy tests.

d. Appendix H of Regulatory Guide 10.8 specifies the emergency procedures to be followed in the event of a radioactive spill. The footnote of this appendix requires these procedures to be posted and the names of individuals who are to be contacted during such an emergency.

Contrary to this requirement on October 30, 1984, such procedures had not been posted by the licensee.

e. Appendix I of Regulatory Guide 10.8 states, in part, that the licensee's radiation survey program shall include daily and weekly surveys of specified areas and records maintenance of survey results.

Contrary to these requirements, on October 30, 1984, weekly surveys had not been performed and results of daily surveys had not been recorded during the period March 15, 1984, to October 30, 1984.

f. The licensee's facility diagram submitted with the license application dated September 4, 1984, indicated that the isotope preparation area was isolated and provided adequate controls

for the storage and use of licensed material.

Contrary to this requirement, on October 30, 1984, the facilities used for such preparation were not as outlined by the licensee's September 4, 1984, application. Also, the area currently used by the licensee was easily accessed by individuals not affiliated with the nuclear medicine department and did not provide adequate isolation for control of radioactive material.

g. The licensee's training program submitted with the November 29, 1983, application states, in part, that the nuclear medicine technologist shall be registered by the American Registry of Radiological Technologists in Nuclear Medicine or certified by the Nuclear Medicine Technology Certification Board, in Nuclear Medicine Technology.

Contrary to this requirement, on October 30, 1984, the individual performing the duties of the nuclear medicine technologist informed the NRC inspector that he had not had such training.

4. 10 CFR 35.14(b)(4)(ii) requires that technetium-99m separated from molybdenum-99 by elution from a molybdenum-99/technetium-99m generator be tested to determine either the total molybdenum-99 activity or the concentration of molybdenum-99 prior to administration to patients and that this test shall be conducted according to written procedures and by personnel who have been specifically trained to perform such tests.

Contrary to these requirements, on October 3, 1984, the NRC inspector observed that the method used to evaluate the technetium-99m eluted from a generator was not adequate to determine the molybdenum-99 activity. Specifically, the eluate in its normal shielded storage container was hand held and only partially inserted in the dose calibrator, an area where the detection of molybdenum-99 could not be performed by the instrument being used. In addition, there were no established procedures available for performing such a test, and the individual conducting the test had not been adequately trained to perform the test.

5. 10 CFR 30.51(a) requires that each person who receives byproduct material under a license issued pursuant to the regulations in this part and Parts 31-35 shall keep records showing the receipt, transfer, and disposal of such byproduct material.

Contrary to this requirement, records were not maintained documenting the disposal of byproduct material used by the Nuclear Medicine Laboratory during

the period March 15, 1984, to October 30, 1984.

These violations have been categorized in the aggregate as a Severity Level III problem (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, Community Hospital is hereby required to submit to the Regional Administrator, Region IV Office of the USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, within 30 days of the date of this Notice, a written statement or explanation in reply, including for each alleged violation: (1) Admission or denial of the alleged violations, (2) the reasons for the violations, if admitted, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. Consideration may be given to extending the response time for good cause shown. Under the authority of section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Dated at Bethesda, Maryland this 31st day of December 1984.

James M. Taylor,

Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 85-657 Filed 1-8-85; 8:45 am]

BILLING CODE 7590-01-M

[License No. 34-18309-01MD EA 84-73]

Syncor International Corp.; Order Imposing Civil Monetary Penalties

I

Syncor International Corporation [the "licensee"] 12847 Arroyo Street, Sylmar, California 91342 is the holder of Byproduct Material License No. 34-18309-01MD issued by the Nuclear Regulatory Commission [the "Commission"] which authorizes distribution of radiopharmaceuticals to authorized recipients and redistribution of technetium [Tc-99m] generators to authorized recipients. License No. 34-18309-01MD was last renewed on January 9, 1984, and will expire on January 31, 1988.

II

As a result of a special safety inspection conducted on June 5 and 6, 1984, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served on the licensee by letter dated August 23, 1984.

The Notice stated the nature of the violations, the provisions of the Commission's requirements that the licensee had violated, and the cumulative amount of the proposed civil penalties. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letter dated September 19, 1984.

III

Upon consideration of the licensee's response and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Deputy Director, Office of Inspection and Enforcement, has determined that the penalties proposed for Violations set out in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing, and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 98-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the cumulative amount of Eight Thousand Five Hundred Dollars (\$8,500) within 30 days of the date of this Order, by check, draft or money order payable to the Treasurer of the United States and mailed to the Deputy Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Deputy Director, Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 2d day of January 1985.

For the Nuclear Regulatory Commission,
James M. Taylor,
Deputy Director, Office of Inspection and Enforcement.

Appendix

Evaluation and Conclusions

In its letter dated September 19, 1984, the licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties dated August 23, 1984. In its response, the licensee admits that the violations occurred as described, but requests mitigation of the civil penalties and provides reasons why it believes that mitigation of the penalties is appropriate. The licensee's arguments and conclusion.

The violations cited in the Notice of Violation stemmed from the following events. On May 18, 1984, the licensee prepared and distributed to area hospitals radiopharmaceuticals contaminated with molybdenum-99. Although the Radiation Safety Officer, who was also the nuclear pharmacy manager, knew that the contamination exceeded the limits prescribed by the license, he made no attempt to contact the hospitals or recover the contaminated radiopharmaceuticals. As a result, at least 16 patients received technetium-99 that was contaminated with molybdenum-99 in excess of regulatory limits.

Licensee's Response

Although the licensee admitted that the violations occurred as stated in the Notice of Violation it requested mitigation on the premise the Syncor management did not prompt corrective action when it learned of the violation, was fully cooperative with the NRC, and participated actively in the inspection and investigation of the alleged violation.

The licensee sets forth the following reasons as a basis for mitigation of the proposed civil penalties:

1. The cover-up by the nuclear pharmacy manager caused the initial delay in reporting the violation. After Syncor corporate management learned of the occurrence it was reported to NRC, Region III, within two hours.

2. All possible contaminated doses that may have been given to patients were identified and all institutions that may have received them were notified.

3. Vials were recovered and submitted to the University of Cincinnati for evaluation of contamination and the resulting report conclusively proving contamination was sent to the NRC.

4. At the request of NRC, extensive calculations were done estimating the amount of contamination and possible radiation doses received.

5. The manager involved was suspended and after the facts were determined the manager was terminated.

6. The computer program was changed to record traceability of eluates for kit preparation and a memo was sent to all pharmacy managers requiring that such information be recorded on the quality control sheets. In addition, the company health physics group conducts unannounced quarterly checks on each pharmacy to ensure compliance with policy and regulations. A system of fines for violations found in connection with such checks has been adopted by the company.

7. Syncor has taken effective corrective measures in responses to previously identified minor unrelated violations.

8. Syncor has never had prior knowledge of a similar event and failed to take effective preventive steps.

9. The contaminated dose delivery violation is a unique violation for the company which was a single episode and not a continuing violation.

NRC Evaluation and Conclusion

After carefully reviewing all of the relevant circumstances, the NRC staff has concluded that the information provided in the licensee's response does not provide an adequate basis for mitigation of the civil penalties. Although Syncor corporate management did take corrective action when it became aware of the problem and did assist NRC in its investigation of the event, these actions were those that NRC would expect of a licensee given the seriousness of the situation and the time delay that occurred before corporate management became aware of the event. Moreover, corporate management should have been alerted earlier to the probability that a significant event had occurred, and have been more thorough in its initial investigation of this event. Specifically, on May 18, 1984, the Syncor corporate health physicist learned that a Cincinnati hospital had complained of receiving two vials of technetium-99m measuring 16 millicuries of molybdenum-99. In its subsequent

investigation of this occurrence, corporate management relied upon the statement of the Radiation Safety Officer, who was responsible for the problem, that all contaminated material had been retrieved and that there had been no patient involvement, and decided that no further action was necessary. Given the seriousness of the situation, the NRC has concluded that corporate management should have initially made a more thorough investigation of the circumstances surrounding the receipt by the hospital of radiopharmaceuticals contaminated with molybdenum-99. Accordingly, no mitigation for reporting the violation is appropriate here. The NRC proposed imposition of a civil penalty of Seven Thousand Five Hundred Dollars (\$7,500) for violation A because the responsible Radiation Safety Officer at the licensee's Blue Ash, Ohio, facility made no attempt to notify area hospitals or recover radiopharmaceuticals that he knew were contaminated with molybdenum-99. The responsible Radiation Safety Officer was employed by and acting on behalf of the licensee and was in a responsible management position and, as the licensee admits in its response, the licensee is responsible for the actions of its employees.

The NRC also proposed imposition of a civil penalty of One Thousand Dollars (\$1,000) for violation B, which involved shipment of licensed material in noncompliance with the applicable Department of Transportation regulations. For the reasons discussed above, the licensee's response provides no adequate basis for mitigation of this penalty.

[FR Doc. 85-659 Filed 1-8-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 594; Docket No. A85-7]

Rock Glen, NY 14540 (Mr. and Mrs. Clarence Wheeler); Order Accepting Appeal and Establishing Procedural Schedule

Correction

In FR Doc. 84-32969, appearing on page 49399 in the issue of Wednesday, December 19, 1984, the Order Number should read as it does in the bracketed heading above.

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE
COMMISSION

[Release No. 14298; 812-5929]

Carillon Fund, Inc.; Application for an
Order

January 2, 1985.

Notice is hereby given that Carillon Fund, Inc. ("Applicant" or "the Fund"), P.O. Box 5304, Cincinnati, Ohio, 45201, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 31, 1984, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act and pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder to the extent necessary to permit the Fund to adopt a deferred compensation plan ("the Plan") for certain of its directors. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and the rules thereunder for a statement of the relevant statutory provisions.

Applicant states that its board of directors consists of five persons, three of whom are not "interested persons" of the Fund within the meaning of Section 2(a)(19) of the Act. Each director who is not an employee or officer of (a) the Fund, (b) The Union Central Life Insurance Company, issuer of certain variable annuity contracts whose benefits are funded by shares of the Fund, or (c) Carillon Investments, Inc., investment adviser of the Fund, receives the following compensation: \$500 per quarter, \$500 for each board meeting attended, \$150 for each committee meeting attended, and expenses incurred in attending meetings of the board. Applicant represents that it pays no other remuneration to its directors and the amounts paid are expected to be insignificant in comparison to the total net assets of the Fund.

Applicant states that the Plan will allow an individual director to elect to defer receipt of all or part of his director's fees which otherwise would become payable to him for services performed after the date of the election in order to enable the director to defer payment of income taxes or for other purposes. Each deferred fee will be credited to an account on Applicant's books to be established for each electing director and such amounts will increase

or decrease during (and after) the deferral period at the same rate as if it were invested in shares of the Money Market Portfolio of the Applicant. The value of a director's deferred compensation account will therefore also reflect all expenses of the Fund.

Applicant states further that its obligation to make payments of amounts accrued under the Plan will be a general unsecured obligation payable solely from its general assets and property. No shares of Applicant will be purchased for any director's account with those amounts, nor will any special fund or separate account be established for those amounts.

Applicant submits, with respect to Sections 18(f)(1) and 13(a)(2), that the Plan possesses none of the characteristics of senior securities which led Congress to enact these sections, *i.e.*, that it would not be "borrowing" from its directors in the sense that concerned Congress, *e.g.*, borrowing for securities speculation. Applicant also asserts that the Plan would not provide opportunity for manipulative allocation of Applicant's expenses and profits; control of Applicant would not be affected; and, given the common existence of deferred compensation agreements today, the Plan would not confuse investors, make it difficult for them to value Applicant's shares, or convey a false impression of safety.

With respect to Section 22(f), Applicant asserts that the restrictions on transferability under the Plan would be clearly set forth in the Plan and would not adversely affect the interests of the director or of any of Applicant's shareholders.

Applicant contends, with respect to Section 22(g), that the Plan will not have a dilutive effect on the equity or voting power of the Fund shares, particularly because of current disclosure requirements applicable to director compensation. Applicant further contends that its obligation to make payments under the Plan need not be viewed as being "issued" for services or property other than cash or securities but instead, in return for Applicant's not being required to pay the fees on a current basis.

With respect to Section 17(d) and Rule 17d-1, Applicant states in support of its requested exemption that the effect of the Plan would merely be to defer the payment of fees that Applicant otherwise would be obligated to pay on a current basis as services are performed by the directors, and that liabilities created by the accruals under

the Plan would be offset by essentially equal assets of Applicant and that those assets would not exist if the directors' fees were paid on a current basis. Applicant avers that since the Fund will assume no new or additional obligation under the Plan other than to pay the value of the deferred fees, adjusted up or down to reflect the investment performance of the Money Market Portfolio, the participation of the Fund in the arrangement is not less advantageous than the participation of the directors in the Plan. Applicant asserts that it is expected that deferral would have a negligible effect on its assets, liabilities, net assets and net income per share.

Finally, Applicant states that its ability to recruit and retain highly qualified directors would be enhanced if it were able to offer the Plan and this benefit to Applicant and its shareholders outweighs any benefit that may be realized by a director. Thus, Applicant submits that the Plan is in the best interests of the Fund and its shareholders and consistent with the purposes fairly intended by the policy and provisions of the Act. In addition, Applicant submits that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 28, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-567 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23561; 70-7060]

**Columbia Gas System, Inc.; et al;
Proposal to Form Oil and Gas
Exploration and Development
Subsidiary; To Transfer Properties;
and To Issue, Sell and Acquire
Securities**

January 3, 1985.

Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware, 19807, a registered holding company, together with Columbia Gas Transmission Corporation ("Transmission") 1700 MacCorkle Avenue, SE., Charleston, West Virginia, 25314, and The Inland Gas Company ("Inland") 340 17th Street, Ashland, Kentucky, 41101, subsidiaries of Columbia engaged in the production, transportation and sale of natural gas, have filed a proposal with this Commission pursuant to Sections 6(b), 9, 10, 12 and 13 of the Public Utility Holding Company Act of 1935 and Rules 42, 43 and 50 thereunder.

It is proposed that Inland's and Transmission's natural resource properties including all mineral and surface rights and related personal property be transferred to Columbia Natural Resources, Inc. ("CNR"), a new corporation organized under the laws of Texas. Upon consummation of the transactions proposed CNR would become a wholly owned subsidiary of Columbia through which all exploration and production of oil and natural gas in the eastern U.S. would be handled. Transmission's operations would thereafter be confined to operation of an interstate pipeline. Inland would own an interstate pipeline and related facilities.

The transfer of properties will be pursuant to a Reorganization Agreement and Plan ("Agreement") which provides for the acquisition by CNR of all of the production, exploration and other non-utility properties owned by Transmission and Inland ("Seller" or "Sellers") in the states of Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, Vermont, Virginia and West Virginia, including oil properties, gas properties and the Transmission coal properties under lease to Columbia Coal Gasification Corporation. (Columbia Coal Gasification Corporation would continue as lessee of those properties).

In exchange CNR will issue to Transmission an Installment Promissory Note ("CNR Note") equal in value to a percentage of the net asset value of the natural resource properties received. The percentage will be based on the ratio of Transmission's long-term debt to total capitalization. Transmission will

then transfer the CNR Note to Columbia in prepayment of an equal aggregate principal amount of Transmission's installment promissory notes held by Columbia. For the balance of the net asset value of the natural resource properties received from Transmission, CNR will issue Common Stock, \$25 par value, to Transmission. Transmission also will then transfer the CNR Common Stock to Columbia which will deliver Transmission Common Stock of an equal aggregate par value to Transmission for retirement.

CNR will issue to Inland, Common Stock equal in value to one-half of the net asset value of the properties transferred to CNR. Inland will then transfer the CNR Common Stock to Columbia in payment of an equal amount of short-term debt. The balance of the consideration will be a CNR Note to Inland. The CNR Note will be transferred to Columbia in prepayment of an equal aggregate amount of Inland's installment promissory note owned by Columbia.

CNR Notes will be designed so that in both instances, the terms, including maturity, interest rate and dates of installment and interest payment, will equal the average terms of the installment promissory notes of Sellers to be exchanged by Columbia. As a result of these transactions, CNR will be a wholly owned subsidiary of Columbia and Columbia's investment in CNR will equal that which it had in Transmission and Inland. The Sellers maintain that this reorganization will not cause a change in the prices charged for natural gas as CNR will continue to render the same services as Transmission and Inland. CNR will assume and agree to pay, discharge or perform all liabilities and obligations of Sellers, except accounts payable and any of the outstanding installment promissory notes of the Sellers. To permit a gradual initiation of operations and to avoid an inefficient duplication of personnel, certain field services and limited administrative services may be performed by Transmission for CNR at cost, pursuant to service agreements.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 28, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law by certificate) should be filed with the request. Any request for a

hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified or any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-570 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13428]

**Pennwalt Corporation and First
Pennsylvania Bank, N.A.; Application
and Opportunity for Hearing**

January 3, 1985.

Notice is hereby given that Pennwalt Corporation and First Pennsylvania Bank, N.A. (the "Applicants") have filed an application pursuant to Clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended, (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of First Pennsylvania Bank, N.A. ("First Pennsylvania") under two existing indentures, one of which is qualified under the Act, and another proposed indenture which is not to be qualified is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First Pennsylvania from acting as trustee under such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such

other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

Applicants state that Pennwalt Corporation ("Pennwalt") has outstanding 9 $\frac{1}{4}$ % Sinking Fund Debentures, due August 1, 1995 (the "Debentures") issued under an Indenture dated as of August 1, 1970 (the "1970 Indenture") between Pennwalt and the First Pennsylvania Bank, N.A.¹ ("First Pennsylvania") as Trustee. The Debentures were registered under the Securities Act of 1933 and the 1970 Indenture was qualified under the Trust Indenture Act of 1939. Applicants allege that Pennwalt is not in default under the 1970 Indenture.

Applicants further allege that in 1982, the City of Calvert City, Kentucky (the "City"), issued \$15,000,000 principal amount of Pollution Control Revenue Bonds (Pennwalt Corporation Project) 1982 Series A (the "1982 Bonds") under a Trust Indenture with First Pennsylvania as Trustee dated as of October 1, 1982 (the "1982 Indenture"). The 1982 bonds were not registered under the Securities Act of 1933, pursuant to the exemption contained in Section 3(a)(2) thereof and the 1982 Indenture was not qualified under the Trust Indenture Act of 1939, pursuant to the exemption contained in Section 304(a)(4) of the Act.

According to Applicants, the proceeds of the 1982 Bonds were loaned by the City to Pennwalt under a Loan Agreement (the "1982 Agreement") dated as of October 1, 1982 between the City and Pennwalt, pursuant to which Pennwalt issued its unsecured Note (the "1982 Note") evidencing its obligation to repay said loan. The scheduled payments of principal and interest on the 1982 Note correspond with the scheduled payments of principal and interest on the 1982 Bonds.

Applicants state that the City now proposes to issue approximately \$2,600,000 principal amount of Pollution Control Revenue Bonds (Pennwalt Corporation Project) 1984 Series (the "1984 Bonds") under a Trust Indenture to be dated as of December 1, 1984 (the "1984 Indenture"), and Pennwalt proposes to borrow the proceeds under a Loan Agreement (the "1984 Agreement") pursuant to which a new Note (the "1984 Note") will be issued with scheduled payments of principal and interest corresponding to the payments of principal and interest on the 1984 Bonds. According to

Applicants, the 1984 Bonds will not be registered under the Securities Act of 1933, pursuant to the exemption contained in Section 3(a)(2) thereof, and the 1984 Indenture will not be qualified under the Trust Indenture Act of 1939, pursuant to the exemptive provision of Section 304(a)(4) of the Act.

Applicants state that Pennwalt and the City desire to have First Pennsylvania continue to act as Trustee under the 1970 and 1982 Indentures, and to act as Trustee under the 1984 Indenture.

Applicants allege that Pennwalt is not the issuer of the 1982 or 1984 Bonds, and argue that therefore, the 1982 and 1984 Indentures between the City and First Pennsylvania may be said to create no potential conflict of interest as defined in Section 310(b) of the Act. However, inasmuch as principal and interest on the Bonds will be wholly paid from revenues pledged by Pennwalt under the terms of the 1982 and 1984 Indentures, Applicants submit that it may be argued that the Bonds are "securities" of Pennwalt. If this were so, then for the purpose of Section 310(b) of the Act, both the 1982 and 1984 Indentures may be said to be other indentures "under which any other securities [of Pennwalt] are outstanding . . ." Applicants state that from this reading of the statute, in the absence of an appropriate exception a conflict of interest might exist by definition if a single trustee were to serve as Trustee under the 1970 Indenture and the 1982 and 1984 Indentures.

Applicants note that Section 310(b) of the Act contains a number of exceptions to the general rule prohibiting service as trustee under more than one indenture relating to securities of the same issuer. In addition to the exception under which their application is filed (Section 301(b)(1)(ii)), Applicants cite the exception for service under an indenture to be qualified and "such other indenture or indentures" where all the indentures are wholly unsecured, and the latter are either specifically described in the indenture to be qualified or are thereafter qualified themselves under the Act (unless the Commission shall have found that differences in the terms of the indentures would create a material conflict of interest). Section 310(b)(1)(i). Another exception cited by Applicants applies when the obligor is a real estate company having no substantial unmortgaged assets, and the indenture to be qualified and "such other indenture" (or indentures) are secured by wholly separate and distinct parcels of real estate. Section 310(b)(1)(C).

Applicants submit that the proscriptions and exceptions thereto in Section 310(b) of the Act evidence *inter alia* the general intent to prohibit a multiple trust indenture relationship between an issuer and a trustee that would, in the event of default, leave the trustee having to enforce competing claims of unequal status (i.e., secured and unsecured, subordinated and senior claims) against a single obligor on behalf of the holders of the obligor's securities. In the view of the Applicants, where claims in event of default would be of similar status (e.g., foreclosure on two separate mortgage agreements, or where all claims are those of general creditors), the statutory exceptions reflect the view that, in the absence of other significant conflicting indenture provisions, no material conflict of interest exists such as would require the disqualification of a trustee serving as trustee under two or more indentures of the same issuer.

Applicants state that both the 1982 and 1984 Indentures provide in their respective Sections 204 that the Bonds are limited obligations of the City payable only from the "Revenues" and any other property pledged therefor under the Indenture. "Revenues" are defined as, *inter alia*, the indebtedness of Pennwalt under the Loan Agreement, including without limitation all payments under the Notes. The Notes are payable to the Trustee for the account of the City and the City has assigned its rights under the Loan Agreement to the Trustee.

Applicants allege that to the extent that Pennwalt can be considered an obligor on the Bonds, its obligations under the Loan Agreements and under the Notes are wholly unsecured. The rights of the holders of the Bonds against Pennwalt are limited to a claim as general creditors, in the event of default in the payment on the Bonds.

Applicants further allege that the Debentures are not subordinated to Pennwalt's obligations under the Loan Agreements or the Notes. The Debentures and the Bonds are all wholly unsecured as to Pennwalt's obligations, and the Debentures and Pennwalt's obligations under the Notes and the Agreements (and thereby indirectly on the Bonds) are all of equal rank as to one another and without priority or preference of any over the other.

According to Applicants, the differences between the 1970 Indenture and the 1982 and 1984 Indentures with respect to provisions relating to events of default are not material.

In the opinion of Applicants, the provisions of the aforementioned

¹In 1970 First Pennsylvania was known as "The First Pennsylvania Banking and Trust Company."

Indentures are not likely to involve a material conflict of interest so as to make it necessary in the public interest for the protection of any holder of the Debentures or the Bonds to disqualify First Pennsylvania Bank, N.A. from acting as Trustee under the 1970 Indenture of the 1982 and 1984 Indentures.

Applicants have waived notice of hearing and have waived hearing in connection with this application and also waived any and all rights to specify procedures under the Rules of Practice of the Commission with respect to this application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than January 28, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-569 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21623; SR-BSE-84-7]

Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 3, 1985.

The Boston Stock Exchange, Inc. ("BSE") One Boston Place, Boston, Massachusetts; 02108; submitted on October 22, 1984, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Chapter XV of the BSE rules to codify requirements pertaining to the

registration of dealer-specialists and the minimum number of stocks required of each dealer-specialist. The proposed rule would require a dealer-specialist registered as such to register and act as a dealer-specialist in not less than 20 stocks of which at least 15 must be competitively traded through ITS. A dealer-specialist associated with a dealer-specialist who is registered in the minimum number of stocks specified above must register and act as a dealer-specialist in not less than 15 stocks. Also, under the proposed rule, the BSE Market Performance Committee, upon receiving a potential dealer-specialist's application, must cause an investigation and examination of the applicant and its associated persons to be made, and, within 60 days, notify the applicant of acceptance, rejection or conditional acceptance.

Notice of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 21514, November 21, 1984) and by publication in the Federal Register (49 FR 47144, November 30, 1984). No comments were received regarding the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-566 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21630; File No. SR-MSTC-84-10]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of Midwest Securities Trust Co.

January 3, 1985.

On December 10, 1984, the Midwest Securities Trust Company ("MSTC") filed a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78 *et seq.* (the "Act") and rule 19b-4 thereunder. The Commission is

publishing this Notice to solicit comment from interested persons.

The proposed rule change revises MSTC's interest and maturity cut-off dates for bearer securities. Currently, the interest and maturity cut-off dates for bearer securities at MSTC are the payment and maturity dates minus ten business days. This proposal changes MSTC's interest and maturity cut-off dates for bearer securities from ten business days before the payment and maturity dates to one calendar month before the payment and maturity dates.

MSTC states in its filing that the municipal securities industry requested that MSTC and the Depository Trust Company ("DTC") establish an interface between their operating systems for bearer securities. An interface between DTC's and MSTC's operating systems for bearer securities would require uniform interest and maturity cut-off dates at MSTC and DTC. In order to create this uniformity, MSTC is changing its interest and maturity cut-off dates.

Under the proposed rule change, the cut-off date for a February interest payment date, for example, would be January 1.¹ If a cut-off date falls on a weekend or non-settlement day, then the preceding MSTC business day will be the cut-off date. However, if a payment date falls on a weekend or non-settlement day, the following MSTC business day will be the payment date. In addition, existing procedures concerning deposits and withdrawals remain unchanged. Deposits and withdrawals prior to and including the cut-off date must be made with current coupons attached; deposits and withdrawals made after the cut-off date must be made without the current coupons attached.

