

the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA, Region II, 290 Broadway, New York, New York 10007-1866.

**DATES:** Comments must be submitted on or before May 8, 2000.

**ADDRESSES:** The proposed settlement is available for public inspection at the EPA, 290 Broadway, New York, New York 10007-1866. A copy of the proposed settlement may be obtained from Lee A. Spielmann, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, 17th Floor, 290 Broadway, New York, New York 10007-1866. Comments should reference the C & J Disposal Superfund Site located in Eaton, New York, Docket No. CERCLA-02-99-2005, and should be addressed to Lee A. Spielmann, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th floor, New York, New York 10007-1866.

**FOR FURTHER INFORMATION CONTACT:** Lee A. Spielmann, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007-1866. Telephone: 212-637-3222.

Dated: March 27, 2000.

**William J. Muszynski,**

*Regional Administrator, Region 2.*

[FR Doc. 00-8532 Filed 4-5-00; 8:45 am]

**BILLING CODE 6560-50-M**

## ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-211044A; FRL-6496-6]

### TSCA Section 21 Petition; Response to Citizens' Petition

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On December 27, 1999, EPA received a petition under section 21 of the Toxic Substances Control Act (TSCA) from People for the Ethical Treatment of Animals (PETA) on its own behalf and on behalf of four other organizations. The petition requests that EPA initiate TSCA rulemaking proceedings with respect to all chemicals included on the HPV (High Production Volume chemical) Challenge Program list as updated through the date

of initiation of the requested proceedings. Specifically, the petition requests that EPA issue a TSCA section 8(a) Preliminary Assessment Information Reporting (PAIR) rule and a Health and Safety Data Reporting rule under TSCA section 8(d). For the reasons set forth in this notice, EPA has denied the petition to initiate rulemaking.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

*For technical information contact:* Frank D. Kover, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260-8130; e-mail address: ccd.citb@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to U.S. chemical manufacturers (defined by statute to include importers) and processors. Because other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under "FOR FURTHER INFORMATION CONTACT."

###### B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A copy of the petition and its supplement are available on EPA's homepage at <http://www.epa.gov/chemrtk/sc21main.htm>.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS-211044A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260-7099.

## II. Background

### A. What is a TSCA Section 21 Petition?

Section 21 of TSCA allows citizens to petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under TSCA sections 4, 6, or 8 or an order under TSCA sections 5(e) or 6(b)(2). A section 21 petition must set forth facts which the petitioner believes establish the need for the action requested. EPA is required to grant or deny the petition within 90 days of its receipt. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. Within 60 days of denial or no action, petitioners may commence a civil action in a U.S. District Court to compel initiation of the requested rulemaking. When reviewing a petition for a new rule, as in this case, the court must provide an opportunity for *de novo* review of the petition. Pursuant to TSCA section 21(b)(4)(B)(ii), "if the petitioner demonstrates to the satisfaction of the court by a preponderance of evidence that ... there is a reasonable basis to conclude that the issuance of such [TSCA section 8 rules] is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment" the court can order EPA to initiate the requested action.

### *B. What Action is Requested Under This TSCA Section 21 Petition?*

On December 27, 1999, EPA received a TSCA section 21 petition from PETA on its own behalf and on behalf of the Physicians Committee for Responsible Medicine (PCRM), the Doris Day Animal League (DDAL), the International Marine Mammal Project of Earth Island Institute, and the National Anti-Vivisection Society (NAVS). The petitioners supplemented their original petition with additional references in a letter, dated January 19, 2000. The petition and its supplement are in the docket and are also available at <http://www.epa.gov/chemrtk/sc21main.htm>.

The petition asks EPA to initiate rulemaking proceedings with respect to all chemicals included in the HPV Challenge Program as updated through the date of initiation of the requested proceedings for the issuance of:

1. A TSCA section 8(a) PAIR rule (40 CFR part 712).
2. A Health and Safety Data Reporting rule under TSCA section 8(d) (40 CFR part 716).