To assist MSTC participants in accounting for interest and maturity payments due from MSTC, MSTC participants will receive two interest payment reports prior to payment date and two maturity reports prior to maturity date. The first payment and maturity reports—the Participant Interest Cut-Off Date Report and the Participant Maturity Cut-Off Date

¹ The only unusual payment dates that change the cut-off dates slightly are:

Cut-off date	Payment date
February 28	March 29, 30, 31
February 29 (leap year)	March 30, 31
April 30	May 31
June 30	July 31
September 30	October 31
November 30	December 31

Report—are generated at the close of business one month before the payment and maturity dates and are designed to verify for participants each security issue approaching payment or maturity date. The second payment and maturity reports—the Participant Interest Payable Date Report and the Participant Maturity Payable Date Report—are generated at the close of business one business day prior to the payment or maturity date. These reports recap information concerning the securities, participants' closing positions in these securities one month before payment or maturity date, and the interest or maturity payment due per security issue.

MSTC states in its filing that the proposed rule change is consistent with the Act in general and § 17A in particular. Specifically, MSTC states that the proposed rule change provides for the prompt and accurate settlement of securities transactions and encourages the linking of depositories and the development of uniform settlement procedures.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Written comments on the proposal may be submitted within 21 days from the date this notice is published in the Federal Register. Six copies should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. MSTC-84-10. Copies of all documents relating to the proposed rule change, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room in Washington, D.C. or at MSTC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.
[FR Doc. 85-568 Filed 1-8-85; 8:45 am]
BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, N.W., Washington, D.C. 20549.

Approval

Form N-SAR—File No. 270-292
Form N-1Q—File No. 270-207
Rule 270.T30b1-5—File No. 270-296
Rule 270.30b1-2—File No. 270-212
Rule 240.12b-25—File No. 270-70
Form 12b-25—File No. 270-70

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for approval the following rules/forms:

Form N-SAR—semi-annual report form for registered investment companies
Form N-1Q—quarterly report of management investment company
Rule 270.T30b1-5—temporary suspension of quarterly reporting obligation of management investment companies
Rule 270.30b1-2—quarterly report for totally held registered investment company subsidiary of registered investment company
Rule 240.12b-25—notification of inability to timely file all or any required portion of a Form 10-K, 20-F, 11-K, N-SAR or 10Q.
Form 12b-25—notification of late filing

Comments should be submitted to OMB Desk Officer: Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: January 3, 1985.
Shirley E. Hollis,
Assistant Secretary.
[FR Doc. 85-634 Filed 1-8-85; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-21621; File No. SR-CBOE-84-33]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange Inc.; Relating to Order Support System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1984, the Chicago Board Options Exchange, Incorporated

filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Effective January 2, 1985, the parameters for electronic routing of orders to the book, under the Exchange's Order Support System ("OSS") are modified to eliminate the contract size limit. The option premium parameters remain as stated in SR-CBOE-84-12.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Since October 15, 1983, the parameters for OSS in equity options included a 29 contract limit. The current rule filing reflects further experimentation with the Exchange's Order Support System ("OSS"), the Exchange system for electronic routing of orders to the public order book, eliminating the contract size limit. The statutory basis for this rule change is Section 6(b)(5) of the Securities Exchange Act of 1934, in that this change will facilitate the ability of member firms to transmit public customers orders to the public order book.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposal will not impose any burden on competition that is not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange membership endorsed this change to OSS parameters in a vote concluded on November 20, 1984.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
 (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 30, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 2, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-633 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21611; File No. SR-PHLX 84-29]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc., Relating to Precedence of Highest Bid and Lowest Offer

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15

U.S.C. 78s(b)(1), notice is hereby given that on December 13, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 1067. Precedence of Highest Bid and Lowest Offer. The highest bid and the lowest offer shall have precedence in all cases.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to file as a rule the PHLX's interpretation of precedence as it pertains to options trading on the PHLX. Such interpretation currently provides that the provisions of Rule 119 which govern precedence on the PHLX's equity floor, other than the first sentence thereof are not applicable to options trading. (The first sentence of Rule 119 is identical to the proposed rule change.)

The proposed rule change is based on Section 6b(1) of the Securities Exchange Act of 1934 ("Act") which provides, in part, that an exchange have the capacity to enforce compliance by its members with its rules.

B. Self-Regulatory Organizations Statement on Burden on Competition

The proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approved such proposed rule change, or
 (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 30, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 28, 1984.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-635 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 34-21610; File No. SR-PHLX-84-33)

**Self-Regulatory Organizations;
Proposed Rule Change by Philadelphia
Stock Exchange, Inc. Relating to the
Use of Letters of Credit in the
Exchange's Foreign Currency Option
Market**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 17, 1984, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("PHLX") is proposing changes to its margin rule, Rule 722, to allow member organizations to accept letters of credit in satisfaction of a foreign currency option writer's initial and maintenance margin obligations. This amendment would provide that such letters must be irrevocable, must be in a face amount equal to or greater than the margin requirements applicable to the foreign currency option positions to which they pertain and must expire sooner than those option positions.

PHLX has proposed to amend the Commentary to this rule regarding reporting to the PHLX of information regarding the suitability of the customer utilizing a letter of credit. The proposed amendments of the Commentary also clarify the method and frequency of reporting information to the PHLX relevant to the use of letters of credit. Further, the amendments provide for an extension of the pilot program for a period of one year subsequent to the effective date of this amendment.

**II. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

the places specified in Item IV below and is set forth in Sections (A), (B) and (C) below.

**(A) Self-Regulatory Organization's
Statement of the Purpose of, and the
Statutory Basis for, the Proposed Rule
Change**

The proposed amendments to Rule 722 are designed to allow letters of credit to be utilized as a means of satisfying initial and maintenance margin requirements on foreign currency options written and carried "short" in a customer's account. As a part of an extended pilot program, the expansion of the use of letters of credit to satisfy maintenance margin requirements in addition to initial requirements eliminates the computational and computerization complexities which have inhibited financial institutions and corporate entities from utilizing the pilot program and from participating in the foreign currency option marketplace. This expansion also reduces the operational and cost burdens of PHLX member organizations in establishing and maintaining complex margining systems for foreign currency option writer's positions. Other proposed changes in the rule are designed to eliminate redundancy in the rule.

The changes proposed in the Commentary to Rule 722 further clarify the reporting requirements and reporting frequency to the PHLX of information relating to users of letters of credit. The information is designed to provide a profile of the suitability of the customer utilizing letters of credit as well as to provide a measure of the risk exposure to the securities industry relating to the use of letters of credit in satisfaction of a customer's margin requirements. Other proposed changes in the Commentary define an acceptable method of and timeframe for reporting required information to the PHLX and eases the member organization's requirement of transmitting trade by trade data and the burden of preparing a specialized reporting format for the pilot program.

The proposed amendments to the Commentary of Rule 722 also reflect the extension of the pilot program for a period of one year subsequent to the effective date of these amendments.

**(B) Self-Regulatory Organization's
Statement on Burden on Competition**

The PHLX does not believe that this proposed rule change will impose any burden on competition.

**(C) Self-Regulatory Organization's
Statement on Comments on the
Proposed Rule Change Received from
Members, Participants or Others**

Comments were neither solicited nor received.

**III. Date of Effectiveness of the
Proposed Rule Change and Timing for
Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 30, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 28, 1984.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-636 Filed 1-8-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP84-12; Notice 2]

Mitsubishi Motors Corp., Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by Mitsubishi Motors Corp. of Tokyo, Japan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, Controls and Displays. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 28, 1984, and an opportunity afforded for comment (49 FR 34122).

Under Footnote 3 to Table 2 of Standard No. 101, if the odometer indicates kilometers, it shall be identified either by the word "KILOMETERS" or the abbreviation "km". Mitsubishi has designed an instrument panel cluster incorporating an electronic digital display in which both the speedometer and odometer may be converted from registering speed and distance in miles to registering them in kilometers at the driver's choice. A noncompliance exists in that the odometer in the kilometer setting does not identify the read-out as representing a kilometer value. The noncompliance exists in over 2600 1985-model Starions and Galants, and Dodge and Plymouth Conquests, produced by November 15, 1984.

Mitsubishi intended to affix a label to each of the cars in the vicinity of the odometer which will state "TRIP/ODOMETER indicates Km, when speedometer reads km/h." The speedometer itself, in the kilometer setting, is correctly identified. Mitsubishi believes that there will be no confusion after the initial operation of the system and that even if there were a temporary confusion, there would be no safety implications. For these reasons, petitioner argues that the noncompliance is inconsequential.

No comments were received on the petition.

NHTSA has reviewed petitioner's arguments. It has concluded that operators will comprehend quickly that the two electronic displays, speedometer and trip-odometer, are in corresponding units. The fact that Mitsubishi has labeled the vehicles as

indicated should negate any chance of confusion and possible threat to safety.

Accordingly, it is hereby found that the petitioner has met its burden of persuasion that the noncompliance here-in described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

[Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8]

Issued on January 3, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-582 Filed 1-9-85; 8:45 am]

BILLING CODE 4910-59-M

Urban Mass Transportation Administration

[Docket No. 84-G]

Exemption From Buy American Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed exemption and request for comments.

SUMMARY: Section 165 of the Surface Transportation Assistance Act of 1982 provides that Federal funds may not be obligated by the Urban Mass Transportation Administration (UMTA) for mass transportation projects unless steel and manufactured products used in the project are produced in the United States. Section 165 further provides that any of its provisions may be waived if their application would be inconsistent with the public interest. The American Association of State Highway and Transportation Officials (AASHTO) has petitioned UMTA to grant such a public interest waiver for the procurement of microcomputers. Before acting on this request, UMTA is seeking the views and recommendations of all interested and affected parties.

DATE: Comments must be received on or before February 25, 1985. Comments received after this date will not be considered by UMTA in determining whether or not the waiver will be granted.

ADDRESS: Comments should be submitted to UMTA Docket No. 84-G, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street,

SW., Washington, D.C. 20590, (202) 426-4063.

SUPPLEMENTARY INFORMATION: Section 165 of the Surface Transportation Assistance Act of 1982 provides, with exceptions, that Federal funds may not be obligated for mass transportation projects unless a preference is given to domestically produced products (the Buy America requirements). Section 165(b)(1) provides that any of the requirements of Section 165 may be waived if their application would be inconsistent with the public interest.

Under UMTA programs, recipients of Federal funds are given discretion in determining what kind of equipment they will procure with Federal assistance. Many smaller transit systems are now using microcomputers for their daily transit planning and daily programming needs. According to AASHTO, these microcomputers fail to meet Buy America requirements since their chips and some major components are not made in the United States. As a result, requests for a waiver of Buy America requirements would have to be made each time an UMTA grantee wishes to procure microcomputer equipment. UMTA has recently received several such requests and the waivers have been granted on an individual basis under the provisions of section 165(b)(2) which provides that a waiver may be granted if materials and products being procured are not produced in the United States in sufficient and reasonable quantities and of satisfactory quality. Under UMTA regulations, the item being procured is presumed to be unavailable if no responsive bid is received which will provide a domestic product.

This information indicates to UMTA that several grantees are experiencing difficulty in purchasing domestically produced microcomputer equipment appropriate to their needs. AASHTO states that the public interest would be best served by a general waiver under section 165(b)(1) which would streamline the purchasing process for all grantees who would need or expect to need similar equipment.

Before acting on AASHTO's waiver request, UMTA is seeking public comment from all interested parties. UMTA is seeking this public comment since it is felt that the granting or denial of this waiver could have nationwide consequences and UMTA desires to have all available information before it prior to rendering a decision. In particular, UMTA desires responses to the following questions:

(1) What definition of microcomputers should be considered by UMTA?

(2) Should the public interest waiver apply to just hardware of microcomputers or to software also?

(3) If a waiver is granted, should there be a dollar limit on the applicability of the waiver?

(4) Should a public interest waiver for microcomputers apply to all UMTA grantees?

In addition, should the total amount of the procurement be taken into consideration or just the cost of individual pieces of equipment?

It should be noted that UMTA will continue to consider individual requests for Buy America waivers for microcomputers during the pending of the AASHTO public interest waiver request proceedings.

Dated: January 2, 1985.

Ralph L. Stanley,

Urban Mass Transportation Administrator.

[FR Doc. 85-632 Filed 1-8-85; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supp. to Dept. Circ. Public Debt Series—No. 41-84]

Treasury Notes; Series D-1992

Washington, January 3, 1985.

The Secretary announced on January 2, 1985, that the interest rate on the notes designated Series D-1992, described in Department Circular—Public Debt Series—No. 41-84 dated December 26, 1984 (50 FR 375; January 3, 1985), will be 11% percent. Interest on the notes will be payable at the rate of 11% percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-610 Filed 1-8-85; 8:45 am]

BILLING CODE 4810-40-M

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to Section 10 of Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on January 29 and January 30, 1985 of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the Public Securities Association U.S. Government and

Federal Agencies Securities Committee meeting provides for a working session on January 29 and the preparation of a written report to the Secretary of the Treasury on January 30, 1985.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee hearings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: January 2, 1985.

John J. Niebenke,

Acting Assistant Secretary, (Domestic Finance).

[FR Doc. 85-553 Filed 1-8-85; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1984 Rev., Supp. No. 6]

American Druggists' Insurance Co.; Surety Companies Acceptance on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Druggists' Insurance Company, under section 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective December 31, 1984.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27249, July 2, 1984.

With respect to any bonds currently in force with American Druggists' Insurance Company bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service (formerly Bureau of Government Financial Operations), Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2319.

Dated: January 3, 1985.

Marc Page,

Deputy Commissioner, Financial Management Service.

[FR Doc. 85-552 Filed 1-8-85; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1984 Rev., Supp. No. 5]

Surety Companies Acceptable on Federal Bonds; American Bankers Insurance Co. of Florida

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308 Title 31 of the United States Code. An underwriting limitation of \$1,791,000 has been established for the company.

Name of Company:

American Bankers Insurance Company of Florida

Business Address:

600 Brickell Avenue, Miami, Florida

State of Incorporation:

Florida

Certificates of Authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1983 Revision, at page 27249 to reflect this addition. Copies of the circular, when issued, may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226.

Dated: January 3, 1985.

Marc Page,*Deputy Commissioner, Financial Management Service.*

[FR Doc. 85-551 Filed 1-8-85; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1984 Rev., Supp. No. 7]

Allied Fidelity Insurance Co.; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to ALLIED FIDELITY INSURANCE COMPANY, under sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective today. The company was listed as an acceptable surety on Federal bonds at 49 FR 27249, July 2, 1984.

With respect to any bonds currently in force with ALLIED FIDELITY INSURANCE COMPANY, bond-approving officers for the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, (formerly Bureau of Government Financial Operations), Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2319.

Dated: January 4, 1985.

W.E. Douglas,*Commissioner.*

[FR Doc. 85-756 Filed 1-8-85; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 6

Wednesday, January 9, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Friday, January 18, 1985.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Financial Audit.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-689 Filed 1-7-85; 11:14 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 24, 1985.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing on the National Futures Association.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-690 Filed 1-7-85; 11:14 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, January 29, 1985.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agricultural Options Contracts.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-691 Filed 1-7-85; 11:14 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 31, 1985.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Amex Commodities Corporation application to trade options on gold bullion.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-682 Filed 1-7-85; 11:14 am]

BILLING CODE 6351-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:00 a.m., Monday, January 7, 1985.

PLACE: Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

MATTER TO BE CONSIDERED: Fiscal Year 1986 Budget. The Commission will consider issues related to the Fiscal Year 1986 Budget. The Commission decided that agency business required holding this meeting without the normal advance notice.

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 Avenue, Bethesda, Md. 20207, (301) 492-6800.

Dated: January 4, 1985.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85-626 Filed 1-4-85; 4:21 pm]

BILLING CODE 6355-01-M

6

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, January 9, 1985.

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

OPEN TO THE PUBLIC.

MATTERS TO BE CONSIDERED:

1. *Voluntary Standards Policy; Final Amendment*

The staff will brief the Commission on a proposed amendment to the Commission's voluntary standards policy. The amendment, proposed on June 19, 1984, concerns Commission support for voluntary standards.

2. *Employee Standards of Conduct Amendment*

The Commission will consider an amendment to the Commission's Employee Standards of Conduct regulations concerning outside employment and activities.

Partly Open to the Public/Partly Closed to the Public:

3. *Baby Gates Options*

The Commission will consider regulatory options regarding accordion-style expandable gates.

For a recorded message containing the latest agenda information call (301) 492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, (301) 492-6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85-627 Filed 1-4-85; 8:45 am]

BILLING CODE 6355-01-M

7

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m. Thursday, January 10, 1985.

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

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Kerosene Heater Status Report*

The staff will brief the Commission on the kerosene heater project particularly as it relates to the issue of indoor air quality.

2. *Delegation of Review of FOIA Appeals*

The staff will brief the Commission on the issue of the delegation of the

Commission's authority to decide Freedom of Information Act appeals.

3. *Advisory Opinion on Preemption Issues*
The Commission will consider a draft advisory opinion which addresses certain preemption issues.

Closed to the Public:

4. *Enforcement Matter OS #3669.*

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.

Date: January 3, 1985.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85-628 Filed 1-4-85; 4:21 pm]

BILLING CODE 6355-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 14, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Request for reconsideration of a previous denial of a request for relief from reimbursement under the Truth in Lending Act:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda: Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,159: Reserves for Losses; 230 Open Liquidation Cases.

Notice of acquisition of control: Greenwood Trust Company, Greenwood, Delaware.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 7, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-753 Filed 1-7-85; 3:22 pm]

BILLING CODE 6714-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION

AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 14, 1985, to consider the following matters:

Summary Agency: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

Deposit Bank & Trust Company, Pleasureville, Kentucky, an insured State nonmember bank, for consent to transfer certain assets to Republic Savings Bank, FSB, Benton, Kentucky, a non-FDIC-insured institution, in consideration of the assumption of the liability to pay deposits made in Deposit Bank & Trust Company, Pleasureville, Kentucky.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Reports Under Delegated Authority; Status of Approved Committee Cases.

Discussion Agenda: No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 7, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-754 Filed 1-7-85; 3:22 pm]

BILLING CODE 6714-01-M

10

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:30 p.m. on Friday, January 4, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution making funds available for the payment of insured deposits made in Citizens State Bank, Edgerton, Wyoming, which was closed by the Acting State Examiner for the

State of Wyoming on Friday, January 4, 1985.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 7, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robins,
Executive Secretary.

[FR Doc. 85-775 Filed 1-7-85 3:22 pm]

BILLING CODE 6714-01-M

11

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, January 14, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 4, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-637 Filed 1-4-85; 4:38 pm]

BILLING CODE 6210-01-M

12

[USITC SE-85-03]

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., January 10, 1985.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints. (a) Certain Fluidized bed combustion systems (Docket No. 1127).
5. Investigation 701-TA-218 and 731-TA-169/182 [Final] (Carbon steel products from the Republic of Korea, Argentina, Australia, Finland, and Spain)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary. (202) 523-0161.

[FR Doc. 85-639 Filed 1-4-85; 4:38 pm]

BILLING CODE 7020-02-M

13

[USITC SE-85-02A]

INTERNATIONAL TRADE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 49537, December 20, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Friday, January 4, 1985.

CHANGES IN THE MEETING: Deletion of agenda item as follows:

1. Petitions and complaints. (b) Certain double-sided floppy disk drives and components thereof (Docket No. 1124).

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, and Rohr determined that Commission business requires the change in subject matter by deletion of the agenda item, affirmed that no earlier announcement of the deletion to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[FR Doc. 85-650 Filed 1-4-85; 4:52 pm]

BILLING CODE 7020-02-M

14

[USITC SE-85-02B]

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 49537, December 20, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Friday, January 4, 1985.

CHANGES IN THE MEETING: Change of location for Commission meeting from Room 117 to the Hearing Room (Room 331).

In conformity with 19 CFR 210.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, and Rohr determined that Commission business requires the change in location of the meeting, affirmed that no earlier announcement of the deletion to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. There are no other changes to the agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[FR Doc. 85-651 Filed 1-4-85; 4:52 pm]

BILLING CODE 7020-02-M

15

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 7, 14, 21, and 28, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Week of January 7

Tuesday, January 8

2:00 p.m.: Periodic Briefing on NTOLs (Open/Portion Closed—Ex. 5 and 7)

Wednesday, January 9

10:00 a.m.: Continuation of 12/18 Briefing and Discussion on the Hearing Process (Public Meeting)

Thursday, January 10

1:30 p.m.: Discussion/Possible Vote on Proposed Amendments to 10 CFR Part 2 (Public Meeting)

3:00 p.m.: Affirmation/Discussion and Vote (Public Meeting);

a. Final Rule—10 CFR Part 53 "Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity"

Week of January 14—Tentative

Monday, January 14

2:00 p.m.: Proposed Legislative Package on Regulatory Reform (Public Meeting)

Tuesday, January 15

10:00 a.m.: Discussion of Adjudication Matters Related to Catawba-1 (Closed—Ex. 10)

2:00 p.m.: Discussion/Possible Vote on Full Power Operating License for Catawba-1 (Public Meeting)

Wednesday, January 16

10:00 a.m.: Discussion of 1985 Policy and Planning Guidance (Public Meeting)

2:00 p.m.: Discussion of Need For and
Impact of Further TMI-1 Hearings (Public
Meeting)

Thursday, January 17

2:00 p.m.: Affirmation Meeting (Public
Meeting) (if needed)

Week of January 21—Tentative

Wednesday, January 23

10:00 a.m.: Affirmation Meeting (Public
Meeting) (if needed)

Week of January 28—Tentative

Tuesday, January 29

10:00 a.m.: Discussion of Plant Issues with
Regional Administrators (Public Meeting)

2:00 p.m.: Affirmation/Discussion of San
Onofre Order (Public Meeting)
(Tentative)

Wednesday, January 30

10:00 a.m.: Discussion of Management
Organization and Internal Personnel
Matters (Closed—Ex. 2 and 6)

Thursday, January 31

2:00 p.m.: Affirmation Meeting (Public
Meeting) (if needed)

To verify the status of meetings call
(recording)—(202) 634-1498.

**CONTACT PERSON FOR MORE
INFORMATION:** Julia Corrado (202)
634-1410.

Dated: January 4, 1985.

[FR Doc. 85-652 Filed 1-4-85; 5:02 pm]

BILLING CODE 7590-01-M

Federal Register

Wednesday
January 9, 1985

Part II

Environmental Protection Agency

40 CFR Part 60

**Standards of Performance for New
Stationary Sources; Reference Methods;
Adding Certain Calibration Procedures
Contained in APTD-0576 and APTD-0581;
Final Rule**

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 60

[AD-FRL-2752-6]

**Standards of Performance for New
Stationary Sources; Reference
Methods; Revisions Adding Certain
Calibration Procedures Contained in
APTD-0576 and APTD-0581****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Final rule.

SUMMARY: The purpose of this action is to promulgate revisions to Method 5 of Appendix A of 40 CFR Part 60 to add certain sampling equipment calibration procedures that are contained in Air Pollution Technical Documents APTD-0576 and APTD-0581. The calibration procedures are already required by Method 5; however, they are not currently described in the text of Method 5. Since it has been determined that APTD-0576 and APTD-0581 are not suitable for incorporation by reference, we are now revising Method 5 to include all of the necessary calibration procedures.

EFFECTIVE DATE: January 9, 1985.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A-83-15, containing materials considered by EPA in development of the promulgated rulemaking, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Grimley or Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION: In the Freedom of Information Act, 5 U.S.C. 552, Congress authorized incorporation of materials into regulations by reference in an effort to reduce the

volume of material published in the Federal Register and Code of Federal Regulations. Incorporation by reference allows Federal agencies to comply with the requirement to publish regulations in the Federal Register simply by referring to material already published elsewhere, rather than reprinting such material in the published regulations. The legal effect of incorporation by reference is that the material is treated as if it were published in the Federal Register. This material, like any other properly issued regulation, has the force and effect of law.

In this action, EPA is removing certain documents from incorporation by reference in Method 5, as it has been determined that they are not suitable for incorporation by reference, and is promulgating the necessary calibration procedure.

Public Participation

The revisions were proposed and published in the Federal Register on November 14, 1983 (48 FR 51900). The opportunity to request a public hearing was presented to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed revisions, but no person desired to make an oral presentation. The public comment period was from November 14, 1983, to January 9, 1984. Four comment letters were received concerning issues relative to the proposed revisions. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made.

**Significant Comments and Changes to
the Proposed Method Revisions**

Four comment letters were received on the proposed revisions. The major comments and responses are summarized in this preamble. Some of the comment letters contained multiple comments. The significant comments and subsequent changes to the proposed revisions are listed here.

1. One commenter felt that orifice manometer settings of 6.0 and 8.0 in. H₂O should not be required if sampling is not conducted at these high settings. Another commenter felt that calibration flow rates should be specified rather than orifice readings because the specified orifice readings were not appropriate for all orifices in use.

The proposed revisions allowed the deletion of 8.0 in H₂O, but Section 5.3.1 has been changed to require that a minimum of three orifice settings be used, with the highest and lowest settings selected to bracket the expected field operating range of the orifice.

2. One commenter thought that for consistency the metering system should

be operated with the pump under a vacuum during both the pretest and post-test calibrations.

The metering system plumbing arrangement already causes the pump to be under a vacuum during calibration. The purpose of specifying that the post-test calibration check be conducted at the maximum vacuum reached during the testing is to verify the performance of the metering system at the vacuum—a value that could not necessarily be predicted beforehand.

3. One commenter stated that initial accuracy requirements for Y and $\Delta H@$ should be specified in order to eliminate poor quality meters and orifices, and that individual tolerances for each data point for the Y and $\Delta H@$ determinations should also be specified.

We basically agree. Since Y and $\Delta H@$ are correction factors to account for meter inaccuracies, the specifications that are actually needed are ones for tolerance on individual Y and $\Delta H@$ values. Therefore, Figure 5.6 has been revised to specify a tolerance of ± 0.02 from the average for individual values of Y, and a tolerance of ± 0.20 from the average for individual values of $\Delta H@$.

4. One commenter noted that the standard temperature referred to in Figure 5.6 should be 68 °F, not 70 °F.

This correction has been made.

5. One commenter felt that the second sentence of Section 5.4 was vague and should be rewritten. Another commenter thought that Section 6.12 needed rewording to prevent misinterpretation.

Both sections have been rewritten to clarify the intent.

6. One commenter thought that 5 cubic feet should be a sufficient volume to pass through the dry gas meter in order to smooth out the variations seen in readings due to the cycling of the mechanism within the meter.

This comment has been judged to be valid, and Section 5.3.1 has been changed to specify 5 cubic feet at each orifice setting.

7. One commenter noted that standardized dry gas meters are equally suitable for post-sample calibration checks, and should be permitted.

Section 7.1 already describes how a dry gas meter can be used as an acceptable calibration standard.

8. One commenter felt that calibration runs should be defined by flow rate settings rather than orifice settings, as the intent of the specified range of orifice values is to span the range of flow values needed when actually sampling.

Since exact orifice settings are no longer specified (refer to Comment Number 1), each calibration run can be established by flow rate, if desired. Each ΔH must still be recorded, as the

extreme values most readily define the calibrated range. This range is usually noted on the orifice manometer. The tester (and test observers) can then easily confirm that the metering system is operating within its calibrated range.

Docket

The docket is an organized and complete file of the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents readily so they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purposes of the proposed and promulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (Section 307(d)(7)(a)).

Miscellaneous

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 is not major because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because there will not be any increase in the cost of testing.

This rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 60

Air pollution control.

Dated: December 28, 1984.

William D. Ruckelshaus,
Administrator.

PART 60—[AMENDED]

Appendix A—[Amended]

40 CFR Part 60, Appendix A, Method 5, is amended as follows:

1. By revising the first sentence of Section 4.1.1 to read as follows:

4.1.1 Pretest Preparation. It is suggested that sampling equipment be maintained according to the procedures described in APTD-0576.

2. By revising Section 5.3 to read as follows:

5.3 Metering System.

5.3.1 Calibration Prior to Use. Before its initial use in the field, the metering system shall be calibrated as follows: Connect the metering system inlet to the outlet of a wet test meter that is accurate to within 1 percent. Refer to Figure 5.5. The wet test meter should have a capacity of 30 liters/rev (1 ft³/rev). A spirometer of 400 liters (14 ft³) or more capacity, or equivalent, may be used for this calibration, although a wet test meter is usually more practical. The wet test meter should be periodically calibrated with a spirometer or a liquid displacement meter to ensure the accuracy of the wet test meter. Spirometers or wet test meters of other sizes may be used, provided that the specified accuracies of the procedure are maintained. Run the metering system pump for about 15 minutes with the orifice manometer indicating a median reading as expected in field use to allow the pump to warm up and to permit the interior surface of the wet test meter to be thoroughly wetted. Then, at each of a minimum of three orifice manometer settings, pass an exact quantity of gas through the wet test meter and note the gas volume indicated by the dry gas meter. Also note the barometric pressure, and the temperatures of the wet test meter, the inlet of the dry gas meter, and the outlet of the dry gas meter. Select the highest and lowest orifice settings to bracket the expected field operating range of the orifice. Use a minimum volume of 0.15 m³ (5 cf) at all orifice settings. Record all the data on a form similar to Figure 5.6, and calculate Y, the dry gas meter calibration factor, and $\Delta H@$, the orifice calibration factor, at each orifice setting as shown on Figure 5.6. Allowable tolerances for individual Y and $\Delta H@$ values are given in Figure 5.6. Use the average of the Y values in the calculations in Section 6.

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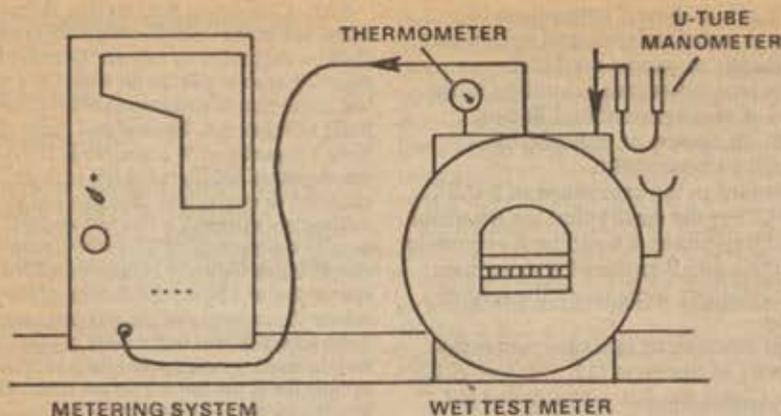


Figure 5.5 Equipment arrangement for metering system calibration.

Date _____ Metering System Identification: _____
 Barometric pressure, P_b = _____ in. Hg

Orifice manometer setting ΔH in. H_2O	Spirometer (wet meter) gas volume (V_w) ft^3	Dry gas meter volume (V_m) ft^3	Temperatures			Time (θ) min
			Spirometer (wet meter) (t_w) $^{\circ}F$	Dry Gas Meter Inlet (t_o) $^{\circ}F$	Dry Gas Meter Outlet (t_i) $^{\circ}F$	

Calculations

	Y	ΔH_{θ}
ΔH in. H_2O	$\frac{V_w P_b (t_m + 460)}{V_m (P_b + 13.6) (t_w + 460)}$	$\frac{0.0317 \Delta H}{P_b (t_o + 460)} \left[\frac{(t_w + 460) \theta}{V_w} \right]^2$
Average		

Y = Ratio of reading of wet test meter to dry test meter; tolerance for individual values ± 0.02 from average.

ΔH_{θ} = Orifice pressure differential that equates to 0.75 cfm of air @ 68°F and 29.92 inches of mercury, in. H_2O ; tolerance for individual values ± 0.20 from average.

Figure 5.6. Example data sheet for calibration of metering system (English units).

Before calibrating the metering system, it is suggested that a leak-check be conducted. For metering systems having diaphragm pumps, the normal leak-check procedure will not detect leakages within the pump. For these cases the following leak-check procedure is suggested: make a 10-minute calibration run at $0.00057\text{m}^3/\text{min}$ (0.02 cfm); at the end of the run, take the difference of the measured wet test meter and dry gas meter volumes; divided the difference by 10, to get the leak rate. The leak rate should not exceed $0.00057\text{m}^3/\text{min}$ (0.02 cfm).

5.3.2 Calibration After Use. After each field use, the calibration of the metering system shall be checked by performing three calibration runs at a single, intermediate orifice setting (based on the previous field test), with the vacuum set at the maximum value reached during the test series. To adjust the vacuum, inset a valve between the wet test meter and the inlet of the metering system. Calculate the average value of the dry gas meter calibration factor. If the value has changed by more than 5 percent,

recalibrate the meter over the full range of orifice settings, as previously detailed.

Alternative procedures, e.g., rechecking the orifice meter coefficient may be used, subject to the approval of the Administrator.

5.3.3 Acceptable Variation in Calibration. If the dry gas meter coefficient values obtained before and after a test series differ by more than 5 percent, the test series shall either be voided, or calculations for the test series shall be performed using whichever meter coefficient value (i.e., before or after) gives the lower value of total sample volume.

3. By revising Section 5.4 to read as follows:

5.4 Probe Heater Calibration. The probe heating system shall be calibrated before its initial use in the field.

Use a heat source to generate air heated to selected temperatures that approximate those expected to occur in the sources to be sampled. Pass this air through the probe at a typical sample flow rate while measuring the probe inlet and outlet temperatures at various

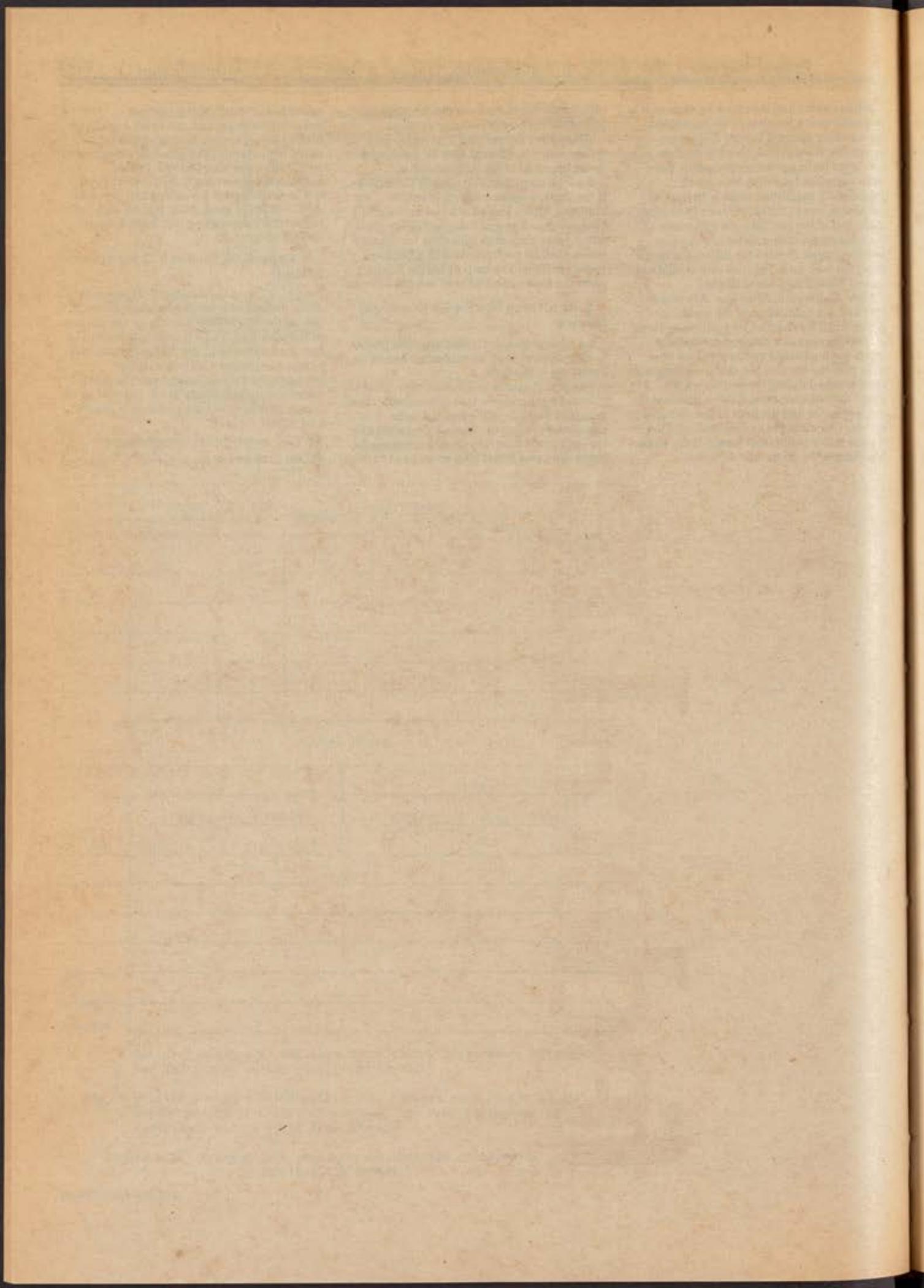
probe heater settings. For each air temperature generated, construct a graph of probe heating system setting versus probe outlet temperature. The procedure outlined in APTD-0576 can also be used. Probes constructed according to APTD-0581 need not be calibrated if the calibration curves in APTD-0576 are used. Also, probes with outlet temperature monitoring capabilities do not require calibration.

4. By revising Section 6.12 to read as follows:

6.12 Acceptable Results. If 90 percent $< I < 110$ percent, the results are acceptable. If the particulate results are low in comparison to the standard, and I is over 110 percent or less than 90 percent, the Administrator may accept the results. Citation 4 in the bibliography section can be used to make acceptability judgments. If I is judged to be unacceptable, reject the particulate results and repeat the test.

[FR Doc. 85-593 Filed 1-8-85; 8:45 am]

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federal register

Wednesday
January 9, 1985

Part III

Environmental Protection Agency

Proposed Guidelines for the Health Risk
Assessment of Chemical Mixtures and
Request for Comments; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2742-8]

Proposed Guidelines for the Health Risk Assessment of Chemical Mixtures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed guidelines for the Health Risk Assessment of Chemical Mixtures and request for comments.

SUMMARY: The U.S. Environmental Protection Agency is proposing Guidelines for the Health Risk Assessment of Chemical Mixtures (Guidelines). These Guidelines are proposed for use within the policy and procedural framework provided by the various statutes that EPA administers to guide Agency analysis of health effects data. We solicit public comment and will take public comment into account in revising these Guidelines. These Guidelines will be reviewed by the Science Advisory Board in meetings now tentatively scheduled for April 1985.

These proposed Guidelines were developed as part of a board guidelines development program under the auspices of the Office of Health and Environmental Assessment (OHEA), located in the Agency's Office of Research and Development. Consonant with the role of OHEA's Environmental Criteria and Assessment Office in Cincinnati (ECAO-Cin) as the Agency's senior health committee for health risk assessment of chemical mixtures, the Guidelines were developed by an Agency-wide working group chaired by the Director of ECAO-Cin.

DATE: Comments must be postmarked by March 11, 1985.

ADDRESS: Comments may be mailed or delivered to: Dr. Jerry Stara, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, OH 45268.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Hertzber, Telephone: 513-684-7531.

SUPPLEMENTARY INFORMATION:

Preliminary drafts of these Guidelines were sent for review to approximately 20 scientists in the fields of toxicology, pharmacokinetics and statistics within the Agency and a later draft was sent for external review to 12 scientists within government, academia and the private sector. Comments received from these reviewers, generally favorable, were considered in developing the Guidelines proposed here.

References and supporting documents used in the preparation of these guidelines as well as comments received are available for inspection and copying at the Public Information Reference Unit (202-382-5926), EPA Headquarters Library, 401 M Street, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m.

Dated: January 2, 1985.

William D. Ruckelshaus,
Administrator.

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 - a. Health Effects
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- IV. Mathematical Models and the Measurement of Joint Action
 - A. Dose Addition
 - B. Response Addition
 - C. Interactions
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I. Introduction

The primary purpose of this document is to generate a consistent Agency approach for evaluating data on the chronic and subchronic effects of chemical mixtures. It is a procedural guide which emphasizes broad underlying principles of the various science disciplines (toxicology, pharmacology, statistics) necessary for assessing health risk from chemical mixture exposure. Approaches to be used with respect to the analysis and evaluation of the various data are also discussed.

It is not the intent of these Guidelines to regulate any social or economic aspects concerning risk of injury to human health or the environment caused by exposure to a chemical agent(s). All such action is addressed in specific statutes and federal legislation and is independent of these Guidelines.

While some potential environmental hazards involve significant exposure to only a single compound, most instances of environmental contamination involve concurrent or sequential exposures to a variety of compounds that may induce similar or dissimilar effects over exposure periods ranging from short-term to lifetime. In some instances, the mixtures are highly complex consisting of scores of compounds that are

generated simultaneously as by-products from a single source or process (e.g., coke oven emissions and diesel exhaust). In other cases, complex mixtures of related compounds are produced as commercial products (e.g., PCBs, gasoline and pesticide formulations) and eventually released to the environment. Another class of mixtures consists of compounds, often unrelated chemically or commercially, which are placed in the same area for disposal or storage, eventually come into contact with each other, and are released as a mixture to the environment. The quality and quantity of pertinent information available for risk assessment varies considerably for different mixtures. Occasionally, the chemical compositions of a mixture is well characterized, levels of exposure to the population are known, and detailed toxicologic data on the mixture are available. Most frequently, not all components of the mixture are known, exposure data are uncertain, and toxicologic data on the known components of the mixture are limited. Nonetheless, the Agency may be required to take action because of the number of individual at potential risk or because of the known toxicologic effects of these compounds that have been identified in the mixture.

Guidelines for single compound risk assessments have been developed for subchronic and chronic exposures to both systemic toxicants and carcinogens. In the current document, these approaches are extended to provide compatible guidelines for assessing the effects of multiple toxicant or multiple carcinogen exposures.

The ability to predict how specific mixtures of toxicants will interact must be based on an understanding of the mechanisms of such interactions. Most reviews and texts that discuss toxicant interactions make some attempt to discuss the biological or chemical bases of the interactions (e.g., Klaassen and Doull, 1980; Levine, 1973; Goldstein et al., 1974; NRC, 1980a; Veldstra, 1956; Withey, 1981). Although different authors use somewhat different classification schemes for discussing the ways in which toxicants interact, it generally is recognized that toxicant interactions may occur during any of the toxicologic processes that take place with a single compound: absorption, distribution, metabolism, excretion, and activity at the receptor site(s). In addition, compounds may interact chemically, causing a change in the biological effect or they may interact by causing different effects at different receptor sites.

Because of the uncertainties inherent in any approach to predicting the magnitude and nature of toxicant interactions, any assessment of health risk from chemical mixture must include a thorough discussion of all assumptions. No single approach is recommended in these Guidelines. Instead, guidance is given for modifying a few simple approaches involving risk addition or dose addition. The mathematical details are presented in Section IV.

III. Proposed Approach

No single approach can be recommended to risk assessments for multiple chemical exposures. Nonetheless, general guidelines can be recommended depending on the type of mixture, the known toxic effects of the components in the mixture, the availability of toxicity data on the mixture or similar mixtures, the known or anticipated interactions among components in the mixture, and the quality of the exposure data. Given the complexity of this issue and the relative paucity of empirical data from which sound generalizations can be constructed, emphasis must be placed on flexibility, judgment, and a clear articulation of the assumption and limitations in any risk assessment that is developed. The proposed approach is summarized in Table I and detailed below.

A. Data Available on Similar Mixtures

For predicting the effects of subchronic or chronic exposure to mixtures, the preferred approach is to use subchronic or chronic health effects data on the mixture of concern and adopt the same procedures as those used for single compounds, either systemic toxicants or carcinogens. Such data are most likely to be available on highly complex mixtures, such as coke oven emission or diesel exhaust, which are generated in large quantities and associated with or suspected of having adverse health effects. Even if such data are available, attention should be given to the persistence of the mixture in the environment as well as the variability of composition of the mixture over time or from different sources of emissions. If the components in the mixture are known to partition into different environmental compartments or to degrade or transform at different rates in the environment, then those factors must also be taken into account, or the confidence in and applicability of the risk assessment is diminished.

TABLE 1.—OUTLINE OF THE RISK ASSESSMENT APPROACH FOR CHEMICAL MIXTURES

1. Health effects information is available on the chemical mixture of concern.
 - a. If yes, proceed to Step 5.
 - b. If no, proceed to Step 2.
2. Assess the similarity of the mixture on which health effects data are available to the mixture of concern, with emphasis on any differences in components, proportions of components, and environmental partitioning.
 - a. If sufficiently similar, proceed to Step 5.
 - b. If not sufficiently similar or if no such data exist, proceed to Step 3.
3. Derive appropriate indices of acceptable exposure and/or potency factors for carcinogenicity on the individual components in the mixture and proceed to Step 4.
4. Assess data on interactions of components in the mixture.
 - a. If sufficient quantitative information is available on the interactions (including mechanisms) of two or more toxicants from subchronic or chronic studies, proceed to Step 6.
 - b. If qualitative information is available on acute interactions, attempt to qualitatively indicate the nature of potential interactions and proceed to Step 7.
5. Conduct risk assessment on the mixture of concern based on health effects data on the mixture, using the same procedures as those for single compounds. Proceed to Step 8.
6. Use an appropriate interaction model to combine risk assessment on compounds for which the data are adequate and use assumption of dose addition for remaining toxicants. Proceed to Step 8.
7. Use an additivity assumption for all compounds in the mixture. Proceed to Step 8.
8. Develop an integrated summary of the qualitative and quantitative assessments with special emphasis on uncertainties and assumptions.

Similarly, if the risk assessment is conducted based on data from a single mixture which is known to be generated with varying compositions depending on time or different emission sources, then the confidence in the applicability of the data to a risk assessment also is diminished. This can be offset to some degree if data are available on several mixtures of the same components but having different ratios of the components which encompass the differences in composition seen with time or from different emission sources. If such data are available, an attempt should be made to determine if significant and systematic differences exist among the chemical mixtures. If significant differences are noted, ranges of risk can be estimated based on toxicologic data from the various mixtures. If no significant differences are noted, then a single risk assessment may be adequate, although some statement should be made giving the range of ratios of the components in the mixtures to which the risk assessment applies.

If no data are available on the mixtures of concern but health effects data are available on a similar mixture (i.e., a mixture having the same components but at slightly different ratios, or having several common components but lacking one or more components, or having one or more additional components) a decision must be made whether the mixture on which health effects data are available is or is not "sufficiently similar" to the mixture

of concern to permit a risk assessment. The determination of "sufficient similarity" must be made on a case-by-case basis, considering not only the uncertainties associated with using data on a dissimilar mixture but also the uncertainties of using approaches based on additivity, which are detailed later. In determining reasonable similarity, consideration should be given to any information on the components which differ or are contained in markedly different proportions between the mixture on which health effects data are available and the mixture of concern.

B. Data Available Only on Mixture Components

If data are not available on an identical or reasonably similar mixture, the risk assessment may be used on the toxic or carcinogenic properties of the components in the mixture. When little or no quantitative information is available on the potential interaction among the components, dose additive models are recommended for systemic toxicants (defined later). Several studies have demonstrated that dose additive models often predict reasonably well the toxicities of mixtures composed of a substantial variety of both similar and dissimilar compounds (Pozzani et al., 1959; Smyth et al., 1969, 1970; Murphy, 1980). The problem of multiple toxicant exposure has been addressed by the American Conference of Governmental Industrial Hygienists (ACGIH, 1983), the Occupational Safety and Health Administration (OSHA, 1983), the World Health Organization (WHO, 1981), and the National Research Council (NRC, 1980a,b). Although the focus and purpose of each group was somewhat different, all groups that recommended an approach elected to adopt some type of dose additive model. Nonetheless, as discussed in Section IV, dose additive models are not the most biologically plausible approach if the compounds do not have the same mode of toxicologic action. Consequently, depending on the nature of the risk assessment and the available information or modes of action and patterns of joint action, the most reasonable additive model should be used.

1. Systemic Toxicants

For systemic toxicants, the current risk assessment methodology used by the agency for single compounds most often results in the derivation of an exposure level which is considered acceptable or which is not anticipated to cause adverse effects. Depending on the route of exposure, media of concern, and the legislative mandate guiding the risk

assessments, the exposure levels may be expressed in a variety of ways such as Acceptable Daily Intakes (ADIs), levels associated with various Margins Of Safety (MOS), or Ambient Air Standards. For the purpose of this discussion, the term "Acceptable Level" (AL) will be used to indicate any of the criteria, standards, or advisories derived by the Agency. For such estimates, the "hazard index" (HI) of a mixture based on the assumption of dose additivity may be defined as:

$$HI = E_1/AL_1 + E_2/AL_2 + \dots + E_i/AL_i \quad (II-1)$$

where:

E_i = exposure level to the i^{th} toxicant, and
 AL_i = maximum acceptable level for the i^{th} toxicant

Since the inverse of the acceptable level can be used as an estimate of toxic potency, Equation II-1 can be interpreted as a normalized weighted-average dose, with each component dose scaled by its potency. As this index approaches unity, concern for the potential hazard of the mixture increases. If $HI > 1$, the concern for the potential hazard is the same as if an acceptable level were exceeded for an individual compound, i.e., if E_i/AL_i exceeded 1. If the variabilities of the acceptable levels are known, or if the acceptable levels are given as ranges (e.g., associated with different margins of safety), then HI should be presented with estimates of variation or as a range.

The hazard index is not a mathematical prediction of incidence of effects or severity. Statistical properties of this index and its dependence on the shape of the dose-response curves for the components are not yet known. Much additional research is required to determine the accuracy of the hazard index as a numerical prediction of toxic severity. The hazard index is only a numerical indicator of the transition between acceptable and unacceptable exposure levels and should not be overinterpreted.

As discussed in Section IV, the assumption of additivity is most properly applied to compounds that induce the same effect by the same mechanism. Consequently, the application of Equation II-1 to a mixture of compounds that does not interact and is not expected to induce the same types of effects could overestimate hazard. Thus, if the application of Equation II-1 results in an index near to or greater than unity, it may be desirable to segregate the compounds in the mixture by critical effect and derive separate indices for each effect. Conversely, if the dissimilar effects influence one another (e.g., liver failure diminishing the function of another organ), then simple

dose addition could underestimate the total hazard; this is discussed more fully in Section III.

The Agency has developed methods for estimating dose-response curves for single chemicals, e.g. carcinogens (U.S. EPA, 1984). In attempting to assess the response to mixtures using dose-response curves for the components of the mixture, dose-additive or response-additive assumptions can be used, with preference given to the most biologically plausible assumption.

2. Carcinogens

For carcinogens, whenever linearity of the dose-response curve can be assumed (usually restricted to low doses), the increase in incremental risk P , caused by exposure d , is related to carcinogenic potency B , as:

$$P = d B \quad (II-2)$$

For multiple compounds, this equation may be generalized to:

$$P = \sum d_i B_i \quad (II-3)$$

This equation assumes independence of action by the several carcinogens and is equivalent to the assumption of dose addition as well as to response addition with completely negative correlation of tolerance (see Section IV). Analogous to the procedure used in Equation II-1 for systemic toxicants, an index could be developed by dividing exposure levels (E) by doses (DR) associated with varying levels of risk:

$$HI = E_1/DR_1 + E_2/DR_2 + \dots = E_i/DR_i \quad (II-4)$$

It should be emphasized that because of the uncertainties in estimating dose response relationships for single compounds and the additional uncertainties in combining the individual estimate to assess response from exposure to mixtures, response rates and hazard indices may have merit in comparing risks but should not be regarded as measures of absolute risk.

3. Interactions

None of the above equations incorporates any form of synergistic or antagonistic interaction. Some types of information, however, may be available that suggest that two or more components in the mixture may interact. Such information must be assessed in terms of both its relevance to subchronic or chronic hazard and its suitability for quantitatively altering the risk assessment.