The petitioners further petition that “[s]uch rule[s] should neither be limited to participants in the Challenge Program nor exclude substances or mixtures as to which a participant has enrolled in the Program.” While the petitioners recognize that companies are obligated under TSCA section 8(e) to report to the Agency information suggesting that a chemical poses a substantial risk to health or the environment, they are asking the Agency to initiate the requested rulemakings in order to obtain essentially exculpatory information from companies that might “exonerate” a chemical so that additional testing would not be needed.

This request is based in part upon assertions that regulations requiring the submission of existing hazard test data provide a better approach for implementing the HPV Challenge Program and associated TSCA section 4 HPV test rule(s) than the approach currently utilized, namely, the voluntary submission of relevant existing screening-level hazard test data in connection with sponsorship of chemicals under the HPV Challenge Program or as comments on proposed HPV rule(s) under TSCA section 4. The HPV Challenge Program and associated test rule(s) are part of a broader Agency program called the “Chemical Right-to-Know Initiative.” See <http://www.epa.gov/chemrtk/> for a description of the Chemical Right-to-Know Initiative, including the HPV Challenge Program).

### **III. Disposition of Petition**

EPA agrees with the underlying general premise of the petition, i.e., that relevant extant hazard data on the HPV Challenge Program chemicals, both “positive” data that indicate an effect and “negative” data that do not indicate an effect, should be considered by the Agency and made publicly available before any screening-level hazard testing (animal or non-animal) under the HPV Challenge Program or associated test rule(s) is conducted. However, EPA does not believe that it is required to grant the petition under the relevant standard set forth in TSCA section 21(b)(4)(B)(ii), namely that “there is a reasonable basis to conclude that the issuance of such a rule or order is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment.” The petition does not argue that the requested rules are necessary to protect against an unreasonable risk to health or the environment, but rather asserts that the TSCA sections 8(a) PAIR and 8(d) rules provide a more efficient and effective approach to obtaining existing screening-level hazard data on HPV Challenge Program chemicals. Regardless of the validity of this assertion, it would not compel the Agency to take the requested action under TSCA section 21.

Moreover, as a policy matter, EPA does not believe that the petitioner’s approach is more efficient and effective than the approach already being pursued by the Agency under the HPV Challenge Program and associated test rule(s). It should be recognized that the presence of a chemical on the HPV Challenge Chemical List is based upon production and/or importation volume for chemicals reported under the 1990 Inventory Update Rule (IUR), see 40 CFR part 710 for the current IUR regulations, and does not imply that any additional testing or re-testing is needed. Following the guidance provided by EPA, a comprehensive search for and review of existing toxicity studies is occurring and will occur for each of the chemicals in the HPV Challenge Program and any other chemicals listed under associated HPV test rules (see EPA guidance documents on searching for chemical information and assessing adequacy of existing data at <http://www.epa.gov/chemrtk/guidocs.htm>). The collection of these data is already a fundamental part of both the HPV Challenge Program and associated test rule(s). EPA firmly believes that all stakeholders in the HPV Challenge Program share the goal of

avoiding unnecessary testing, in particular the participants who are and will be gathering and making publicly available extant test data and only developing data where screening level data are needed. Further, considering the significant costs and resource burdens involved in animal testing EPA perceives no motivation on the part of program participants or others for re-testing where adequate data already exist.

Finally, EPA disagrees with petitioners’ opinion that rules under TSCA sections 8(a) PAIR and 8(d) are necessary to fulfill the objectives of the HPV Challenge Program. The Agency bases its position on this matter on the following considerations:

#### *A. The HPV Challenge Program Maximizes the Use of Existing Data*

The concerns expressed by the petitioners regarding animal testing have been and continue to be recognized and carefully considered by EPA. Recognition of those concerns is reflected in the Agency’s letter of October 14, 1999 (see <http://www.epa.gov/chemrtk/ceoltr2.htm>) to HPV Challenge Program participants. Specifically, the October 14 letter clearly already addresses the petitioners’ concerns for maximizing the use of existing data. The second listed principle in the October 14 letter states that “Participants shall maximize the use of existing and scientifically adequate data to minimize further testing.” The letter also indicates that EPA is firmly committed to reducing and eliminating the use of animals during any HPV chemical testing that must be conducted. EPA works domestically within the framework of the Interagency Coordinating Committee for the Validation of Alternative Methods (ICCVAM) and internationally with the Organization for Economic Cooperation and Development (OECD) to ensure the scientific acceptability of alternative test methods for regulatory as well as international data sharing purposes.