For example, if chronic or subchronic toxicity or carcinogenicity studies have been conducted that permit a quantitative estimation of interaction for two chemicals, then it may be desirable to consider using equations detailed in

Section IV, or modifications of these equations, to treat the two compounds as a single toxicant with greater or lesser potency than would be predicted from additivity. Other compounds in the mixture, on which no such interaction data are available, could then be treated in an additive manner. Before such a procedure is adopted, however, a discussion should be presented of the likelihood that other compounds in the mixture may interfere with the interaction of the two toxicants on which quantitative interaction data are available. If the weight of evidence suggests that interference is likely, then an attempt to quantitatively alter the risk assessment may not be justified. In such cases, the discussion of the risk assessment may only indicate the likely nature of interactions, either synergistic or antagonistic, but not attempt to quantify the magnitude of this interaction.

Other types of available information, such as those relating to mechanisms of toxicant interaction, or quantitative estimates of interaction between two chemicals derived from acute studies, are even less likely to be of quantitative use in the assessment of long-term health risks. Usually it will be appropriate only to discuss these types of information. Indicate the relevance of the information to subchronic or chronic exposure, and, as above, indicate, if possible, the nature of any potential interaction, without attempting to quantify the magnitude of the interaction.

4. Uncertainties

In addition to uncertainties on the nature and magnitude of toxicant interactions in the mixture, data may be inadequate to assess exposure to human populations or the potential health effects of one or more components of the mixture. In such a case, the less studied chemicals must not be assumed to be harmless. Instead the uncertainty is increased. Confidence in the risk assessment is reduced because the contribution of these components to the toxicity of the mixture and, consequently, the toxicity of the mixture itself are not known.

a. *Health Effects.* In some cases, when health effects data are incomplete, it may be possible to argue by analogy or quantitative structure-activity relationships that the compounds on which no health effects data are available are not likely to significantly affect the toxicity of the mixture. If a risk assessment is conducted based on such an argument, the limitations of the approach must be clearly articulated.

Since a methodology has not been adopted for estimating an acceptable level (e.g., ADI) or carcinogenic potency for single compounds based either on quantitative structure-activity relationships or on the results of short-term screening tests, such methods are not presently recommended as the sole basis of a risk assessment on chemical mixtures.

b. *Exposure Uncertainties.* If levels of exposure to certain compounds known to be in the mixture are not available, but information on health effects and environmental persistence and transport suggest that these compounds are not likely to be significant in affecting the toxicity of the mixture, then a risk assessment can be conducted based on the remaining compounds in the mixture, with appropriate caveats. If such an argument cannot be supported, no final risk assessment can be performed until adequate monitoring data are available. As an interim procedure, a risk assessment may be conducted for those components in the mixture for which adequate exposure and health effects data are available. If the results of the interim risk assessment suggest that a hazard already exists, resources might be better expended on remedial action as part of the a risk management decision rather than on further assessment. Concern is not reduced if the interim risk assessment does not suggest a hazard because not all components in the mixture have been considered.

c. *Uncertainties Regarding Composition of the Mixture.* As a worst case scenario, information may be lacking not only on health effects and levels of exposure, but also on the identity of some components in the mixture. Analogous to the procedure described in the previous paragraph, an interim risk assessment can be conducted on the components of the mixture for which adequate health effects and exposure information are available. If a hazard is indicated, then the resulting partial assessment should be carefully qualified to avoid over interpretation of the accuracy of the assessment. If no hazard is indicated, the risk assessment should not be quantified until better health effects and monitoring data are available.

III. Assumptions and Limitations

Most of the data available on toxicant interactions are derived from acute toxicity studies using experimental animals in which mixtures of two compounds were tested, often in only a single combination. Major areas of uncertainty with such data involve the appropriateness of interaction data from

an acute toxicity study to quantitatively alter a risk assessment for subchronic or chronic exposure, the appropriateness of interaction data on two component mixtures to quantitatively alter a risk assessment on a mixture of several compounds, and the predictability of interaction data on experimental animals to quantitatively assess interactions in humans.

The use of interaction data from acute toxicity studies to assess the potential interactions on chronic exposure would be highly questionable unless the mechanism(s) of the interaction on acute exposure were known to apply to low dose chronic exposure. However, most known biological mechanisms for toxicant interactions involve some form of competition between the chemicals or phenomena involving saturation of a receptor site or metabolic pathway. As the doses of the toxicants are decreased, it is likely that these mechanisms either no longer will exert a significant effect or will be decreased to an extent which cannot be measured or approximated.

The use of information from two component mixtures to assess the interactions in a mixture containing more than two compounds also is questionable from a mechanistic perspective. For example, if two compounds are known to interact, either synergistically or antagonistically, because of the effects of one compound on the metabolism or excretion of the other, the addition of a third compound which either chemically alters or affects the absorption of one of the first two compounds could substantially alter the degree of the toxicologic interaction. Usually, detailed studies quantifying toxicant interactions are not available on multicomponent mixtures, and the few studies that are available on such mixtures (e.g., Gullino et al., 1956) do not provide sufficient information to assess the effects of interactive interference.

Concerns with the use of interaction data on experimental mammals to assess interactions in humans is based on the increasing appreciation for systematic differences among species in their response to individual chemicals. If systematic differences in interspecies sensitivity exist among species, then it seems reasonable to suggest that the magnitude of toxicant interactions among species also may vary in a systematic manner. Consequently, even if excellent chronic data are available on the magnitude of toxicant interactions in a species of experimental mammal, there is uncertainty that the magnitude of the interaction will be the same in humans. Again, data are not

available to properly assess the significance of this uncertainty.

Last, it should be emphasized that none of the models for toxicant interaction can predict the magnitude of toxicant interactions in the absence of extensive data. If sufficient data are available to estimate interactive coefficients as described in Section IV, then the magnitude of the toxicant interactions for various proportions of the same components can be predicted. The availability of an interaction ratio (observed response divided by predicted response) is useful only in assessing the magnitude of the toxicant interaction for the specific proportions of the mixture which were used to generate the interaction ratio.

The basic assumption in the recommended approach is the risk assessments on chemical mixtures are best conducted using toxicologic data on the mixture of concern or a reasonably similar mixture. While such risk assessments do not formally consider toxicologic interactions as part of a mathematic model, it is assumed that responses in experimental mammals or human populations noted after exposure to the chemical mixture can be used to conduct risk assessments on human populations. In bioassays of chemical mixtures using experimental mammals, the same limitations inherent in species-to-species extrapolation for single compounds apply to mixtures. When using health effects data on chemical mixtures from studies on exposed human populations, the limitations of epidemiologic studies in the risk assessment of single compounds also apply to mixtures. Additional limitations may be involved when using health effects data on chemical mixtures if the components in the mixture are not constant or if the components partition in the environment.

If sufficient data are not available on the effects of the chemical mixture of concern or a reasonably similar mixture, the proposed approach is to assume additivity. Dose additivity is based on the assumption that the components in the mixture have the same mode of action and elicit the same effects. This assumption will not hold true in most cases, at least for mixtures of systemic toxicants. For systemic toxicants, however, most single compound risk assessments will result in the derivation of acceptable levels, which, as currently defined, cannot be adapted to the different forms of response additivity as described in Section IV.

Additivity models can be modified to incorporate quantitative data on toxicant interactions from subchronic or

chronic studies using the models given in Section IV or modifications of these models. If this approach is taken, however, it will be under the assumption that other components in the mixture do not interfere with the measured interaction. In practice, such subchronic or chronic interactions data seldom will be available, and most risk assessments, in the absence of health effects data on the mixture of concern, will be based on an assumption of additivity.

Dose-additive and response-additive assumptions can lead to substantial errors in risk estimates if synergistic or antagonistic interactions occur. Although dose additivity has been shown to predict the acute toxicities of many mixtures of similar and dissimilar compounds (e.g., Pozzani et al., 1959; Smyth et al., 1969, 1970; Murphy, 1980), some marked exceptions have been noted. For example, Smyth et al. (1970) tested the interaction of 53 pairs of industrial chemicals based on acute lethality in rats. For most pairs of compounds, the ratio of the predicted LD_{50} to observed LD_{50} did not vary by more than a factor of 2. The greatest variation was seen with an equivolume mixture of morpholine and toluene, in which the observed LD_{50} was about five times less than the LD_{50} predicted by dose addition. In a study by Hammond et al. (1979), the relative risk of lung cancer attributable to smoking was 11, while the relative risk associated with asbestos exposure was 5. The relative risk of lung cancer from both smoking and asbestos exposure was 53, indicating a substantial synergistic effect. Consequently, in some cases, additivity assumptions may substantially underestimate risk. In other cases, risk may be overestimated. While this is certainly an unsatisfactory limitation, it is a limitation associated more with the nature and quality of the available data on toxicant interaction than with the proposed approach itself.

IV. Mathematical Models and the Measurement of Joint Action

The simplest mathematical models for joint action assume no interaction in any mathematical sense. They describe either dose addition or response addition and are motivated by data on acute lethal effects of mixtures of two compounds.

A. Dose Addition

Dose addition assumes that the toxicants in a mixture behave as if they were dilutions or concentrations of each other, thus the slopes of the dose-response curves for the individual compounds are identical, and the response elicited by the mixture can be

predicted by summing the individual doses after adjusting for differences in potency; this is defined as the ratio of equitoxic doses. Probit transformation typically makes this ratio constant at all doses when parallel straight lines are obtained. Although this assumption can be applied to any model (e.g., the one-hit model in NRC, 1980b), it has been most often used in toxicology with the log-dose probit-response model, which will be used to illustrate the assumption of dose additivity. Suppose that two toxicants show the following log-dose probit-response equations:

$$Y_1 = 0.3 + 3 \log Z_1 \quad (\text{IV-1})$$

$$Y_2 = 1.2 + 3 \log Z_2 \quad (\text{IV-2})$$

where Y_i is the probit response associated with a dose of Z_i ($i=1,2$).

The potency, p , of toxicant-2 with respect to toxicant-1 is defined by the quantity Z_1/Z_2 when $Y_1 = Y_2$ (that is what is meant by equitoxic doses). In this example, the potency, p , is approximately 2. Dose addition assumes that the response, Y , to any mixture of these two toxicants can be predicted by:

$$Y = 0.3 + 3 \log (Z_1 + pZ_2) \quad (\text{IV-3})$$

Thus, since p is defined as Z_1/Z_2 , Equation IV-3 essentially converts Z_2 into an equivalent dose of Z_1 by adjusting for the difference in potency. A more generalized form of this equation for any number of toxicants is:

$$Y = a_1 + b \log (f_1 + \sum f_i p_i) + b \log Z \quad (\text{IV-4})$$

where a_1 is the y-intercept of the dose-response equation for toxicant-1, b is the slope of the dose-response lines for the toxicants, f_i is the proportion of the i^{th} toxicant in the mixture, p_i is the potency of the i^{th} -toxicant with respect to toxicant-1 (Z_1/Z_i), and Z is the sum of the individual doses in the mixture. A more detailed discussion of the derivation of the equations for dose addition is presented by Finney (1971).

B. Response Addition

The other form of additivity is referred to as response addition. As detailed by Bliss (1939), this type of joint action assumes that the two toxicants act on different receptor systems and that the correlation of individual tolerances may range from completely negative ($r = -1$) to completely positive ($r = +1$) correlation. Response addition assumes that the response to a given concentration of a mixture of toxicants is completely determined by the responses to the components and the correlation coefficient. Taking P as the proportion of organisms responding to a mixture of two toxicants which evoke individual responses of P_1 and P_2 , then

$$P = P_1 \text{ if } r = 1 \text{ and } P_1 > P_2 \quad (\text{IV-5})$$

$$P = P_2 \text{ if } r = 1 \text{ and } P_1 < P_2 \quad (\text{IV-6})$$

$$P = P_1 + P_2 (1 - P_1) \text{ if } r = 0 \quad (\text{IV-7})$$

$$P = P_1 + P_2 \text{ if } r = -1 \text{ and } P < \quad (\text{IV-8})$$

More generalized mathematical models for this form of joint action have been given by Plackett and Hewlett (1948).

C. Interactions

All of the above models are noninteractive and do not allow for the measurements of synergistic or antagonistic effects. For measuring toxicant interactions for mixtures of two compounds, Finney (1942) proposed the following modification of Equation IV-4 for dose addition:

$$Y = a_1 + b \log (f_1 + pf_2 + K [pf_1f_2]^{0.5}) + b \log Z \quad (\text{IV-9})$$

where a_1 , b , f_1 , p and Z are defined as before and K is the coefficient of interaction. A positive value of K indicates synergism, a negative value indicates antagonism, and a value of zero corresponds to dose addition as in Equation IV-4. Like other proposed modifications of dose addition (Hewlett, 1969), the equation assumes a consistent interaction throughout the entire range of proportions of individual components. To account for such asymmetric patterns of interaction as those observed by Alstott et al. (1973), Durkin (1981) proposed the following modification to Equation IV-9:

$$Y = a_1 + b \log (f_1 + pf_2 + K_1 f_1 [pf_1f_2]^{0.5} + K_2 f_2 [pf_1f_2]^{0.5}) + b \log Z \quad (\text{IV-10})$$

in which $K[pf_1f_2]^{0.5}$ is divided into two components, $K_1 f_1 [pf_1f_2]^{0.5}$ and $K_2 f_2 [pf_1f_2]^{0.5}$. Since K_1 and K_2 need not have the same sign, apparent instances of antagonism at one receptor site and synergism at another receptor site can be estimated. When K_1 and K_2 are equal, Equation IV-10 reduces to Equation IV-9.

It should be noted that to obtain a reasonable number of degrees of freedom in the estimation of K in Equation IV-9 or K_1 and K_2 in Equation IV-10 requires that the toxicity of several different combinations of the two components must be assayed along with assays of the toxicity of the individual components. Since this requires experiments with large numbers of animals, such analyses have been restricted for the most part to data from acute bioassays using insects (e.g., Finney, 1971) or aquatic organisms (Durkin, 1979). Also, because of the complexity of experimental design and the need for large numbers of animals, neither Equation IV-9 nor Equation IV-10 has been generalized or applied to mixtures of more than two toxicants. Modifications of response-additive models to include interactive terms have

also been proposed, along with appropriate statistical tests for the assumption of additivity (Korn and Liu, 1983; Wahrendorf et al., 1981).

In the epidemiologic literature, measurements of the extent of toxicant interactions (S) can be expressed as the ratio of observed relative risk to relative risk predicted by some form of additivity assumption. Analogous to the ratio of interaction in classical toxicology studies, $S=1$ indicates no interaction, $S<1$ indicates synergism, $S>1$ indicates antagonism. Several models for both additive and multiplicative risks have been proposed (e.g., Hogan et al., 1978; NRC, 1980b; Walter, 1976). For instance, Rothman (1978) has discussed the use of the following measurement of toxicant interaction based on the assumption of risk additivity:

$$S = (R_{12} - 1) / (R_{10} + R_{01} - 2) \quad (IV-11)$$

where R_{10} is the relative risk from compound-1 in the absence of compound-2, R_{01} is the relative risk from compound-2 in the absence of compound-1, and R_{12} is the relative risk from exposure to both compounds. A multiplicative risk model adapted from Walter and Holford (1978, Eq. 4) can be stated as:

$$S = R_{12} / (R_{10}R_{01}) \quad (IV-12)$$

As discussed by both Walter and Holford (1978) and Rothman (1976), the risk-additive model is generally applied to agents causing diseases while the multiplicative model is more appropriate to agents that prevent disease. The relative merits of these and other indices have been the subject of considerable discussion in the epidemiologic literature (Hogan et al., 1978; Kupper and Hogan, 1978; Rothman, 1978; Rothman et al., 1980; Walter and Holford, 1978) which has not yet been resolved.

Both the additive and multiplicative models assume statistical independence in that the risk associated with exposure to both compounds in combination can be predicted by the risks associated with separate exposure to the individual compounds. As illustrated by Siemiatycki and Thomas (1981) for multistage carcinogenesis, the better fitting statistical model will depend not only upon actual biological interactions but also upon the stages of the disease process which the compounds affect. Consequently, there is no *a priori* basis for selecting either type of model in a risk assessment. As discussed by Stara et al. (1983), the concepts of multistage carcinogenesis and the effects of promoters and cocarcinogens on risk are extremely complex issues. Although risk

models for promoters have been proposed (e.g., Burns et al., 1983) no single approach can be recommended at this time.

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[FR Doc. 85-589 Filed 1-8-85; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
January 9, 1985

Part IV

Department of Education

34 CFR Part 690

Pell Grant Program; Schedule of
Expected Family Contributions and
Family Size Offsets; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program; Schedule of Expected Family Contributions; Family Size Offsets

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the final regulations for the Pell Grant Expected Family Contribution Schedule for the 1985-86 award year. These regulations are amended by setting forth the family size offsets in accordance with Section 5 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97-301), as amended by Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98-79), and by Section 707 of the Education Amendments of 1984 (Pub. L. 98-511). The family size offset tables are part of the formulas used in determining student eligibility for Pell Grants on the basis of financial need.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the *Federal Register* or later, if Congress takes certain adjournments. It should be noted, however, that these regulatory amendments apply only to the award of student financial assistance under the Pell Grant Program for periods of enrollment beginning on or after July 1, 1985. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education, [ROB-3, Room 4318], 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 472-4300.

SUPPLEMENTARY INFORMATION:

Background

The Family Contribution Schedule includes "offsets" based on family size which are used in computing the size of the Pell Grant. These offsets are updated each year to reflect the changes in the Consumer Price Index (CPI) for Wage Earners and Clerical Workers, published by the Bureau of Labor Statistics of the Department of Labor. The offsets, which represent basic subsistence costs for families, are subtracted from the income of the student and his or her family along with other deductions to derive "discretionary income." A portion of

discretionary income is assessed as the student's expected family contribution.

On March 20, 1984, the Secretary issued the final regulations for the Pell Grant Expected Family Contribution Schedule for the 1985-86 award year. The regulations were published in compliance with Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98-79). However, the family size offset tables were not published at that time; Section 5 of Pub. L. 97-301 as amended by Section 4 of Pub. L. 98-79 and by Section 707 of Pub. L. 98-511, directs the Secretary to publish the family size offset tables for the 1985-86 award year schedule, rounded to the nearest \$100, immediately after the CPI is published for September, 1984. Therefore, these tables are now being published. Because the CPI was increased by 3.3 percent, the offsets used in 1984-85 were multiplied by 1.033 and the results were rounded to the nearest \$100.

Waiver of Notice of Proposed Rulemaking

In accordance with Section 5 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97-301), as amended by Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98-79), and by Section 707 of the Education Amendments of 1984 (Pub. L. 98-511), the Secretary is required to publish the family size offsets used in the 1984-85 award year schedule, adjusted by the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor. Accordingly, the Secretary finds that publication of a proposed rule in this instance would be unnecessary within the meaning of 5 U.S.C. 553(b)(B), and is publishing these rules as final regulations.

Executive Order 12291

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

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

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations set forth the family size offsets for the Pell Grant Family Contribution Schedule. They do not have an impact on small entities.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Citation of Legal Authority

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

Dated: January 3, 1985.

Gary L. Jones,

Acting Secretary of Education.

(Catalog of Federal Domestic Assistance Number: 84.063, Pell Grant Program)

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations as follows:

PART 690—PELL GRANT PROGRAM

1. In § 690.34, paragraph (a)(1)(i) is revised to read as follows:

§ 690.34 Computation of the expected family contribution for a dependent student from the effective family income.

(a) * * *

(1)(i) A family size offset in the amount specified in the following table.

FAMILY SIZE OFFSETS

Family members	Amount
2	\$6,200
3	7,500
4	9,600
5	11,400
6	12,800

Plus \$1,600 for each additional family member over 6.

(Sec. 5 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79 and by sec. 707 of Pub. L. 98-511).

2. In § 690.34a, paragraph (a)(1) is revised to read as follows:

§ 690.34a Computation of the expected family contribution for a dependent student from the effective student income.

(a) * * *

(1) If the parental discretionary income is positive, the dependent student offset, which is derived from the family size offset (see § 690.34(a)(1)(i)), is in the amount specified below:

DEPENDENT STUDENT OFFSET

Single student	\$3,300
Married student	4,900

(Sec. 5 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79 and by sec. 707 of Pub. L. 98-511)

3. In § 690.44, paragraph (a)(1)(i) is revised to read as follows:

§ 690.44 Computation of the expected family contribution for an independent student from the effective family income.

(a) * * *

(1)(i) A family size offset in the amount specified in the following table.

FAMILY SIZE OFFSETS

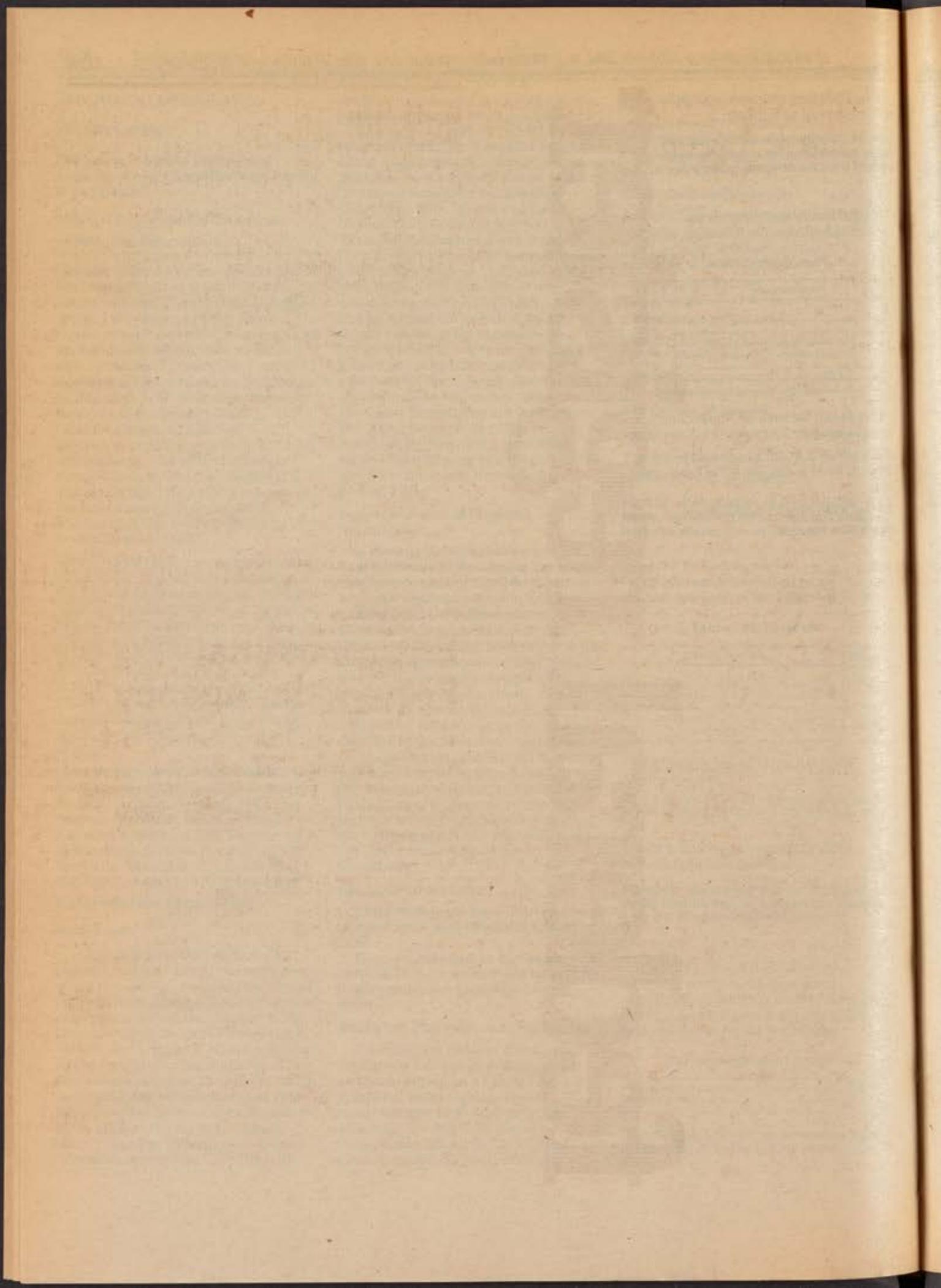
Family members	Amount
1	\$4,900
2	6,200
3	7,500
4	9,600
5	11,400
6	12,800

Plus \$1,600 for each additional family member over 6.

(Sec. 5 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79 and by sec. 707 of Pub. L. 98-511)

[FR Doc. 85-612 Filed 1-8-85; 8:45 am]

BILLING CODE 4000-01-M



federal register

Wednesday
January 9, 1985

Part V
Environmental
Protection Agency

40 CFR Part 61

National Emission Standards for
Hazardous Air Pollutants; Vinyl Chloride;
Proposed Rule and Notice of Public
Hearing

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 61
[AD-FRL-2707-4]
**National Emission Standards for
Hazardous Air Pollutants; Vinyl
Chloride**
AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The current emission standard for vinyl chloride (VC) was promulgated under Section 112 of the Clean Air Act in 1976. A review of the technological basis and administrative aspects of the standard has been completed, and the conclusions of the review are presented in this notice. The conclusions are the basis for this action which (1) proposes administrative and clarifying revisions to the standard and (2) announces decisions pertaining to other aspects of the current standard. This notice also withdraws proposed revisions to the current standard which were published in the *Federal Register* on June 2, 1977 (42 FR 28154).

If requested, a public hearing will be held to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed revisions to the current standard.

DATES: *Comments.* Comments must be received on or before March 25, 1985.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by January 30, 1985, a public hearing will be held on February 26, 1985 beginning at 9:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 30, 1985.

Incorporation by Reference. The incorporation by reference of certain publications in these standards will be approved by the Director of the Federal Register as of the date of the final rule.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention Docket Number A-81-21, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by January 30, 1985, the public hearing will be held at EPA Auditorium,

corner of Highway 54 and Alexander Drive, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The general findings of the review study are documented in "Vinyl Chloride—A Review of National Emission Standards", EPA-450/3-82-003 (NTIS-PB 84-114354), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. The major technical analysis for the review study is contained in a separate document which may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Vinyl Chloride: Relief Valve Discharge Standard," EPA-450/3-85-002, for the technical document.

Docket. Docket No. A-81-21, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel or Mr. Leslie B. Evans, (919) 541-5671, concerning technical aspects of the industry and control technologies, and Mr. Fred Dimmick or Mr. Gilbert H. Wood, (919) 541-5578, concerning regulatory decisions. The address for these contacts is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:
Summary of Revisions to Current Standard

Revisions. Several administrative changes are being proposed as a result of a review of the national emission standard for VC. No major revisions are being proposed to the standard. As with the current standard for VC, the revisions are being established under Section 112 of the Clean Air Act. The significant administrative revisions include: (1) Reformatting the emission

limit for relief valve discharges, (2) providing a compliance test procedure and a specific emission limit for operators who perform stripping operations in reactors, and (3) specifying requirements for leak detection and repair programs for certain equipment in VC service. Additional minor administrative changes to the standard are being proposed and are explained later in this preamble.

Summary of Health, Environmental, Energy, and Economic Impacts. Since no major revisions to the standard are being proposed, the impacts resulting from the current standard remain generally unchanged. In 1975, it was estimated that emissions of VC from plants producing ethylene dichloride (EDC), VC monomer and polyvinyl chloride (PVC) would be reduced from 96,000 Mg/yr to 4,910 Mg/yr under the current standard, representing an emission reduction of 91,000 Mg/yr of VC (or 95 percent of VC emissions). Emissions of volatile organic compounds (VOC) and EDC are also reduced under the standard.

The estimated risks attributed to exposure to VC from EDC/VC and PVC plants in operation prior to the current standard were 5.5 cases per year for liver angiosarcoma and 11 cases per year for all cancers. The risks attributed to exposure to VC from sources under the current standard have been estimated to be 0.28 cases per year for liver angiosarcoma and 0.55 cases per year for all cancers.

In 1975, the estimated capital cost for existing plants to meet the VC standard was \$198 million, of which \$15 million was for EDC and VC monomer plants and \$183 million was for PVC plants. The EPA estimated that the annualized cost (including capital amortization, etc.) to these plants to maintain the required emission levels would be \$70 million per year.

Background

The VC standard was proposed on December 24, 1975 (40 FR 59532), and promulgated on October 21, 1976 (41 FR 46559). It is applicable to plants producing EDC by the reaction of oxygen and hydrogen chloride with ethylene, plants producing VC by any process, and plants producing one or more polymers containing any fraction of VC. These plants are subject to different requirements at numerous VC emission points in the manufacturing process. These requirements include numerical emission limits, equipment specifications, and work practices.

The standard was designed to minimize the health risks associated

with VC by requiring reasonable control measures. As stated in the preamble to the proposed standard (40 FR 59532, December 24, 1975), there is no known threshold level of effects for VC.

Therefore, the only approach that would eliminate health risks associated with VC would ban its production and use. This approach was not selected. Rather, an approach was selected to minimize the health risks associated with VC by use of reasonable control measure.

On November 19, 1976, the Environmental Defense Fund (EDF) petitioned the United States Court of Appeals for the District of Columbia Circuit to review the standard. On March 24, 1977, the EDF and the EPA moved to dismiss the proceedings on the basis of a settlement agreement requiring the EPA to propose amendments which would require increased efficiency of existing control equipment, require more stringent control of new sources, and prohibit increases in emissions within the vicinity of an existing source due to new construction. The preamble to the proposed amendments was to state that the EPA's policy for regulating carcinogens under Section 112 of the Clean Air Act would include a general goal of eliminating emissions of carcinogens and that the EPA would initiate a review of the VC standard 3 years after the promulgation of the amendments.

On June 2, 1977, the amendments were proposed (42 FR 28154). Many comments pertaining to policy, technological feasibility, and procedural aspects of the proposed amendments were received. Review of these comments indicated that additional technical data and cost information were required before the proposed amendments, or revisions of the proposed amendments, could be promulgated.

Meanwhile, the EDF filed a petition with the EPA requesting the establishment of a comprehensive program for regulating airborne carcinogens under Section 112 of the Clean Air Act. The aspects of the EDF's petition concerning the development of standards under Section 112 were similar to those proposed in the June 2, 1977, amendments to the VC standard. Based on the similarity of the proposed amendments and the EDF's requested comprehensive program for regulating airborne carcinogens, the EPA believed that it should not take final action on the proposed VC amendments until after it had acted on the EDF's petition.

On October 10, 1979 (44 FR 58642), the EPA proposed "Policy and Procedures for Identifying, Assessing, and

Regulating Airborne Substances Posing a Risk of Cancer." This proposal addressed several issues which were central to the proposed VC amendments. It also articulated the EPA's conclusion that Section 112 does not express an intent to eliminate totally all risks from emissions of airborne carcinogens. The EPA's selection of the level of control for a hazardous air pollutant emission standard would not be based on a policy that requires zero emissions of carcinogens. This policy is consistent with the basis for other recent actions under Section 112. For example, standards for benzene from coke ovens and leaks from equipment components in benzene service are not based on a zero emissions policy but rather on a reasonable level of control, which considers emissions and health risks.

The EPA believes it is not appropriate to leave the proposed amendments to the VC standard in effect or to promulgate amendments based on the proposed amendments. Therefore, the June 2, 1977, proposal is withdrawn. As described in the following section of this notice, the EPA began a review study to obtain additional technical data and cost information and to determine whether other amendments to the standard are needed. New amendments developed as a result of the review study are proposed in this notice.

Review of VC Standard

Early in 1980 the EPA began a review of the VC standard. The primary purpose of the review was to investigate the adequacy and appropriateness of the standard in light of policy decisions, health studies, control technology developments, and enforcement and compliance experience which have occurred since the standard was first promulgated. The review consisted of a screening study of: (1) Existing and new control technologies, (2) sources not regulated by the standard, and (3) enforcement and compliance experience since promulgation of the standard. Information and data evaluated during this study were obtained through literature searches, plant visits, and interviews with industrial representatives and EPA regional personnel involved in enforcement and surveillance of the VC-emitting industries. The information and data are presented in a document that may be obtained as described in the ADDRESSES section of this preamble. Decisions based on this review are summarized in the next two sections of this preamble.

As another aspect of the review of the VC standard, the EPA's Carcinogen

Assessment Group reviewed new health studies that have become available since the standard was promulgated. This review included a study of the estimated carcinogenic strength of VC (the VC unit risk number) and focused on whether this number should be changed to reflect new information. Since the current standard was promulgated, new occupational studies have confirmed qualitatively that liver and brain cancer incidence are associated with population exposure to atmospheric VC. However, none of these new studies have sufficient exposure information to warrant a refinement of the quantitative cancer risk estimate.

Findings and Conclusions of the Review Study

The findings and conclusions of the VC review study are presented in the following subsections. The first subsection discusses the need and basis for the current standard. The second subsection addresses the level of control required by the current standard. The third subsection identifies source categories not covered by the current standard and evaluates the appropriateness of regulating these sources.

(1) Need and Basis for Current Standard

The current VC standard was established based on judgments concerning the costs and benefits of the standard to society. The standard is not designed to eliminate VC exposure risk entirely. Rather, it strikes a balance between public health protection and the cost of that protection. Data (evaluated before the current standard was established) strongly indicate that VC causes or contributes to the development of angiosarcoma, other cancers, and various noncarcinogenic disorders in people with occupational exposure and in animals with experimental exposure to VC. Although no dose-response data are available at the concentrations of VC found in the ambient air, the EPA concluded when the standard was established that any atmospheric concentration of VC poses some public health risk. To eliminate the risk of VC exposure entirely, a complete prohibition of all VC emissions would be necessary. This would require the closure of the entire industry and result in serious, adverse economic impacts. Furthermore, the EPA concluded at the time the current standard was established that a complete prohibition of all VC emissions would not be desirable or necessary. The EPA

concluded this in view of (1) the beneficial uses of VC products for which desirable substitutes are not readily available; (2) the potential adverse health and environmental impacts associated with VC substitutes that have not been thoroughly studied; (3) the number of employees, particularly in fabrication industries, who would become at least temporarily unemployed; and (4) the availability of control technology that is capable of substantially reducing emissions of VC into the atmosphere.

Although all EDC, VC and PVC plants have now incorporated VC emission controls, the maintenance of a Federal standard for VC is still considered necessary. The VC standard contains requirements for the proper operation and maintenance of control devices and the proper implementation of work practices. These requirements reflect an appropriate balance between the need to minimize health risks and the avoidance of unreasonable economic and community impacts which would result from standards designed to reduce risks to zero. Relative to the initial control costs, the additional cost of maintaining and implementing the Federal VC standard is small. Nevertheless, if the Federal standard is discontinued, these small costs may be sufficient to provide the industry with an economic incentive for discontinuing the use of proper control measures. Thus, the continued maintenance of Federal standards for the control of VC is necessary to ensure a continuation of the current level of control. Additionally, the standard is important for the control of VC emissions from plants built in the future. The consequence of not maintaining a Federal standard would be to increase the carcinogenic risk to large segments of the population. (In 1975 when the standard was originally proposed, approximately 4.6 million people lived within a 5-mile radius of EDC, VC and PVC plants.) Accordingly, the EPA has concluded that the maintenance of the Federal standard for VC, or reasonable revision of the standard, is appropriate.

(2) Review of Technology-Based Level of Control

This subsection describes the status of the technology-based level of control for sources covered by the current standard. The present status of emissions from sources covered by the current VC standard is presented in Table 1.

TABLE 1. STATUS OF CURRENT EMISSION LEVELS FROM SOURCES COVERED BY THE VINYL CHLORIDE NESHAP

Emission source	Standard	Emissions (mg/yr)	
		Uncontrolled* (prior to 1975)	Controlled* (current levels)
Emissions from a model 316,000 mg/yr EDC/VC facility			
Primary control	10 ppmv	916	3.2
Oxychlorination vent	0.2 g/kg EDC product	114	50
Fugitive	Work practice and equipment standards	378	38
Relief valve	Nonpreventable discharge only	Not Available*	2.1
Emissions from a model 66,000 mg/yr PVC facility			
Primary control	10 ppmv	236	0.7
Reactor opening	0.002 kg/100 kg PVC product	313	1.4
Combined sources after resin stripping	400 ppm-suspension†	850	27
Fugitive	Work practice and equipment standards	1,040	109
Relief valve	Nonpreventable discharge only	138	2.4

* Based on the EPA emissions estimates developed from data submitted by industrial sources prior to promulgation of the 1975 VC standard.

† Represents estimated emissions from EDC/VC and PVC plants meeting current standard.

‡ Data were not collected on relief valve discharges from EDC/VC plants prior to 1975.

§ Based on the EPA emissions estimates for a typical suspension plant. Emission estimates for bulk, latex, and dispersion plants are not presented here.

10 ppmv Standard. Emission sources covered by this standard include EDC purification and VC monomer formation and purification equipment, monomer recovery systems and other equipment at PVC plants, and vents from fugitive emission capture systems. The standard is based primarily on the control of these emissions by incineration or other primary control devices and specifies an emission limit of 10 parts per million by volume (ppmv) of VC averaged over a 3-hour period. The 10 ppmv standard applies to control device bypass streams.

One of the amendments proposed in 1977 would have required reduction of the emission limit from 10 to 5 ppmv. The goal of the proposed 5 ppmv limit was to ensure that the standard continued to approach a "zero emission goal" by requiring owners and operators both to maximize the effectiveness of existing control systems and to design improved new control systems at the time of construction. The 5 ppmv limit was not based on data for control technology different from that analyzed

at the time of the promulgation of the 10 ppmv limit.

Comments received on the proposed 1977 amendments stated that in order to meet a limit of 5 ppmv, a control device would have to be capable of control at a level even lower than 5 ppmv to offset emission fluctuations. Commenters also stated that a change from 10 to 5 ppmv would result in little reduction in mass emissions of VC. Finally, commenters questioned the rationale of the "zero emission goal" policy.

Because the proposed 5 ppmv emission limit was not based on data from a control technology different from that analyzed for the current standard and because 10 ppmv represents the lowest level of control which has been consistently achieved, the EPA withdraws the proposed 5 ppmv limit and affirms the original 10 ppmv limit. If such a technology had been identified, it could have been the basis of a revised standard. However, during the review study no more advanced technology was identified, even though additional data on incinerators, carbon adsorbers, and solvent absorption control systems on existing plants were obtained. Although these data indicate that incinerators are capable of reducing emissions below 10 ppmv, 10 ppmv represents the lowest level of control which has been consistently achieved. Based on this information, the EPA has concluded that there is no improved or new control technology that has been demonstrated to significantly and consistently reduce emissions to a level below that required by the current standard. Therefore, no further technological investigation of the 10 ppmv standard is planned.

Oxychlorination Vent Standard—0.2 g/kg EDC. The current oxychlorination vent standard of 0.2 g of VC per kg of EDC does not require an add-on control device. Instead, the limit can be achieved at most plants by controlling operating conditions and at the remaining plants through process modifications. At the time the original standard was written, incineration of oxychlorination vent emissions was investigated. Because of expected high energy costs associated with supplemental fuel requirements for combustion, incineration was determined not to be a reasonable method of control for this source.

The amendments proposed in 1977 specified a level of 5 ppm for the oxychlorination vent. The proposed requirement was based on installation of an oxygen feed system with an incinerator or equipment control device. The use of oxygen feed in the EDC oxychlorination process decreases the

volume of inert substances in the vent stream and, consequently, the cost for supplemental fuel required for incineration. Comments received on this proposed amendment focused primarily on the high expense and large energy requirements associated with the production of oxygen.

The review study identified no control technology for oxychlorination vents at EDC/VC plants that had not been considered during the development of the original standard. Additionally, the EPA reevaluated the cost of retrofit incinerator controls and reached the same conclusion drawn in the development of the original standard. As before, the high cost associated with incinerating oxychlorination vents at existing EDC/VC plants makes this level of control unreasonable. Thus, the current standard of 0.2 g/kg EDC is considered still to be the most reasonable level of control for existing oxychlorination vents. In addition, the review study concluded that significant new construction or modification of EDC/VC plants is not expected. At this time, only one new EDC/VC facility is reportedly planned. (BF Goodrich has plans to construct an EDC/VC facility in Convent, Louisiana.) Oxychlorination vents at new EDC/VC plants will be regulated by the proposed standards of performance for air oxidation processes (40 CFR Part 60 Subpart III) or by the BACT or LAER requirements of new source review regulations applicable in specific locations to a level comparable to that achievable through the use of incineration. Because the technologically achievable level of control is assured through the current requirements, the EPA concluded that investigation of additional control (i.e., incineration) was not required for oxychlorination vents.

Reactor Opening—0.02 g/kg PVC Product. The current VC standard restricts emissions during polymerization reactor openings. The standard was based on reactor purging and on a reduction in the frequency of reactor openings. An increased level of control was not proposed in the 1977 amendments. (The level of control provided by the current standard, 0.02 g/kg of PVC product, reduces VC emissions to about 1.36 Mg per year for a model PVC plant.) During the review of the standard, no technology was identified that would provide additional VC reductions beyond the level of the current standard. Therefore, the EPA is not investigating further the control of reactor openings.

Combined Sources After Resin Stripping. The sources of VC emissions covered under the current standard

include blend tanks, dryers, centrifuges, storage silos, bagging operations, and any sources following the stripper. Control of these emissions is based on either stripping the PVC resin to a specified (based on resin type) residual VC level (i.e., 400 ppm for suspension, bulk, solution, and latex resins; and 2,000 ppm for dispersion resins) or controlling the emissions from all sources following the stripper with a control device. The 1977 proposed amendments would have required "new resins" to be stripped to lower levels (i.e., 100 ppm for suspension, bulk, solution, and latex resins; and 500 ppm for dispersion resins). When the amendments were proposed, the EPA believed that some resins could meet the proposed limits; whereas, for other resins the manufacturer would have been required to develop improved stripping technology or not to produce the resin.

Industry comments stated that most dispersion, copolymer, and bulk resins would suffer degradation if more stringent emission limits were imposed. Additionally, the commenters noted the inherent difficulties in defining a "new resin." Information submitted by commenters indicated that minor adjustments to resin compositions are made routinely, and completely new resins are rarely, if ever, made. As a result of these comments, the EPA concluded that it is impossible in many cases to distinguish between new and existing resins and still have any resins covered by the proposed amendments. Further, the proposed amendments did not address what levels of control could be achieved by improved stripping technology. For these reasons, the EPA chose to evaluate whether higher levels of control are achievable for all resins, or only for some special classes of resins.

The review study found that resin stripping technology has improved since the current standard was promulgated, and that some processors can achieve lower resin residual VC levels than those required in the original standard. In certain cases, some resins can meet the more stringent levels specified in the previously proposed amendments. However, other processors manufacturing resins of differing grades and characteristics can only marginally comply with the original standard. Because of the wide variation in resin grades and characteristics, it cannot be concluded that, even though a particular resin made by one company can meet a particular level, any other resin or similar resins produced by another company could also meet that level. Furthermore, in some cases these

processors meeting the more stringent limits proposed previously are stripping these resins to this low level to offset emissions from those resins which are more difficult to strip. Without this ability to average the emissions and reductions among resins, these processors might not achieve the current standard. Exempting resin grades known to be difficult to strip is not feasible because these resins cannot readily be defined. For the foregoing reasons, the EPA has concluded that there is no demonstrated level of control which could significantly and consistently reduce residual VC levels in resins to levels below that required by the current standard. Therefore, the EPA is not investigating further the control of the combined sources after stripping.

Equipment Leaks. Because little was known about leak detection and elimination programs for control of equipment leaks from components in VC service, specific requirements for these programs were not included in the current standard. Instead, each plant was required to institute and implement a formalized leak detection and elimination program incorporating both a fixed-point monitor and a portable monitor. Plant-specific programs were subject to approval by the Administrator. Consequently, due to site-specific differences among plants, as well as variations in leak definitions and monitoring practices, differences in control of equipment leaks among the plants have resulted. Since the standard was promulgated, the EPA has obtained more information pertaining to the control of equipment leaks from components in VC service. With the information obtained from the development of other standards, an effective leak detection and repair program based on use of a portable monitor can now be specified for equipment covered by this program. The specific leak detection and repair requirements are discussed in the **Administrative Revisions** section of this preamble.

Relief Valve Discharge Standard. Sources of VC emissions covered by this standard include discharges from relief valves on pressure vessels, transfer lines, and other equipment in EDC/VC and PVC plants. The standard is based on emission control by a combination of equipment and process modifications, and operational procedures, found in plants during development of the standard. An exact combination of modifications and operational procedures was not specified. Instead, a performance standard (i.e., an emission

standard) was established because it was believed that different combinations could be equally effective in controlling relief valve discharges. The current format of the standard prohibits all relief valve discharges except emergency discharges. Emergency discharges are described as those which could not have been avoided by taking measures to prevent the discharge (i.e., those that are "nonpreventable"). Since the standard was promulgated, all plants have experienced some releases. Many of these releases are considered preventable by the EPA. Based on visits to plants with good compliance histories, the EPA concluded that a level of performance reflecting compliance with the current format of the standard through the combined effects of equipment, process modifications and operational procedures remains reasonable. During the review, no technological level of control was found that would provide for a more stringent standard. Therefore, the standard is still considered to reflect the appropriate level of control for these sources. However, as discussed in the **Administrative Revisions** section of the preamble, the EPA is proposing to revise the standard by setting limits for relief valve discharges in a different format.

Administrative Aspects of the Standard. Even though the EPA decided not to revise the level of control associated with the current VC standard, the EPA identified revisions to several administrative aspects of the standard. These revisions as well as those identified above, are discussed in the **Administrative Revisions** section of the preamble.

(3) Review of Sources Not Previously Covered

This subsection discusses the status of VC sources not covered by the current standard that were identified in the review study. For these sources, the EPA assessed whether a Federal standard was warranted. The EPA's assessment of these sources was based primarily on a quantitative analysis of VC emissions from these sources combined with a qualitative analysis of risks associated with exposure to VC from these sources. The EPA considers these analyses to be adequate in place of a thorough quantitative risk assessment for purposes of determining whether a Federal standard is warranted for these sources. Because these sources are already relatively well-controlled and the quantity of VC emission, and consequently, the risks associated with exposure to VC from these sources, are small in comparison

to sources covered by the VC standard, the EPA concluded that none of the additional sources identified in the review study warrant a Federal standard.

Miscellaneous Sources of VC Emissions. Miscellaneous sources are plants other than PVC and EDC/VC plants that use VC as a raw material or produce VC as an intermediate or by-product. The EPA has identified four such plants: two of these plants produce 1,1,1-trichloroethane, one produces perchloroethylene and trichloroethylene and the fourth plant produces pesticides. (An additional 1,1,1-trichloroethane unit was constructed at a fourth location but has reportedly never operated. There are no plans to operate in the future.) Review of VC emission sources at the identified plants showed them to be well controlled. Emissions of VC from these plants are primarily from fugitive sources and range from less than 1 Mg/yr to 14 Mg/yr per plant. In general, the VC NESHAP requirements for process vents and equipment in VC service are being met at the miscellaneous sources due to company policy considerations and State and local regulatory requirements. In addition, many of the equipment components in VC service would be covered by standards of performance for new sources and standards for sources in nonattainment areas. Based on the investigation of these sources, the EPA concluded that they are already relatively well-controlled and do not contribute significantly to VC exposure. For these reasons, additional requirements for miscellaneous sources of VC are not being proposed at this time.

PVC Fabrication Plants. There are about 8,000 fabrication plants which take the resin produced by PVC plants and fashion it into intermediate or final products. Emissions from these plants are estimated to be about 0.0035 Mg/yr per plant. In comparison to VC production plants (which typically emit about 92 Mg/yr), PVC fabrication plants are small emitters of VC. If standards were developed for this category they would not result in reduced emissions because the best control for these plants is to reduce the VC levels in the resins being processed by the fabricators. Resin stripping beyond the level that process economics would dictate is already being done as a result of the EPA's current standard and OSHA's VC standard. Based on the EPA's assessment of these sources, the EPA concluded that they do not contribute significantly to VC exposure. Therefore, the EPA believes that the evaluation of controls for PVC fabrication plants is

unnecessary and that the current level of control resulting from the EPA's standard and OSHA's standard is still reasonable.

Landfills. Off-specification resins containing VC has been taken to landfills where the gaseous VC can be released. However, the current EPA standard intends that all resins, including off-specification resins, be stripped to reduce the VC emissions from sources downstream from the stripper. In order to clarify that stripping requirements also apply to the off-specification resins before removal of landfills, these requirements are being restated to explicitly address off-specification resins. The EPA believes that the level of control resulting from the stripping requirements is reasonable; thus, VC emission requirements for landfills are not being proposed today. However, the EPA recognizes that VC may be emitted from hazardous waste landfills and is evaluating and may regulate under the Resource Conservation and Recovery Act (RCRA) volatile emissions (including VC) from landfills at hazardous waste disposal facilities. The EPA also recognizes that VC has been detected in municipal landfills. Therefore, in addition to assessing VC emissions from hazardous waste disposal facilities, a (RCRA) Subtitle D TASK FORCE has been formed which will assess all environmental releases including air emissions from Subtitle D facilities (a category which includes municipal landfills).

Administrative Revisions

As discussed in the **Findings and Conclusions of the Review Study** section of this preamble, the EPA identified several administrative revisions that are appropriate as a result of the review study. The rationale for the proposed administrative revisions is presented in this section of the preamble. These revisions include: (1) Reformatting the emission limit for relief valve discharges, (2) providing a compliance test procedure and a specific emission limit for operators who strip in the reactors, (3) specifying requirements for leak detection and repair program for equipment components in VC service, and (4) miscellaneous revisions.

Relief Valve Discharges

Background. The current format of the standard for relief valve discharges allows only "emergency" discharges (i.e., discharges that could not be avoided by taking preventive measures). The standard applies to all pressure relief devices on pressure vessels.

transfer lines, and other equipment in EDC/VC and PVC plants. The control techniques considered as the basis of the standard involve a combination of equipment modifications, process modifications, and operational procedures. An exact combination of modifications and operational procedures was not specified in the current standard; rather, a performance standard (i.e., an emission standard) was established because different combinations of the modifications and procedures were expected to be equally effective in controlling relief valve discharges.

Based on 6 years of enforcement and compliance experience, the EPA has concluded that the relief discharge standard has resulted in: (1) Significant reductions in the frequency and quantity of VC discharges from relief valves, (2) significant use of agency resources to evaluate individual discharges for preventability, and (3) uncertainty on the part of producers regarding whether they comply with the standard. Additionally, the EPA learned some of VC and PVC believe that this part of the current standard applies only to discharges through safety relief valves and that discharges through other pressure relief devices, such as rupture disks or manual or automatic vent valves, are not covered. This interpretation is not compatible with the intent behind the current standard. To provide more efficient enforcement by decreasing the burden of individual preventability assessments on the EPA, and to provide a better understanding to plant operators of the goal of the standard, the EPA is proposing to reformat the standard for relief valve discharges and to define the emission points covered by this standard to include appropriately all pressure relief devices. As discussed more completely in the following sections, the EPA is proposing to change the format of the numerical limits in the standard to reflect the number of discharges that occur from those plants complying with the format of the current standard.

The EPA found in the review study that efforts by all EDC/VC and PVC producers to comply with the standard are reflected in their performance (in terms of size and frequency of discharges) since the standard went into effect. In general, a reduction in the reported frequency and size of relief valve discharges by PVC producers has occurred since 1978. A further decrease in relief valve discharges by the PVC industry occurred between 1980 and 1981. Performance by the EDC/VC industry exhibited a less marked trend

of decreased discharges over the compliance period. Following an initial drop in relief valve discharges after the standard went into effect, the frequency and quantity of relief valve discharges by EDC/VC plants have decreased slightly or remained relatively constant.

General Basis for Numerical Limits. In selecting the proposed numerical limits, EPA first evaluated in detail the recent performance (1981 to 1983) of five PVC plants and one EDC/VC plant. These plants were chosen based on discussions with EPA Regional Office personnel and industry and were intended to represent plants with good relief valve discharge records. In general, the EPA's evaluation of these plants indicates that each has adopted the combination of equipment, operational procedures and attitude toward prevention of relief discharges intended by the current standard, and that their resulting performance is consistent with compliance with the current standard. The EPA's evaluation found that a few discharges may continue to occur from some plants that comply with the standard. This observation is consistent with the expectation held by the EPA when the standard was written.

In order to revise the standard in terms of numerical limits representing compliance with the current format of the standard, this evaluation separated PVC and EDC/VC plants. For plants, relief valve discharge performance data were further separated by source (reactor vs. nonreactor) and by resin type. The EPA then reviewed the performance of 25 additional PVC plants and 12 additional EDC/VC plants. The EPA reviewed this large set of plants to ensure that the level of performance demonstrated by the evaluated plants could be achieved by all PVC and EDC/VC plants.

The numerical limits presented in the Findings section of this preamble are based on an evaluation of the number of discharges representing the demonstrated performance level associated with compliance with the provisions of the existing standard.

Format for Numerical Limits. The EPA visited the five PVC plants evaluated in detail. As expected, the EPA found differences in the combinations of hardware and operational procedures associated with control of relief valve discharges of each of the plants. Furthermore, no exact relationship was found between the effectiveness of specific hardware items and operational procedures and prevention of discharges. In the EPA's judgment, the various combinations of

hardware and operational procedures implemented by each of the plants along with the attitudes adopted toward preventing relief valve discharges represent the types of control measures that the standard intended. In particular, the EPA concluded that the low frequency of discharges by the visited plants was indicative of their degree of effort to prevent relief valve discharges. Consistent with the goal of this proposed revision, the EPA decided that an alternative numerical emission limit based on performance resulting under the current standard could be revised in a format that would be easier to understand by enforcement and industry personnel.

The EPA investigated two basic ways of expressing relief valve discharge performance for PVC plants. One format is based on mass emissions, for example, the pounds of VC discharged per million pounds of PVC produced (lb VC/MM lb PVC). Based on a review of methods used by industry to determine the amount of VC discharged from relief valves, the EPA was unable to identify a sufficiently accurate method for measuring discharge quantities from relief valves. At present, producers are required only to estimate discharge quantities for reporting purposes. Demonstration of compliance with a lb VC/MM lb PVC limit would require producers to measure the amount of VC discharged during an incident. Because a suitable measurement method was not identified, the EPA decided not to redefine relief valve discharge performance by PVC plants in a lb VC/MM lb PVC format.

Another format is based on the frequency (i.e., number per unit time) of discharge from occurrences. No method for measuring the amount of VC discharged from relief valves is needed because only the occurrence of a release is required for this format. The occurrence of a discharge can be determined by monitoring process parameters as well as inspecting relief valve performance reports. Thus, of the two basis ways of expressing relief valve performance that were considered, the EPA selected a format based on the frequency of discharges.

Based on this decision, the EPA then considered how the format would be applied to PVC and EDC/VC plants. At PVC plants, the frequency of discharges from polymerization reactors and associated process equipment may be related to the fact that a batch process is used to produce most types of PVC. For batch PVC production processes, the opportunity for discharges is related to the number of times a new

polymerization batch is initiated. Expressing relief valve discharge performance for these plants with a discharge-per-batch format accounts for variations among plants in the number of batches produced. The EPA selected 100 polymerization batches as a convenient basis for expressing relief valve discharge performance by PVC plants with batch production processes in a discharge frequency format.

Further, the EPA noted that the ability of batch PVC producers to limit the discharge frequency may be different for reactor and nonreactor discharges and that reactor discharges may vary by resin type at any plant. Consequently, relief valve discharges by individual PVC plants (except for continuous solution process plants) were classified according to type of discharge (i.e., reactor vs. nonreactor) and the reactor discharges were separated by resin type. Nonreactor discharge sources at PVC plants include blowdown tanks, transfer lines, and storage vessels. Because usage of this equipment is also related to some extent to the frequency of batch polymerization operations, the relief valve discharge performance by nonreactor sources in PVC plants with batch production processes was also examined on the basis of number of discharges/100 batches.

Unlike the batch process used to produce other PVC resin types, the solution PVC process is continuous. Thus relief valve discharge performance for the solution PVC process cannot be expressed on a frequency per batch basis. Instead, the relief valve discharge performance associated with the solution production process can only be expressed in terms of the total number of discharges (reactor and nonreactor) per year.

Similarly, the EDC/VC production process is not a batch process, but is continuous. Thus, relief valve discharge performance by EDC/VC plants also cannot be expressed on a frequency per batch basis. Moreover, the EPA was unable to detect a direct relationship between discharge frequency and VC production at EDC/VC plants. Thus, the EPA decided to define relief valve discharge performance for EDC/VC plants on the basis of a total number of annual discharges.

Findings. PVC Reactor Discharges. Suspension resins account for the highest percentage of total PVC production. The remaining PVC production is in the form of bulk, dispersion and solution resins. (A small amount of latex resin is produced by a process closely related to the dispersion process.) Examination of relief valve discharge performance associated with

production of suspension and bulk resins indicates that reactor discharge frequency generally is either less than 0.035 discharges/100 batches or is much greater. (Recent reactor discharge frequencies for suspension resin plants with poorer performance levels ranged between 0.059 and 0.101 discharges/100 batches.) Further examination of relief valve discharge performance by suspension resin producers indicates that only one plant experienced more than 4 discharges per year during the period from 1981 to 1983. Performance by this plant also exceeded 0.035 discharges/100 batches.

The reactor discharge frequency associated with dispersion and latex production is typically zero. However, for a typical dispersion or latex resin process with a low production rate (i.e., number of polymerization batches per year), a single emergency reactor discharge in a given year would be equivalent to a discharge frequency of about 0.035 discharges/100 batches.

Nonreactor Discharges. Nonreactor discharge frequencies by PVC plants typically were either less than 0.025 discharges/100 batches or were much greater. (Recent nonreactor discharge frequencies reflecting poorer performance than the 0.025 level ranged between 0.046 and 0.225 discharges/100 batches.) Furthermore, with the exception of two producers, no more than three discharges per year were reported from nonreactor sources in PVC plants during the period from 1981 to 1983.

Each of the five PVC plants that the EPA evaluated in detail was among those achieving 0.035 discharges/100 batches or less in each of the reactor discharge categories and 0.025 discharges/100 batches or less in the nonreactor discharge category. The EPA examined individual discharge incidents for the PVC producers whose recent performance has exceeded 0.035 discharges/100 batches in one or more of the reactor discharge categories or who exceeded 0.025 discharges/100 batches and 3 discharges per year from nonreactor sources. In every case, the EPA identified one or more discharges that were preventable. Elimination of these preventable discharges indicates that these producers should have achieved discharge frequencies comparable to the five PVC plants that the EPA evaluated in detail.

Solution PVC Process. Discharge frequency from both reactor and nonreactor sources by the single plant producing PVC by the solution process was zero during the period 1981 to 1983. Previously, this plant experienced as many as two discharges in a 12-month

period. Recent performance suggests that preventable discharges have been eliminated at this plant. With the exception of a potential emergency discharge occurrence, future discharges at this plant are not anticipated.

EDC/VC Discharges. During the review study, the EPA evaluated performance by one EDC/VC plant in detail. This plant experienced about four discharges that could be considered emergencies. Recent (1981 to 1983) relief valve discharge performance data for other EDC/VC producers indicates an industry range of 0 to 7 discharges/yr. Information obtained from plants during the review indicated that, where applicable, similar types of equipment, process modifications and operational procedures used to control relief valve discharges from PVC plants also are used at EDC/VC plants. The EPA examined discharges by the EDC/VC producers who exceeded four discharges in one or more years since 1981 and found that one or more of the discharges at each plant were preventable. Elimination of the preventable discharges would allow each of these plants to reduce their annual discharge frequency to four or fewer.

Summary of Numerical Limits. Based on the study of current relief valve discharge performance by PVC and EDC/VC plants, the EPA is proposing that the following numerical limits for relief valve discharges be added to the standard. Each discharge causing an exceedance of any numerical limit presented below would be considered a violation without regard to whether any individual discharge was preventable.

Category	Numerical limit
(1) Discharges from PVC plants (suspension, dispersion, latex, bulk processes)	
(a) Reactors:	
—suspension resin process	0.035 discharges/100 batches, not exceeding 4 discharges/yr.
—dispersion resin process (including latex resin)	0.035 discharges/100 batches.
—bulk resin process	0.035 discharges/100 batches.
(b) Nonreactor sources	0.025 discharges/100 batches, not exceeding 3 discharges/yr.
(2) Discharges from PVC plants (solution and other continuous processes)	1 discharge/yr.
(3) Discharges from EDC/VC plants	4 discharges/yr.

Compliance Provisions. The EPA recognizes that all plants may experience an unavoidable relief valve discharge incident at some time. Examination of relief valve discharge performance by PVC plants with low

discharge frequencies indicated that plants with the lowest polymerization batch frequencies typically experience about one discharge in a 12-month period. The EPA concluded that for most plants a 12-month reporting period (rolling every 6-months) was both suitable and appropriate for determining compliance with the proposed numerical limits. For plants producing only a small amount of a particular resin (i.e., low number of polymerization batches), an apparent violation of the standard may result from a single discharge occurrence during a 12-month compliance period as described below.

For a PVC plant producing a single resin type to meet the numerical limit for reactor discharges (i.e., 0.035 discharges/100 batches), it must experience and average of no more than one discharge per 2,858 polymerization batches over the preceding 12-month period. An average reactor discharge frequency exceeding one discharge per 2,858 batches would be a violation of the standard. However, if the plant made less than 2,858 polymerization batches over the 12-month compliance period, a single discharge occurrence would be an apparent violation of the standard (i.e., the discharge frequency per 100 batches would exceed 0.035). Because insufficient batches were made, the reported discharge frequency per 100 batches would not correctly reflect the performance by that plant in comparison to other plants complying with the standard. In rectifying the undue compliance burden posed on plants with small numbers of batches by the discharge/100 batch format and the selected 12-month compliance period, the EPA is proposing to add additional provisions affecting the number of batches used to calculate the discharge frequency. For PVC plants producing less than 2,858 batches of a particular resin, the minimum number of 2,858 batches will be used when determining compliance with the numerical limits.

PVC plants producing more than one resin type must demonstrate compliance separately for reactor discharges occurring from different resin production processes. Only the relief valve discharges and polymerization batches specific to each resin type are considered for determining compliance. However, for determining compliance with the standard for nonreactor discharges, the total number of polymerization batches (regardless of resin type) are counted.

To determine the number of polymerization batches produced for purposes of assessing compliance, the following guidelines apply. A

"polymerization batch" consists of each sequence of charging VC and other materials to the reactor, heating reactor, contents, polymerization of reactor contents, and removal (i.e., blowdown) of reactor contents. Any batch that is aborted following charging of VC to the reactor is nonetheless counted as a polymerization batch in assessing compliance. For PVC plants producing bulk resin, a single "polymerization batch" includes both prepolymerization and postpolymerization reactor operations.

Discharge frequency can be recorded in two ways. Discharge frequency can be recorded on the basis of discharge events (involving discharges from one or more relief valves) or on individual relief valve discharges. In most cases, plants currently report discharges individually when they occur from relief valves on separate equipment. However, certain equipment such as polymerization reactors that are equipped with multiple relief valves may experience discharges simultaneously from more than one relief valve. Most plants currently report such multiple discharges from a single piece of equipment as a single discharge. Thus, the performance levels serving as the basis for the numerical limits represent individual discharges and not multiple discharge events except when they occur from a single piece of equipment. For determining compliance with the numerical limits, discharge frequency is to be recorded on the basis of individual discharges except when simultaneous discharges occur from relief valves on the same piece of equipment.

A relief valve discharge is considered to be any venting through a pressure relief device to prevent or relieve an overpressure condition from equipment in VC service that results in emissions of VC directly or indirectly to the atmosphere. In determining whether or not a relief valve discharge results in emissions to the atmosphere, the controlling factor is the ultimate disposition of the gases. Venting to a manifold or header system that ultimately discharges to the atmosphere constitutes a relief valve discharge. If the manifold or header discharges gases through a control device meeting the 10 ppmv VC emission limit, the venting does not constitute a relief valve discharge.

For purposes of reporting compliance status with the limits, plants will be required to calculate their discharge per batch frequencies with sufficient precision to demonstrate that performance is either equal to, below of in excess of the limits. Based on

operating history, relief valve discharge performance by certain plants is expected to be much better than the respective limits. For example, some new suspension resin PVC plants produce about 5,000 batches during a 12-month compliance period. One and two discharges at one of these plants during a compliance period would result in a discharge performance of 0.02 and 0.05 discharges per 100 batches, respectively. The second discharge during the compliance period would be a violation of the proposed 0.035 discharges per 100 batches limit despite the fact that the first discharge would result in performance well below the limit. These types of plants were considered in selecting the proposed limits and reporting procedures for relief valve discharges. The result that plants of this type must perform well below the limits in the standard in order to be in compliance is consistent with the proposed limits, which were selected to represent an upper boundary on the number of allowable discharges intended by the standard. The EPA expects that plants using the best technology and procedures should be able to perform better than the proposed limits.

Reporting Requirements. The current standard for relief valve discharges requires producers to report discharges within 10 days of the incident. The EPA is proposing to eliminate the 10 day reporting requirements and to require reporting of all discharges on a quarterly basis. Although compliance is to be determined on a semiannual basis, quarterly reporting of discharges is appropriate because violations of the standard may occur well before the end of the 6-month period. Quarterly reporting notifies enforcement personnel of potential violations and violations that have already occurred prior to the end of the compliance period so that corrective actions can take place sooner following the end of the compliance period. Information to be included in the semiannual report for individual relief valve discharges is to be reduced to include only the date, time, source, cause and estimated amount of each discharge occurrence. The semiannual report will also include information on compliance status.

In addition, plants will now be required to maintain relief valve discharge records for 3 years, because of the potentially significant increase in the time period between a discharge occurrence and reporting of the discharge.

Effective Date of Revision. The current standard as written will remain

in effect for relief valve discharges until the proposed revisions are promulgated. The proposed administrative revisions do not change the standard's original intent and are intended only to set limits to facilitate compliance and enforcement efforts. Thus, the current standard will continue to be enforced until the revisions are promulgated.

Stripping-in-Reactor Compliance Test Procedure

The test method for measuring reactor opening losses was developed for resin stripping operations that take place in vessels separate from the reactor. Some PVC plants, including all bulk resin manufacturers, however, do not use separate strippers to remove residual VC from the resin produced. Instead, these plants strip VC from the product resin in the reactor (postpolymerization reactor in the case of bulk resin producers). For plants with reactor resin stripping operations, the concentration of VC in the reactor vapor space, as measured in accordance with the current standard, exceeds the 0.02g/kg of PVC requirement. The high concentrations result from VC monomer diffusing from the resin into the vapor space during the period following completion of the stripping operation (normally occurring under a vacuum that must be broken before the reactor can be emptied) and before the reactor is completely emptied of PVC resin. According to the Federal Register notice of promulgation of the current VC standard (40 FR 46563, October 21, 1976), any VC escaping from the resin after it has been stripped to acceptable levels is not intended to be counted as part of the reactor opening loss. However, the current standard did not include in the measurement method an acceptable method for determining what part of the VC in the vapor space has escaped from the resin after stripping is completed.

The current standard allows bulk resin producers to calculate reactor opening loss emissions from the postpolymerization reactor based on the number of reactor evacuations, the vacuum involved and the volume of gas in the reactors. For nonbulk resin producers with reactor resin stripping operations, calculation of reactor opening loss emissions is more complicated due to the presence of water vapor in the reactor vapor space. Currently, waivers of testing for producers with nonbulk resin stripping operations in the reactor have been granted on a case-by-case basis by the EPA Regions, typically with the provision that residual VC samples are analyzed on each batch. A variety of

calculation methods are then used to establish the reactor opening loss.

Based on experience of the EPA Regional offices, a method for determining the reactor opening loss that accounts for stripping in the reactor has been developed for use by all nonbulk resin producers with reactor resin stripping operations and is included in the proposed revisions to the current VC standard. Limitations for resin residual and reactor opening loss are added together to give a total allowable VC content from these two sources. The measured resin residual VC and the calculated reactor opening loss would then be added together, and averaged over a 24-hour period according to resin type. If the 24-hour average meets the combined standard, the plant would be considered to be in compliance with both the stripping and the reactor opening loss requirements.

Leak Detection and Repair

Background. The current standard requires implementation of a formalized program for detection of leaks from equipment in VC service and elimination of these leaks. The formalized program includes a multipoint VC detector and a portable volatile organic compound (VOC) analyzer. The fixed-point monitoring system continuously monitors VC concentrations in the work area around equipment in VC service and sounds an alarm when concentrations exceed a prescribed level. The portable monitor is used independently to screen individual equipment components for leaks. Rather than specifying the number of points to be monitored, the sensitivities of the multipoint detector, the VC concentration that indicates a leak, and the actions to be taken to repair leaks, the current standard requires each plant owner or operator to prepare a program plan containing these specifications and to submit the plan to the EPA for approval. Plant owners or operators are required to submit data on background concentrations of VC in different areas of the plant to use in determining the VC concentration that should be designated as indicating a leak. Plans, therefore, were tailored by each plant and reviewed by the the EPA Regional Offices.

The EPA found in the review study that differences in leak detection and elimination programs exist among PVC and EDC/VC production plants and miscellaneous sources and that site-specific differences include variations in leak definitions and monitoring practices. The definition and monitoring practices, along with repair practices, are primary influences on the control

effectiveness of leak detection and repair programs. Some plants implemented rigorous programs and others implemented programs lacking specific procedures or requirements. Accordingly, the effectiveness of leak detection and elimination programs varies among the plants.

Since the current standard was promulgated, the EPA has obtained more information pertaining to the control of emission from equipment leaks. Based on this information and the review of the leak detection and elimination plans being implemented to control emissions of VC, the EPA decided to specify leak detection and repair requirements for certain equipment components in VC service. Although information obtained from development of other standards indicates that a routine leak detection and repair program with a portable monitor can be an effective emission reduction technique without the requirement of a fixed point monitoring system, the EPA concluded that fixed-point monitoring systems already in place have uses that justify their retention in the current standard. In particular, fixed-point monitors allow for quick detection of certain large VC leaks that might otherwise go undetected until the next routine portable monitor screening. The EPA recognizes that existing fixed-point monitoring plans will need to be reviewed in light of the leak detection and repair requirements being specified at this time. The complexity of existing fixed-point monitoring plans, in terms of number and distribution of monitoring points, varies greatly among plants. Consequently, some plant owners or operators may want to alter the number of points that are monitored and the distribution of monitoring locations to better complement the specified portable monitoring requirements. Such changes to existing fixed-point monitoring plans will be allowed providing they do not alter the plant's ability to detect large VC leaks.

The proposed revisions are primarily intended to standardize control of VC emissions from equipment leaks. In doing this, the EPA is concerned that existing effective plans not be inappropriately changed. The proposed revisions include provisions that allow plants with existing effective plans to periodically demonstrate the effectiveness of their plans without additional requirements. Accordingly, the EPA requests comments from industry representatives concerning the specific effects of specifying leak

detection and repair requirements on effective existing plans.

Leak Detection and Repair Requirements. The EPA established leak detection and repair requirements (40 CFR Part 61 Subpart V) for certain equipment in volatile hazardous air pollutant (VHAP) service on June 6, 1984. These requirements were established in conjunction with the final standard for benzene equipment leaks. The requirements of Subpart V generally apply to pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, and product accumulator vessels. These requirements reflect the level of control that the EPA considers reasonable for equipment covered by developing standards for VHAP. The EPA is therefore proposing to add VC to the list of substances covered by Subpart V.

Subpart V would substantively affect only valves and flanges in VC service within this industry. All other equipment in VC service are already required by the VC standard to comply with equipment and work practice standards consistent with those in Subpart V. For example, pumps and compressors meeting the dual mechanical seal requirements of the current VC standard will be in compliance with the Subpart V requirements. In addition, the sampling connection systems requirements of Subpart V are essentially the same as the current standard. The use of rupture disks for controlling leaks from pressure relief devices, as required by the VC standard, is consistent with the "no detectable emissions" requirement included in Subpart V. Requirements for controlling leaks from pressure relief devices are described in more detail later in this section. Thus, Subpart V will affect primarily valves and flanges in VC service by requiring a specific monitoring schedule, leak definition and repair provisions.

Compliance with the provisions of Subpart V will be used to determine compliance with the portable monitor leak detection and elimination requirements in the current VC standard (40 CFR 61.65(b)(8)(ii)), and therefore, the current standard is being revised to reflect this change. However, process units within VC and PVC plants in which the percentage of leaking valves is equal to or less than 2.0 percent are considered by the EPA to be effectively controlling VC emissions from leaking valves. For these process units, the existing leak detection and elimination program will continue to be allowed while the percentage of leaking valves is

2.0 percent or less. Any process unit in which the percentage of leaking valves is found to exceed 2.0 percent will be required to comply with the provisions of Subpart V.

The Subpart V requirements for valves are based on a leak detection and repair program that requires (1) monthly monitoring for valves in gas/vapor and light liquid service, (2) an initial attempt at repairing these valves within 5 days after detection of a leak, (3) repair of leaking valves within 15 days after detection of the leak unless repair would require a process unit shutdown, and (4) repair of valves during the next process unit shutdown after repair is delayed until a process unit shutdown. Valves found not to leak for 2 successive months can be monitored quarterly until leaks are detected. Monitoring of equipment to detect leaks is conducted in accordance with Method 21 and a leak is defined as a measured organic concentration equal to or greater than 10,000 parts per million by volume (ppvm). For a complete description of the leak detection and repair requirements, see Subpart V (49 FR 23498, June 6, 1984).

In addition, Subpart V contains standards for other types of equipment (e.g., flanges, and open ended valves or lines). Standards for flanges include monitoring with a portable instrument under prescribed procedures within 5 days of observing evidence of a potential leak by visual, audible or other means. Open-ended valves or lines are required to be capped, blinded or fitted with a second valve. These provisions are not expected to significantly affect producers with these types of equipment in VC service. The equipment and procedures employed as normal practice by these producers or as a result of the current VC standard are expected generally to ensure compliance with Subpart V.

Pressure Relief Devices. The EPA proposed and promulgated the work practices, equipment, design and operational standards in the current standard before explicit legal authority existed in Section 112. These requirements are found in § 61.65(b). In August of 1977, Congress amended Section 112 to allow the use of these requirements. Section 112 of the Clean Air Act requires that an emission standard (i.e., a performance standard) be established for control of a hazardous air pollutant unless, in the judgment of the EPA, it is not feasible to prescribe or enforce such a standard. An emission standard allows for some flexibility in complying with the standard, since any control technique

that achieves that standard may be applied. Section 112(e)(2) defines the following conditions under which it is not feasible to prescribe or enforce an emission standard: (1) If the pollutants cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant; or (2) if the application of measurement methodology is not practicable due to technological or economic limitations. Section 112(e)(1) allows that if an emission standard is not feasible to prescribe or enforce, then the EPA may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof.

The EPA has reviewed the design, equipment, work practice and operational requirements contained in the current VC standard. The only sources covered by the current standard with one of the requirements for which a performance standard (i.e., an emission standard) is feasible are pressure relief devices. As discussed below, the EPA is setting a "no detectable emissions" limit for these sources. For the other sources, the EPA is reinstating those requirements as set forth in the current standard.

The EPA selected the use of rupture disks as the basis for the current standard for pressure relief devices. When the integrity of rupture disks is maintained, equipment leaks through the relief device are eliminated. Rupture disks normally maintain their integrity unless an overpressure occurs. After the occurrence of an overpressure, replacement of the rupture disk once again eliminates equipment leaks of VC through the pressure relief device.

For emission control techniques that eliminate equipment leaks, such as the use of rupture disks, a "no detectable emissions" limit is feasible. An instrument reading of less than 500 parts per million by volume (ppmv) above a background concentration based on Reference Method 21 can be used to indicate whether equipment leaks have been eliminated; that is, that the equipment has "no detectable emissions."

The "no detectable emission" limit would not apply to discharges through the pressure relief device during overpressure relief. (These releases are covered under §§ 61.64(a) and 61.65(a).) The standard would specify, however, that the relief device be returned to a state of "no detectable emissions" within 5 days after such a discharge. The standard would further require an annual test to verify the "no detectable emissions" status of the pressure relief devices and a test after each over

pressure relief. This administrative change implements the basis of this standard consistent with the requirements of Section 112(e).

Miscellaneous Revisions

Based on discussions with the EPA regional personnel regarding their experience in administering the current VC standard, the EPA is proposing several additional administrative revisions that would facilitate compliance and enforcement efforts associated with the current standard. These revisions represent minor changes to the standard. A brief description of these administrative revisions and the basis for making them follows.

Definition of Leak, Exhaust Gas and Relief Valve Discharge. Functional definitions of "leak", "exhaust gas" and "relief valve discharge" are being added to the standard to clarify the applicability of the standard to each of these types of VC emissions. During their review of enforcement and compliance experience since the standard was promulgated, the EPA discovered several cases of confusion over the intended meaning of "leak", "exhaust gas" and "relief valve discharge." These three distinct categories of VC emissions are being defined in the revised standard to provide compliance and industry personnel with a clear understanding of which part of the standard applies to any given discharge of VC emissions to the atmosphere.

Definition of EDC and VC Purification.

In the past, some plants have misinterpreted which equipment components are included in EDC purification and VC purification processes with the result that emissions from certain equipment intended to be covered by the standard may not have been controlled. The definitions of "EDC purification" and "VC purification" are being revised to clarify that all purification equipment following EDC and VC formation were subject to regulation under the current standard.

10 ppmv Standard. Two clarifying revisions are being made to the 10 ppmv regulations to improve understanding of the applicability of this part of the standard. First, although the test method for determining compliance with the 10 ppmv standard specifies that the average results from three 1-hour sampling runs be used, this 3-hour averaging period is not specified in the 10 ppmv requirements. Specifying that emissions may not exceed 10 ppmv over a 3-hour averaging period clarifies that instantaneous compliance with the 10 ppmv standard is not an intended requirement. Moreover, specification of

the 3-hour averaging period is intended to clarify that the 10 ppmv standard applies to VC emissions in all exhaust gas streams covered by the 10 ppmv requirements, including any control device bypass streams. Requirements for calculating the VC content in bypassed emissions for purposes of reporting VC emissions in excess of the 10 ppmv standard are being added to the regulation. The EPA may use these calculations along with continuous emission monitoring results as indications of noncompliance if they show clearly that emissions in excess of the 10 ppmv requirements occurred.

The second clarifying revision to the 10 ppmv standard involves the specification that the 10 ppmv requirements apply to each exhaust gas stream from the covered equipment. The purpose of this revision is to clearly prohibit plants from using dilution with other exhaust gas streams as a technique for meeting the 10 ppmv requirement. This revision is not intended to prohibit the common practice of combining two or more exhaust gas streams in a common header leading to a control device. According to the revised 10 ppmv requirements, combining an exhaust gas stream containing more than 10 ppmv VC with another exhaust gas stream containing less than 10 ppmv VC is allowed only when the combined stream is ducted to the control device.

Relief Valve Definition. The current standard for relief valve discharges was intended to apply not only to safety relief valves but to all types of pressure relief devices. A definition of "relief valve" is being proposed under the revised standard to clarify that the current relief valve discharge standard also applied to rupture discs, manual vents and other pressure relief devices that vent to the atmosphere to protect process equipment from unsafe overpressure conditions. The definition of relief valve in the proposed standard is not intended to include pressure control valves used to control flow to an incinerator or other control device. However, the current relief valve discharge standard did cover emissions from pressure control valves. Also not included in the definition of relief valve are pressure control systems such as polymerization reaction shortstop systems or refrigerated water systems which act to reduce pressure by means other than venting.

Reactor Opening Loss Requirements for Bulk PVC Resin Producers. Bulk PVC resin production differs from production of other types of PVC resin in that the polymerization reaction is

carried out in two separate vessels. The reaction is initiated in the "prepolymerization" reactor and the reactor contents are then transferred to the "postpolymerization" reactor where the reaction is completed. Stripping of residual VC in bulk resin is performed following the postpolymerization step in the reactor vessel. The postpolymerization reactor generally is opened after every batch and must comply with the reactor opening loss limits specified in the standard. Because the prepolymerization reactor is opened less frequently and because determination of gross product (for reactor opening loss estimation) is difficult, the EPA has allowed plants to meet the equipment opening requirements for minimizing VC emissions from polymerization reactor openings. The reactor opening loss requirements are being revised at this time to specifically exclude prepolymerization reactors. Accordingly, VC emissions from all opening of prepolymerization reactors will be subject to the equipment opening requirements. This revision is intended to clarify and improve the consistency of the requirements of the revised standard as they apply to bulk PVC resin producers in light of actual industry practice. No reduction in VC emission control stringency will result from the change in requirements for prepolymerization reactors.

Inprocess Wastewater Requirements for Gasholder Seals. Under the current standards, the VC content of inprocess wastewater must be reduced to less than 10 ppm exposure of the wastewater to the atmosphere. In the case of gasholder water seals, the VC content in the exposed water seal may exceed 10 ppm during normal operation of the gasholder. Experience since the standard was promulgated indicates that compliance with the atmospheric exposure limit is not practicable for this particular inprocess wastewater source. Consequently, the definition of inprocess wastewater is being revised to exclude the exposed water seal of gasholders. The inprocess wastewater stripping requirements will continue to apply to wastewater after removal from the gasholder seal.

Elimination of 30-Day Limit on Equivalency Requests. The current standard specifies a 30-day limit for existing sources to submit requests for use of equivalent methods. Because such a limit poses a restriction on initiative by industry to develop alternative, and potentially more effective, control measures, the 30-day limitation is being eliminated.

Other. In addition to the revisions described above, a review of the recordkeeping and reporting requirements of the current standard was performed to identify ways to ease recordkeeping and reporting burden on plants and to identify any additional recordkeeping and/or reporting needs. The EPA identified two areas where the reporting burden on plants could be reduced. The current reporting requirements for residual VC monomer specifications and reactor opening measurements require that results of all compliance tests be reported in semiannual reports. The EPA is proposing to allow plants to report only test results that show exceedences of the respective standards. If no exceedences occur, plants will be required to indicate that fact in the semiannual report. This type of exception reporting is currently allowed for demonstration of compliance with the 10 ppmv standard for process vents. The second area is the requirement to report relief valve discharges within 10 days of their occurrence. The EPA is proposing to allow plants to report relief valve discharge occurrences on a quarterly basis rather than within 10 days of their occurrence. Furthermore, the reporting requirements for relief valve discharges have been streamlined by dropping the need to report actions taken and implemented preventive measures for each discharge. Information on the date, time, source, cause and estimated amount of individual relief valve discharge will be included with the semiannual reports along with information on compliance status.

Additional semiannual reporting requirements being added for PVC producers are the number of reactor openings and the design capacity number of polymerization batches for each resin type. This requirement will provide general information to facilitate review of industry-wide compliance status during past reporting periods.

Specific recordkeeping and reporting requirements are included as part of the revisions to the leak detection and repair requirements. The recordkeeping requirements include preparation of an initial log to record equipment component identification, physical tagging of equipment components which leak, and maintaining a record of equipment leaks and repair action. Included in the reporting requirements are the number of equipment leaks and the repair status of leaking components. Depending on the particular leak detection and repair program in place, these requirements may represent an

increase or decrease in the overall recordkeeping and reporting currently practiced by individual plants.

The EPA concluded that the current recordkeeping requirements, as specified in 40 CFR 61.71, are still appropriate. However, the EPA is proposing to extend the current recordkeeping requirements for all reporting activities from 2 to 3 years.

The net impact of the revised recordkeeping and reporting requirements proposed by the EPA is estimated to be a decrease in a paperwork burden of about 2.8 person-years.

It should be noted that all Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 101(14) hazardous substances such as vinyl chloride are subject to reporting requirements under Section 103(a) of CERCLA. CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities (RQs) immediately notify the National Response Center (NRC) of the release. The toll-free 24-hour telephone number of the NRC is 800-424-8802 and in Washington, D.C. metropolitan area it is (202) 426-2675. (See CERCLA Section 103 and 48 FR 23552, May 25, 1983.)

Vinyl chloride was assigned a statutory 1 pound reportable quantity under Section 101(14) until adjusted by regulation, and is presently undergoing assessment for both chronic toxicity and carcinogenicity. Its RQ will be adjusted pending the outcome of these reviews by the Office of Emergency and Remedial Response. Federally permitted releases under CERCLA (See CERCLA Section 101(1) and 48 FR 23552) are not subject to CERCLA notification requirements or liabilities. However, releases of hazardous substances that are not subject to a permit or control regulation must be reported.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to the current guidelines of the Small Business Administration (SBA), a small business that produces or processes VC is one that has 500 employees or less. Currently, none of the existing producers or processors that are affected by the standard are estimated to be small by this definition. Since none of the companies meets the SBA definition of small business, no regulatory flexibility analysis is required. Even if an analysis were required, the proposed administrative

revisions do not increase the cost of compliance with the standard.

Public Hearing

If requested, a public hearing will be held to discuss the proposed revisions to the VC standard in accordance with sections 112(b)(1)(B) and 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations on the proposed revisions should contact the EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's, Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials [§ 307(d)(7)(A)]).

Miscellaneous

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including health, and economic and technological issues.

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA", as well as to the EPA docket described above. The final rule will respond to any OMB or public comments on the information collection requirements.

Under Executive Order 12291, the EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards total less than \$100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are included in Docket Number A-81-21. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because no small entities are affected.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: December 31, 1984.

Alvin L. Alm,

Acting Administrator.

PART 61—[AMENDED]

It is proposed to amend 40 CFR Part 61 as follows:

1. The proposed changes to 40 CFR Part 61 proposed at 42 FR 28154, June 2, 1977 are withdrawn.

2. By revising the definitions in existing § 61.61(j), (l), (o) and (p) for "in process wastewater", "in vinyl chloride service", "ethylene dichloride purification" and "vinyl chloride purification" and by adding definitions for the terms "relief valve", "leak", "exhaust gas", "relief valve discharge" and "3-hour period" in new paragraphs (v), (w), (x), (y) and (z).

§ 61.61 Definitions.

(j) "Inprocess wastewater" means any water which, during manufacturing or processing, comes into direct contact with vinyl chloride or polyvinyl chloride or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste

product containing vinyl chloride or polyvinyl chloride but which has not been discharged to a wastewater treatment process or discharged untreated as wastewater. Gas-holder seal water is not inprocess wastewater until it is removed from the gasholder.

(l) "In vinyl chloride service" means that a piece of equipment either contains or contacts a liquid that is at least 10 percent vinyl chloride by weight or a gas that is at least 10 percent by volume vinyl chloride as determined according to the provisions of § 61.67(h). The provisions of § 61.67(h) also specify how to determine that a piece of equipment is not in vinyl chloride service. This definition must be used in place of the definition of "VHAP service" in Subpart V of this part.

(o) "Ethylene dichloride purification" includes any part of the process of ethylene dichloride production which follows ethylene dichloride formation.

(p) "Vinyl chloride purification" includes any part of the process of vinyl chloride production which follows vinyl chloride formation.

(v) "Relief valve" means each pressure relief device including pressure relief valves, rupture disks, manual vents and other pressure relief systems used to protect process components from overpressure conditions. "Relief valve" does not include control valves used to control flow to an incinerator or other air pollution control device.

(w) "Leak" means any of several events that indicate interruption of confinement of vinyl chloride within process equipment. Leaks include events regulated under Subpart V of this part such as: (1) An instrument reading of 10,000 ppm or greater; (2) indications of liquid dripping; (3) a sensor detection of failure of a seal system, failure of a barrier fluid system, or both; and (4) detectable emissions as indicated by an instrument reading of greater than 500 ppm above background. Leaks also include events regulated under § 61.65(b)(8)(i) of detection of ambient concentrations in excess of background concentration. Emissions of vinyl chloride not regulated under § 61.61 (a) and (b); § 61.63(a); § 61.64 (a), (b), (c), (d), (e) and (f); and § 61.65 (a) and (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7) and (b)(9) shall be considered a leak. A relief valve discharge is not a leak.

(x) "Exhaust gas" means any offgas discharged directly or ultimately to the atmosphere that was initially contained in or was in direct contact with the equipment for which 10 ppm emission

limits are prescribed in § 61.62 (a) and (b); § 61.63(a); § 61.64 (a)(1), (a)(2), (b), (c) and (d); § 61.65 (b)(1)(ii), (b)(2), (b)(5), (b)(6)(ii) and (b)(9)(ii). A leak as defined in paragraph (w) of this section is not an exhaust gas.

(y) "Relief valve discharge" means any nonleak discharge through a relief valve.

(z) "3-hour period" means any three consecutive 1-hour periods (each hour commencing on the hour).

3. By changing "all exhaust gases" to "each exhaust gas stream" and making other minor clarifying revisions in § 61.62(a), § 61.63(a), and § 61.64 (a)(1), (b), (c) and (d) as follows:

§ 61.62 Emission standard for ethylene dichloride plants.

(a) Ethylene dichloride purification: The concentration of vinyl chloride in each exhaust gas stream from any equipment used in ethylene dichloride purification is not to exceed 10 ppm (average for 3-hour period or as determined in accordance with § 61.67(g)(1)), except as provided in § 61.65(a). This requirement does not preclude combining of exhaust gas streams provided the combined steam is ducted through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm, or equivalent as provided in § 61.66. This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in § 61.65(b)(6)(i) before being opened.

§ 61.63 Emission standard for vinyl chloride plants.

An owner or operator of a vinyl chloride plant shall comply with the requirements of this section and § 61.65

(a) Vinyl chloride formation and purification: The concentration of vinyl chloride in each exhaust gas stream from any equipment used in vinyl chloride formation and/or purification is not to exceed 10 ppm (average for 3-hour period or as determined in accordance with § 61.67(g)(1)), except as provided in § 61.65(a). This requirement does not preclude combining of exhaust gas streams provided the combined steam is ducted through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm, or equivalent as provided in § 61.66. This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in § 61.65(b)(6)(i) before being opened.

§ 61.64 Emission standard for polyvinyl chloride plants.

An owner or operator of a polyvinyl chloride plant shall comply with the requirements of this section and § 61.65.

(a) *Reactor*. The following requirements apply to reactors:

(1) The concentration of vinyl chloride in each exhaust gas stream from each reactor is not to exceed 10 ppm (average for 3-hour period or as determined in accordance with § 61.67(g)(1)), except as provided in paragraph (a)(2) of this section and § 61.65(a).

(b) *Stripper*. The concentration of vinyl chloride in each exhaust gas stream from each stripper is not to exceed 10 ppm (average for 3-hour period or as determined in accordance with § 61.67(g)(1)), except as provided in § 61.65(a). This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in § 61.65(b)(6)(i) before being opened.

(c) *Mixing, weighing, and holding containers*. The concentration of vinyl chloride in each exhaust gas stream from each mixing, weighing, or holding container in vinyl chloride service which precedes the stripper (or the reactor if the plant has no stripper) in the plant process flow is not to exceed 10 ppm (average for 3-hour period or as determined in accordance with § 61.67(g)(1)), except as provided in § 61.65(a). This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in § 61.65(b)(6)(i) before being opened.

(d) *Monomer recovery system*. The concentration of vinyl chloride in each exhaust gas stream from each monomer recovery system is not to exceed 10 ppm (average for 3-hour period or as determined in accordance with § 61.67(g)(1)), except as provided in § 61.65(a). This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in § 61.65(b)(6)(i) before being opened.

4. By revising existing paragraphs § 61.64(a)(2) and by removing (a)(3) as follows:

§ 61.64 Emission standard for polyvinyl chloride plants.

An owner or operator of a polyvinyl chloride plant shall comply with the requirements of this section and § 61.65.

(a) *Reactor*. The following requirements apply to reactors:

(2) The reactor opening loss from each reactor is not to exceed 0.02 g vinyl chloride/kg (0.00002 lb vinyl chloride/lb) of poly vinyl chloride product, except as provided in paragraphs (f)(1) and (f)(2) of this section, with the product determined on a dry solids basis. This requirement does not apply to prepolymerization reactors in the bulk process. This requirement does apply to postpolymerization reactors in the bulk process, where the product means the gross product of prepolymerization and postpolymerization.

5. By revising paragraph (e) introductory text and adding paragraph (e)(3) to § 61.64 as follows:

§ 61.64 Emission standard for polyvinyl chloride plants.

(e) *Sources following the stripper(s)*. The following requirements apply to emissions of vinyl chloride to the atmosphere from the combination of all sources following the stripper(s) [or the reactor(s) if the plant has no stripper(s)] in the plant process flow including but not limited to, centrifuges, concentrators, blend tanks, filters, dryers, conveyor air discharges, baggers, storage containers, and inprocess wastewater, except as provided in paragraph (f) of this section:

(3) The provisions of this paragraph apply at all times including when off-specification or other types of resins are made.

6. By adding paragraph (f) to § 61.64 as follows:

§ 61.64 Emission standard for polyvinyl chloride plants

(f) *Reactor used as stripper*. When a nonbulk resin reactor is used as a stripper this paragraph may be applied in lieu of § 61.64 (a)(2) and (e)(1):

(1) The weighted average emissions of vinyl chloride from reactor opening loss and all sources following the reactor used as a stripper from all grades of polyvinyl chloride resin stripped in the reactor on each calendar day may not exceed:

(i) 202 g/kg (0.00202 lb/lb) of polyvinyl chloride product for dispersion polyvinyl chloride resins, excluding latex resins, with the product determined on a dry solids basis.

(ii) 0.42 g/kg (0.00042 lb/lb) of polyvinyl chloride product for all other polyvinyl chloride resins, including latex resins, with the product determined on a dry solids basis.

7. By revising paragraph (a) to § 61.65 as follows:

§ 61.65 Emission standard for ethylene dichloride, vinyl chloride and polyvinyl chloride plants

An owner or operator of an ethylene dichloride, vinyl chloride, and/or polyvinyl chloride plant shall comply with the requirements of this section.

(a) *Relief valve discharges*. (1) Polyvinyl chloride plants (suspension, dispersion, latex, and bulk processes).

(i) *Reactor*. The number of discharges to the atmosphere from relief valves on polyvinyl chloride reactors in vinyl chloride service is not to exceed the following limits except as provided in paragraph (a)(1)(iii) of this section. For all reactors producing suspension resins within a PVC plant, the number of relief valve discharges is not to exceed 0.035 discharges per 100 polymerization batches nor 4 discharges per year. For all reactors producing dispersion and latex resins within a PVC plant, the number of relief valve discharges is not to exceed 0.035 discharges per 100 polymerization batches. For all reactors including prepolymerization and postpolymerization reactors, producing bulk resins within a PVC plant the number of relief valve discharges is not to exceed 0.035 discharges per 100 polymerization batches.

(ii) The number of discharges to the atmosphere from relief valves on equipment [excluding polyvinyl chloride reactors] in vinyl chloride service is not to exceed 0.025 discharges per 100 polymerization batches nor 3 discharges per year except as provided in paragraph (a)(1)(iii) of this section.

(iii) The limits specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section may be exceeded when only one relief valve discharge to the atmosphere occurs during the 12-month period preceding the close of the 6-month reporting period.

(2) Polyvinyl chloride plants (solution and other continuous PVC production processes). The number of discharges to the atmosphere from relief valves on all equipment in vinyl chloride service is not to exceed 1 discharge per year.

(3) *Ethylene dichloride and vinyl chloride plants*. The number of discharges to the atmosphere from relief valves on equipment in vinyl chloride service is not to exceed 4 discharges per year.

(4) Each relief valve discharge that contributes to a relief valve discharge frequency in excess of any limit prescribed in paragraphs (a)(1), (a)(2) and (a)(3) of this paragraph constitutes

an individual violation of the respective limit.

(5) For every relief valve discharge to the atmosphere, the owner or operator shall record the identity of the source, the date and time of the discharge, the cause of the discharge, the approximate total vinyl chloride loss during the discharge, and the method used for determining the vinyl chloride loss. This information shall be submitted in writing to the Administrator as part of the reporting requirements of paragraph § 61.70. This information shall be retained and made available for inspection by the Administrator for a minimum of 3 years.

8. By revising paragraphs (b)(3), (b)(8)(i), (b)(8)(iii), (b)(8)(iv) and (b)(8)(vi) to § 61.65 as follows:

§ 61.65 Emission standard for ethylene dichloride, vinyl chloride and polyvinyl chloride plants.

An owner or operator of an ethylene dichloride, vinyl chloride, and/or polyvinyl chloride plant shall comply with the requirements of this section.

(a) * * *

(b) *Fugitive emission sources*

(1) * * *

(2) * * *

(3) Leakage from pump, compressor, and agitator seals: (i) *Rotating pumps.* Vinyl chloride emissions from seals on all rotating pumps in vinyl chloride service are to be minimized by installing sealless pumps, pumps with double mechanical seals or equivalent as provided in § 61.66. If double mechanical seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two seals so that any leak that occurs is into the pump; by ducting any vinyl chloride between the two seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm; or equivalent as provided in § 61.66.

(ii) *Reciprocating pumps.* Vinyl chloride emissions from seals on all reciprocating pumps in vinyl chloride service are to be minimized by installing double outboard seals, or equivalent as provided in § 61.66. If double outboard seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two seals so that any leak that occurs is into the pump; by ducting any vinyl chloride between the two seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm; or equivalent as provided in § 61.66.

(iii) *Rotating compressor.* Vinyl chloride emissions from seals on all

rotating compressors in vinyl chloride service are to be minimized by installing compressors with double mechanical seals, or equivalent as provided in § 61.66. If double mechanical seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two seals so that any leak that occurs is into the compressor; by ducting any vinyl chloride between the two seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm; or equivalent as provided in § 61.66.

(iv) *Reciprocating compressors.* Vinyl chloride emissions from seals on all reciprocating compressors in vinyl chloride service are to be minimized by installing double outboard seals, or equivalent as provided in § 61.66. If double outboard seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two seals so that any leak that occurs is into the compressor; by ducting any vinyl chloride between the two seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm; or equivalent as provided in § 61.66.

(v) *Agitator.* Vinyl chloride emissions from seals on all agitators in vinyl chloride service are to be minimized by installing agitators with double mechanical seals, or equivalent as provided in § 61.66. If double mechanical seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two seals so that any leak that occurs is into the agitated vessel; by ducting any vinyl chloride between the two seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed 10 ppm; or equivalent as provided in § 61.66.

(8) Leak detection and elimination.

(i) It includes a reliable and accurate vinyl chloride monitoring system for detection of major leaks and identification of the general area of the plant where a leak is located. A vinyl chloride monitoring system means a device which obtains air samples from one or more points on a continuous sequential basis and analyzes the samples with gas chromatography or, if the owner or operator assumes that all hydrocarbons measured are vinyl chloride, with infrared spectrophotometry, flame ion detection, or an equivalent or alternative method.

(iii) It provides for an acceptable calibration and maintenance schedule for the vinyl chloride monitoring system and portable hydrocarbon detector. For the vinyl chloride monitoring system, a daily span check is to be conducted with a concentration of vinyl chloride equal to the concentration defined as a leak according to paragraph (b)(8)(vi) of this section. The calibration is to be done with either:

(A) A calibration gas mixture prepared from the gases specified in sections 5.2.1 and 5.2.2 of Test Method 106 and in accordance with section 7.1 of test Method 106, or

(B) A calibration gas cylinder standard containing the appropriate concentration of vinyl chloride. The gas composition of the calibration gas cylinder standard is to have been certified by the manufacturer. The manufacturer must have recommended a maximum shelf life for each cylinder so that the concentration does not change greater than ± 5 percent from the certified value. The date of gas cylinder preparation, certified vinyl chloride concentration and recommended maximum shelf life must have been affixed to the cylinder before shipment from the manufacturer to the buyer. If a gas chromatograph is used as the vinyl chloride monitoring system, these gas mixtures may be directly used to prepare a chromatograph calibration curve as described in section 7.3 of Test Method 106. The requirements in section 5.2.3.1 and 5.2.3.2 of Test Method 106 for certification of cylinder standards and for establishment and verification of calibration standards are to be followed.

(iv) The location and number of points to be monitored and the frequency of monitoring provided for in the program are acceptable when they are compared with the number of pieces of equipment in vinyl chloride service and the size and physical layout of the plant.

(vi) It contains a definition of leak which is acceptable when compared with the background concentrations of vinyl chloride in the areas of the plant to be monitored by the vinyl chloride monitoring system. Measurements of background concentrations of vinyl chloride in the areas of the plant to be monitored by the vinyl chloride monitoring system are to be included with the description of the program. The definition of leak for a given plant may vary among the different areas within the plant and is also to change over time as background concentrations in the plant are reduced.

9. By revising paragraph (b)(4) to § 61.65 as follows:

§ 61.65 Emission standard for ethylene dichloride, vinyl chloride and polyvinyl chloride plants

(b) *Fugitive emission sources.*

(4) *Leaks from relief valves.* Vinyl chloride emissions due to leaks from each relief valve on equipment in vinyl chloride service shall comply with § 61.242-4 of Subpart V of this part.

10. By revising paragraph (b)(7) of § 61.65 as follows:

§ 61.65 Emission standard for ethylene dichloride, vinyl chloride and polyvinyl chloride plants.

(b) *Fugitive emission sources.*

(7) *Samples.* Unused portions of samples containing at least 10 percent by weight vinyl chloride are to be returned to the process or destroyed in a control device from which the concentration of vinyl chloride in the exhaust gas does not exceed 10 ppm. Sampling techniques are to be such that sample containers in vinyl chloride are purged into a closed process system.

11. By revising paragraphs (b)(8) introductory text, (b)(8)(ii), and (b)(8)(v) to § 61.65 as follows:

§ 61.65 Emission standard for ethylene dichloride, vinyl chloride and polyvinyl chloride plants.

(b) *Fugitive emission sources.*

(8) *Leak detection and elimination.* Vinyl chloride emissions due to leaks from equipment in vinyl chloride service are to be minimized by instituting and implementing a leak detection and repair program consistent with the provisions of Subpart V of this part. The program is to be implemented within 90 days of the effective date of these regulations, unless a waiver of compliance is granted under § 61.11. Approval of a program will be granted by the Administrator provided he finds:

- (i)
- (ii) It includes a reliable and accurate portable hydrocarbon detector to be used consistent with the provisions of Subpart V of this part. An owner or operator is exempt from § 61.242-1(d), §§ 61.242-7 (a), (b) and (c), § 61.246 and § 61.247 of Subpart V of this part for any process unit in which the percentage of leaking valves is demonstrated to be equal to or less than 2.0 percent, as

determined in accordance with the following:

(A) A performance test as specified in paragraph (b)(8)(ii)(C) of this section shall be conducted initially within 90 days of the effective date of these regulations, annually and at times requested by the Administrator.

(B) For each performance test, a minimum of 200 or 90 percent of the total valves in VOC service (as defined in § 60.481 of Subpart VV of Part 60) within the process unit shall be randomly selected and monitored within 1 week by the methods specified in § 61.245(d) of Subpart V of this part. If an instrument reading of 10,000 ppm or greater is measured, a leak is detected. The leak percentage shall be determined by dividing the number of valves in VOC service for which leaks are detected by the number of tested valves in VOC service.

(C) If a leak is detected, it shall be repaired in accordance with § 61.242-7 (d) and (e) of Subpart V of this part.

(D) The results of the performance test shall be submitted in writing to the Administrator in the first semiannual report following the performance test as part of the reporting requirements of § 61.70.

(E) Any process unit in which the percentage of leaking valves is found to be greater than 2.0 percent must comply with all provisions of Subpart V of this part within 90 days.

(v) It contains a plan of action to be taken when a leak is detected consistent with Subpart V of this part.

12. By revising § 61.66 as follows:

§ 61.66 Equivalent equipment and procedures.

Upon written application from an owner or operator, the Administrator may approve use of equipment or procedures which have been demonstrated to his satisfaction to be equivalent in terms of reducing vinyl chloride emissions to the atmosphere to those prescribed for compliance with a specific paragraph of this subpart.

13. By revising paragraph (f) of § 61.67 as follows:

§ 61.67 Emission tests.

(f) The owner or operator shall retain at the plant and make available, upon request, for inspection by the Administrator, for a minimum of 3 years, records of emission test results and other data needed to determine emissions.

14. By revising paragraphs (g)(3) introductory text, (g)(3)(i), and (g)(3)(iii) of § 61.67 as follows:

§ 61.67 Emission tests.

(g)

(3) When a stripping operation is used to attain the emission limits in § 61.64 (e) and (f), emissions are to be determined using Test Method 107 as follows:

(i) The number of strippers (or reactors using as strippers) and samples and the types and grades of resin to be sampled are to be determined by the Administrator for each individual plant at the time of the test based on the plant's operation.

(ii)

(iii) The corresponding quantity of material processed by each stripper (or reactor used as a stripper) is to be determined on a dry solids basis and by a method submitted to and approved by the Administrator.

15. By revising paragraph (g)(5) introductory text and adding paragraph (g)(6) to § 61.67 as follows:

§ 61.67 Emission tests.

(g)

(5) The reactor opening loss for which an emission limit is prescribed in § 61.64(a)(2) is to be determined. The number of reactors for which the determination is to be specified by the Administrator for each individual plant at the time of the determination based on the plant's operation.

(6) For a reactor that is used as a stripper, the emissions of vinyl chloride from reactor opening loss and all sources following the reactor used as a stripper for which an emission limit is prescribed in § 61.64(f) are to be determined. The number of reactors for which the determination is to be made is to be specified by the Administrator for each individual plant at the time of the determination based on the plant's operation.

(i) For each batch stripped in the reactor, the following measurements are to be made:

(A) The concentration (ppm) of vinyl chloride in resin after stripping, measured according to paragraph (g)(3) of this section;

(B) The reactor vacuum (mm Hg) at end of strip from plant instrument; and

(C) The reactor temperature (°C) at end of strip from plant instrument.

(ii) For each batch stripped in the reactor, the following information is to be determined:

(A) The vapor pressure (mm Hg) of water in the reactor at end of strip from the following table:

Reactor vapor temperature (°C)	H ₂ O vapor pressure (mm Hg)	Reactor vapor temperature (°C)	H ₂ O vapor pressure (mm Hg)	Reactor vapor temperature (°C)	H ₂ O vapor pressure (mm Hg)
40	55.3	61	156.4	82	384.9
41	58.3	62	163.8	83	400.6
42	61.5	63	171.4	84	416.8
43	64.8	64	179.3	85	433.6
44	68.3	65	187.5	86	450.9
45	71.9	66	196.1	87	468.7
46	75.6	67	205.9	88	487.1
47	79.6	68	214.2	89	506.1
48	83.7	69	223.7	90	525.8
49	88.0	70	233.7	91	546.0
50	92.5	71	243.9	92	567.0
51	97.2	72	254.6	93	588.6
52	102.1	73	265.7	94	610.9
53	107.2	74	277.2	95	633.9
54	112.5	75	289.1	96	657.6
55	118.0	76	301.4	97	682.1
56	123.8	77	314.1	98	707.3
57	129.8	78	327.3	99	733.2
58	136.1	79	341.0	100	760.0
59	142.6	80	355.1		
60	149.4	81	369.7		

(B) The partial pressure (mm Hg) of vinyl chloride in reactor at end of strip from the following equation:

$$PPVA = 760 - RV - VPW$$

Where:

PPVC = partial pressure of vinyl chloride, in mm Hg

760 = atmospheric pressure at 0°C, in mm Hg

RV = absolute value of reactor vacuum, in mm Hg

VPW = vapor pressure of water, in mm Hg

(C) The reactor vapor space volume (m³) at end of strip from the following equation:

$$RVSU = RC - WV - \frac{PVCW}{833}$$

where:

RVSU = reactor vapor space volume, in m³

RC = reactor capacity, in m³

WV = volume of water in reactor from recipe, in m³

PVCW = dry weight of polyvinyl chloride in reactor from recipe, in kg

833 = typical density of polyvinyl chloride, in kg/m³

(iii) For each batch stripped in the reactor, the combined reactor opening loss and emissions from all sources following the reactor used as a stripper is to be determined using the following equation:

$$C = [PPMVC](10^{-3}) + \frac{[PPVC][RVSU](1.002)}{[PVCW](273 + RT)}$$

where:

C = g vinyl chloride/kg polyvinyl chloride product

PPMVC = concentration of vinyl chloride in resin after stripping, in ppm

10⁻³ = conversion factor for ppm

PPVC = partial pressure of vinyl chloride determined according to paragraph (g)(6)(ii)(B) of this section, in mm Hg

RVSU = reactor vapor space volume determined according to paragraph (g)(6)(ii)(C) of this section, in m³

1.002 = ideal gas constant in g-°K/mm Hg-m³ for vinyl chloride

PVCW = dry weight of polyvinyl chloride in reactor from recipe, in kg

273 = conversion factor for °C to °K

RT = reactor temperature, in °C

16. By adding paragraph (h) to § 61.67 as follows:

(h)(1) Each piece of equipment within a process unit that can reasonably contain equipment in vinyl chloride service is presumed to be in vinyl chloride service unless an owner or operator demonstrates that the piece of equipment is not in vinyl chloride service. For a piece of equipment to be considered not in vinyl chloride service, it must be determined that the percent vinyl chloride content can be reasonably expected not to exceed 10 percent by weight for liquid streams and 10 percent by volume for gas streams. For purposes of determining the percent vinyl chloride content of the process fluid that is contained in or contacts equipment, procedures that conform to the methods described in ASTM Method D-2267 (incorporated by reference as specified in § 61.18) shall be used.

(2)(f) An owner or operator may use engineering judgment rather than the procedures in paragraph (h)(1) of this section to demonstrate that the percent vinyl chloride content does not exceed 10 percent by weight for liquid streams and 10 percent by volume for gas streams, provided that the engineering judgment demonstrates that the vinyl chloride content clearly does not exceed 10 percent. When an owner or operator and the Administrator do not agree on whether a piece of equipment is not in vinyl chloride service, however, the procedures in paragraph (h)(1) of this section shall be used to resolve the disagreement.

(ii) If an owner or operator determines that a piece of equipment is in vinyl chloride service, the determination can

be revised only after following the procedures in paragraph (h)(1) of this section.

(3) Samples used in determining the percent vinyl chloride content shall be representative of the process fluid that is contained in or contacts the equipment.

17. By adding paragraphs (d), (e) and (f) to § 61.68 as follows:

§ 61.68 Emission monitoring.

(d) When exhaust gas(es), having emission limits that are subject to the requirement of paragraph (a) of this section, are emitted to the atmosphere around the control system and required vinyl chloride monitoring system, the vinyl chloride content of the emission shall be calculated (in units of each applicable emission limit) by best practical engineering judgment based on the discharge duration and known VC concentrations in the affected equipment as determined in accordance with § 61.67(h) or other acceptable method.

(e) For each 3-hour period, the vinyl chloride content of emissions subject to the requirements of paragraphs (a) and (d) of this section shall be averaged (weighted according to the proportion of time that emissions were continuously monitored and that emissions bypassed the continuous monitor) for purposes of reporting excess emissions under § 61.70(c)(1).

(f) For each vinyl chloride emission to the atmosphere determined in accordance with paragraph (e) of this section to be in excess of the applicable emission limits, the owner or operator shall record the identity of the source(s), the date, time, and duration of the excess emission, the cause of the emission, the approximate total vinyl chloride loss during the excess emission, and the method used for determining the vinyl chloride loss. This information shall be retained and made available for inspection by the Administrator as required by § 61.71(a).

18. By changing the title from "Semiannual report" to "Reporting" and by revising paragraph (a) of § 61.70 as follows:

§ 61.70 Reporting.

(a)(1) The owner or operator of any source to which this subpart applies shall submit to the Administrator on September 15 and March 15 of each year a report in writing containing the information required in paragraphs (c), (d) and (e) of this section and on December 15 and June 15 of each year a report in writing containing the information required in paragraph (e) of this section, except as provided in paragraph (a)(2).

(2) In the case of an existing source that submits semiannual reports on an approved fixed schedule other than September 15 and March 15, the approved semiannual reporting schedule shall be used to report the information required in paragraphs (c), (d) and (e) of this section. In addition, the information required in paragraph (e) of this section will be reported exactly 3 months following the semiannual reporting dates.

(3) The first report is to be submitted following the first full 3 month reporting period after the initial report is submitted.

19. By revising paragraph (c)(1) of § 61.70 as follows:

§ 61.70 Reporting.

(c) * * *

(1) The owner or operator shall include in the report a record of the vinyl chloride content of emissions for each 3-hour period during which average emissions are in excess of the emission limits in § 61.62 (a) or (b), § 61.63(a), or § 61.64 (a)(1), (b), (c), or (d), or during which average emissions are in excess of the emission limits specified for any control system to which reactor emissions are required to be ducted in § 61.64(a)(2) or to which fugitive emissions are required to be ducted in § 61.65 (b)(i)(ii), (b)(2), (b)(5), (b)(6)(ii), or (b)(9)(ii). If emissions in excess of the emission limits are not detected, the report shall contain a statement that no excess emissions have been detected. The emissions are to be determined in accordance with § 61.68(e).

20. By revising paragraph (c)(2) introductory text, removing paragraphs (c)(2)(iv), revising paragraph (c)(2)(iii) and revising (c)(2)(v) and (c)(2)(vi) introductory text to § 61.70 as follows:

§ 61.70 Reporting.

(c) * * *

(2) In polyvinyl chloride plants for which a stripping operation is used to attain the emission level prescribed in § 61.64(e), the owner or operator shall include in the report a record of the

vinyl chloride content in the polyvinyl chloride resin.

- (i) * * *
- (ii) * * *
- (iii) The vinyl chloride content in each sample is to be determined by Test Method 107 as prescribed in § 61.67(g)(3).
- (iv) [Reserved]
- (v) The report to the Administrator by the owner or operator is to include a record of any 24-hour average resin

$$A_{T_i} = \frac{\sum_{i=1}^n P_{G_i} M_{G_i}}{Q_{T_i}} = \frac{P_{G_1} M_{G_1} + P_{G_2} M_{G_2} + \dots + P_{G_n} M_{G_n}}{Q_{T_i}}$$

where:

A = 24-hour average concentration of type, T_i resin in ppm (dry weight basis).

Q = Total production of type T_i resin over the 24-hour period, in kg.

T_i = Type of resin: $i = 1, 2, \dots, m$ where m is total number of resin types produced during the 24-hour period.

M = Concentration of vinyl chloride in one sample of grade G_i resin, in ppm.

P = Production of grade G_i resin represented by the sample, in kg.

G_i = Grade of resin: e.g., G_1 , G_2 , and G_3 .

n = Total number of grades of resin produced during the 24-hour period.

If no 24-hour average resin vinyl chloride concentrations in excess of the limits prescribed in § 61.64(e) are measured, the report shall state that no excess resin vinyl chloride concentrations were measured.

(vi) The owner or operator shall retain at the source and make available for inspection by the Administrator for a minimum of 3 years records of all data needed to furnish the information required by paragraph (c)(2)(v) of this section. The records are to contain the following information:

(A) * * *

(B) * * *

21. By revising paragraph (c)(3) of § 61.70 as follows:

§ 61.70 Reporting.

(C) * * *

(3) The owner or operator shall include in the report a record of any emissions from each reactor opening in excess of the emission limits prescribed in § 61.64(a)(2). Emissions are to be determined in accordance with § 61.67(g)(5), except that emissions for each reactor are to be determined. If emissions in excess of the emission limits are not detected, the report shall

include a statement that excess emissions have not been detected.

22. By adding paragraph (c)(4) to § 61.70 as follows:

include a statement that excess emissions have not been detected.

22. By adding paragraph (c)(4) to § 61.70 as follows:

§ 61.70 Reporting

(c) * * *

(4) In polyvinyl chloride plants for which stripping in the reactor is used to attain the emission level prescribed in § 61.64(f), the owner or operator shall include in the report a record of the vinyl chloride emissions from reactor opening loss and all sources following the reactor used as a stripper.

(i) One representative sample of polyvinyl chloride resin is to be taken from each batch of each grade of resin immediately following the completion of the stripping operation, and identified by resin type and grade and the date and time the batch is completed. The corresponding quantity of material processed in each stripper batch is to be recorded and identified by resin type and grade and the date and time the batch is completed.

(ii) The vinyl chloride content in each sample is to be determined by Test Method 107 as prescribed in § 61.67(g)(3).

(iii) The combined emission from reactor opening loss and all sources following the reactor used as a stripper are to be determined for each batch stripped in a reactor according to the procedure prescribed in § 61.67(g)(6).

(iv) The report to the Administrator by the owner or operator is to include a record of any 24-hour average combined reactor opening loss and emissions from all sources following the reactor used as a stripper as determined in this paragraph, in excess of the limits prescribed in § 61.64(f). The combined reactor opening loss and emissions from

all sources following the reactor used as a stripper associated with each batch are to be averaged separately for each type of resin, over each calendar day and weighted according to the quantity

of each grade of resin stripped in reactors that calendar day as follows:

For each type of resin (suspension, dispersion, latex, bulk, other), the following calculation is to be performed:

$$A = \frac{\sum_{i=1}^n P_{G_i} C_{G_i}}{Q} = \frac{P_{G_1} C_{G_1} + P_{G_2} C_{G_2} + \dots + P_{G_n} C_{G_n}}{Q}$$

Where:

- A = 24-hour average combined reactor opening loss and emissions from all sources following the reactor used as a stripper, in g vinyl chloride/kg product (dry weight basis).
 Q = Total production of resin in batches for which stripping is completed during the 24-hour period, in kg.
 C = Average combined reactor opening loss and emissions from all sources following the reactor used as a stripper of all grades of resin for which stripping is completed during the 24-hour period in g vinyl chloride/kg product (dry weight basis) (determined according to procedure prescribed in § 61.67(g)(6)).
 P = Production of grade G_i resin in the batches for which C is determined, in kg.
 G_i = Grade of resin; e.g., G₁, G₂, and G_n.
 n = Total number of grades of resin in batches for which stripping is completed during the 24-hour period.

If no 24-hour average combined reactor opening loss and emissions from all sources following the reactor used as a stripper in excess of the limits prescribed in § 61.64(f) are determined, the report shall state that no excess vinyl chloride emissions were determined.

23. By adding paragraphs (d), (e) and (f) to § 61.70 as follows:

§ 61.70 Reporting.

(d) The owner or operator shall include in the report a record of relief valve discharges as prescribed in § 61.65(a)(4), and the owner or operator shall report exceedences of the relief valve discharge frequency limits prescribed in § 61.65(a) to be determined as follows:

(1) For polyvinyl chloride plants producing dispersion, latex or bulk resins, the relief valve discharge frequency from polyvinyl chloride reactors is to be determined using the following equation. Separate calculations are to be made for each resin type (1) as defined:

$$F_1 = \frac{N}{Y}$$

Where

- F₁ = relief valve discharge frequency per 100 polymerization batches from all reactors producing resin type t
 N = total number of relief valve discharges during the 12-month period preceding the close of the 6-month reporting period from all reactors producing resin type t
 Y = total number of polymerization batches of resin type t during the 12-month period preceding the close of the 6-month reporting period divided by 100
 t = resin type: dispersion (including latex) or bulk resin type

(2) For polyvinyl chloride plants producing suspension resins, the relief valve discharge frequency from polyvinyl chloride reactors is to be determined in two ways using the following equations:

$$F_{2a} = \frac{N}{Y} \text{ and } F_{2b} = N$$

where

- F_{2a} = relief valve discharge frequency per 100 polymerization batches from all reactors producing suspension resin
 F_{2b} = relief valve discharge frequency per 12-month period from all reactors producing suspension resin
 N = total number of relief valve discharges during the 12-month period preceding the close of the 6-month reporting period from all reactors producing suspension resin
 Y = total number of polymerization batches of suspension resin during the 12-month period preceding the close of the 6-month reporting period divided by 100

(3) For polyvinyl chloride plants producing suspension, dispersion, latex, or bulk resins, the relief valve discharge frequency from all other equipment (excluding polyvinyl chloride reactors) is to be determined in two ways using the following equations:

$$F_3 = \frac{N}{Y} \text{ and } F_4 = N$$

where

- F₃ = relief valve discharge frequency per 100 polymerization batches from all equipment (excluding reactors)
 F₄ = relief valve discharge frequency per 12-month period from all equipment (excluding reactors)
 N = total number of relief valve discharges during the 12-month period preceding the close of the 6-month reporting period from all equipment (excluding reactors)
 Y = total number of polymerization batches of all resin types combined divided by 100

(4) For polyvinyl chloride plants using the solution process or any other continuous production process, the relief valve discharge frequency is the summation of each relief valve discharge from all equipment types during the 12-month period preceding the close of the 6-month reporting period.

(5) For ethylene dichloride/vinyl chloride plants, the relief valve discharge frequency is the summation of each relief valve discharge from all equipment types during the 12-month period preceding the close of the 6-month reporting period.

(6) A polymerization batch consists of each sequence of charging VC and other materials to the reactor, heating reactor contents, polymerization of reactor contents, and removal of reactor contents including any incomplete sequence that is aborted after charging VC to the reactor. For bulk resin production plants, a single "polymerization batch" includes both prepolymerization and postpolymerization reactor operations.

(e) The owner or operator shall include in the report the number of relief valve discharges to the atmosphere during the 3-month period preceding the report from each of the following sources: suspension resin production reactors; dispersion and latex resin production reactors; bulk resin production reactors; all nonreactor equipment in PVC plants; all equipment used in solution process and other continuous process PVC plants; and all equipment in EDC/VC plants; any other source.

(f) The owner or operator shall include in the report the number of reactor openings and the design capacity of the number of polymerization batches for each type of resin in each plant during the 6-month period preceding the report. The design capacity of the number of polymerization batches may be defined

initially and remain unchanged unless significant changes to the design capacity occur.

24. By revising paragraph (a) introductory text of § 61.71 as follows:

§ 61.71 Recordkeeping.

(a) The owner or operator of any source to which this subpart applies shall retain the following information at the source and make it available for inspection by the Administrator for a minimum of 3 years:

25. By adding the words "vinyl chloride" to the definition of the term "volatile hazardous air pollutants" in § 61.241 of Subpart V as follows:

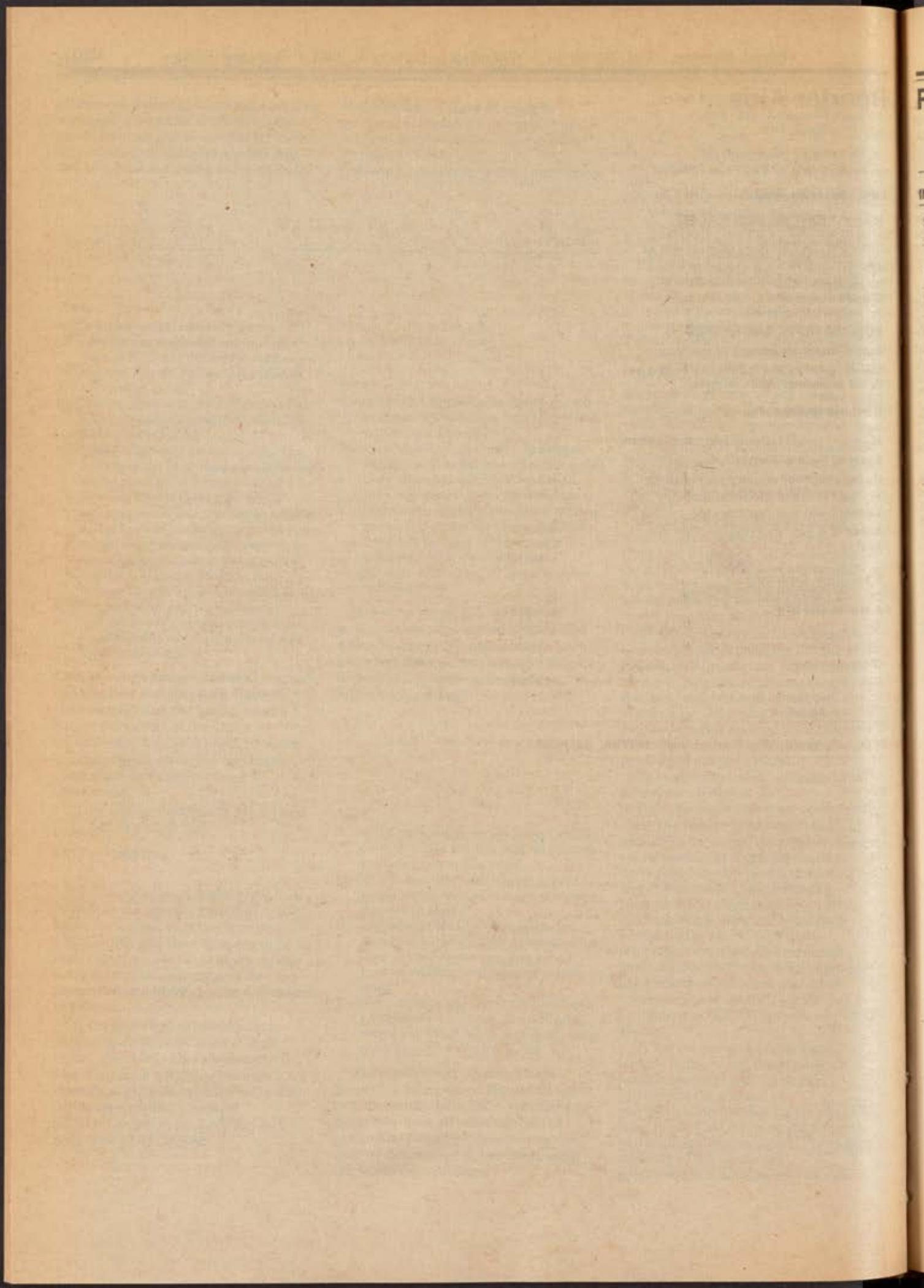
§ 61.241 Definitions.

"Volatile hazardous air pollutant" or "VHAP" means a substance regulated under this part for which a standard for equipment leaks of the substance has been proposed and promulgated. Benzene is a VHAP. Vinyl chloride is a VHAP.

(Sec. 112 Clean Air Act of 1976)

[FR Doc. 85-509 Filed 1-8-85; 8:45 am]

BILLING CODE 5560-50-M



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Wednesday, January 9, 1985

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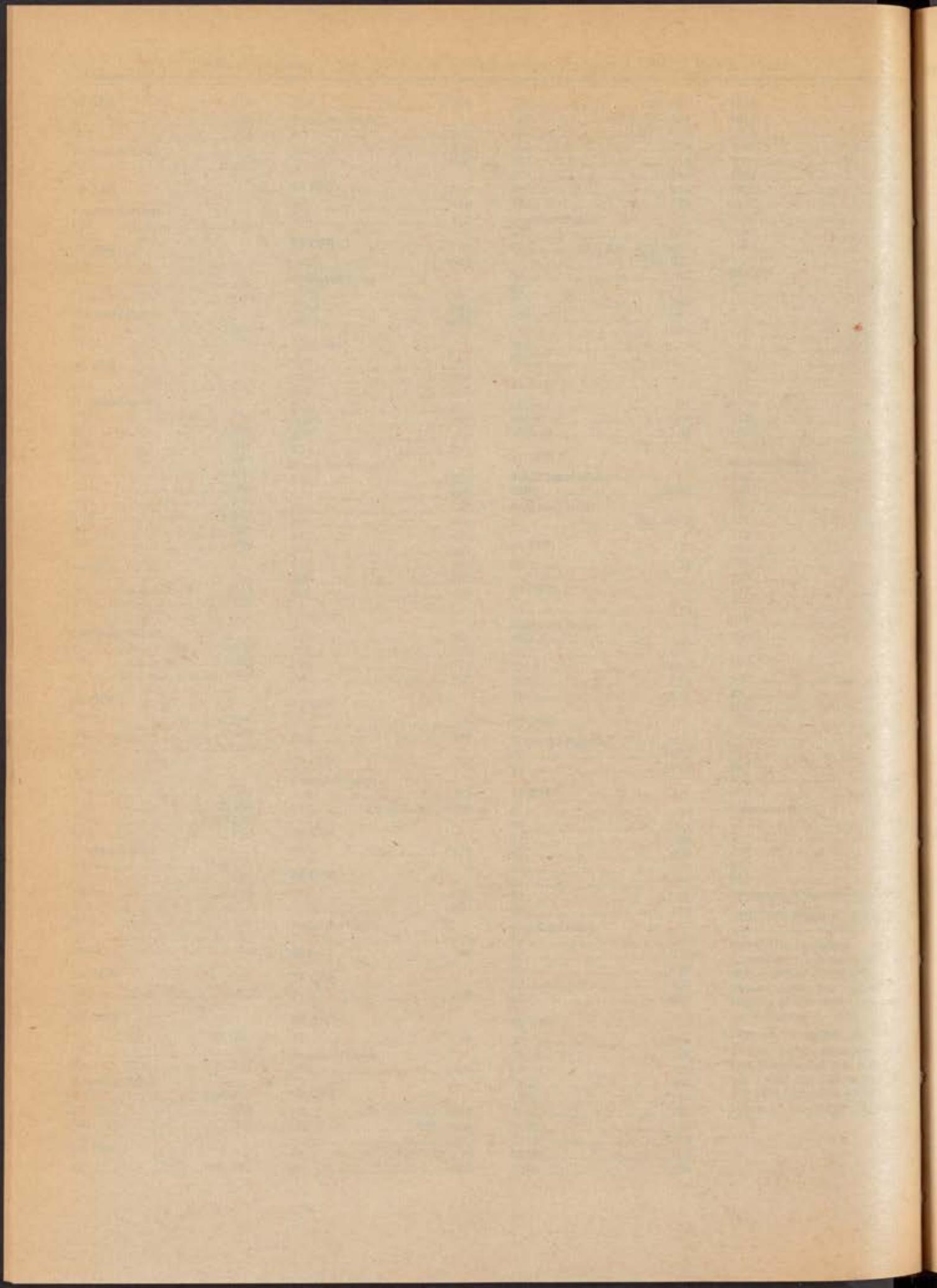
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