The tenth principle listed in the October 14 letter states that “Companies shall allow 120 days between the posting of test plans and the implementation of testing plans.” Anyone (including companies not participating in the HPV Challenge Program as well as any other person) having relevant test data is encouraged to submit them during the 120-day review period following posting of test plans and “robust” (i.e., detailed) summaries of scientifically adequate extant data on the Internet. This approach, which has evolved through

interactions with stakeholders, expands the potential respondent community well beyond the domestic manufacturers (including importers) and processors who would be the only ones subject to any TSCA section 8(a) PAIR or 8(d) reporting requirements. As related in comments by an HPV Challenge Program participant "Domestic and foreign participants in voluntary programs have agreed to include all relevant unpublished and published data in publicly available 'robust summaries.' Indeed, it is expected that more data will be available through the 'robust summaries' which will include collaborative efforts with foreign producers, than through a Section 8 rule." (Ref. 1)

Further, EPA's implementation of the HPV Challenge Program has involved a proactive approach to increase by collaboration participants. EPA has sent letters to apparent duplicate sponsors notifying them of other participants' commitments and encouraging them to form consortia or initiate other data sharing efforts thus potentially avoiding duplicative testing by creating further opportunity to maximize use of existing data. The Agency has established an automatic e-mail notification feature on its ChemRTK website to update HPV Challenge Program information in real time for participants, as well as the public-at-large, thus taking further steps to avoid duplicative testing when "new" information becomes available. EPA's approach also broadens the scope to an international level, considering that many consortia and companies participating in the HPV Challenge Program are coordinating their data collection efforts on a global basis and are obtaining studies from companies and other sources throughout the world. EPA agrees with the Environmental Defense statement in their comments (Ref. 2) that "Even assuming *arguendo* that any appreciable quantity of unpublished exculpatory information actually exists there is every reason to believe that such information will be made available in the voluntary [HPV Challenge] program." EPA also agrees with HPV participant statements that they "... will not initiate new testing without thoroughly evaluating the need for such testing based on review of published and unpublished data. . . . In this highly competitive market, companies cannot afford to waste limited resources in conducting unwarranted or unnecessary testing; it is too costly." (Ref. 1)

*B. Submissions Under the Requested Regulations Would Substantially Duplicate Data that HPV Challenge Program Participants Already Have an Incentive to Provide*

EPA believes the requested TSCA sections 8(a) PAIR and 8(d) regulatory actions are not necessary in order to obtain relevant existing hazard test data for chemicals included in the HPV Challenge Program because these data will be submitted (to the extent they exist) by participants and others under the HPV Challenge Program and by respondents to any associated TSCA section 4 rule(s). EPA believes that for the chemicals sponsored under the HPV Challenge Program, the data obtained via the requested TSCA sections 8(a) PAIR and 8(d) regulatory actions would substantially duplicate the extant data that program participants have already committed themselves to provide voluntarily under the HPV Challenge Program (where such data exist), and thus these actions would not supplement the program in a meaningful way. EPA also is guided by TSCA section 8(a)(2) which states that "To the extent feasible, the Administrator [EPA] shall not require . . . any reporting which is unnecessary or duplicative." As a further safeguard to avoid unnecessary testing, EPA encourages anyone (including companies not participating in the HPV Challenge Program as well as any other person) having relevant "positive" or "negative" hazard test data to submit such data during the 120-day review period for test plans as specified in the EPA letter of October 14, 1999.

A fundamental component of the HPV Challenge Program from its inception has been the principle that extant "positive" or "negative" test data should be submitted in order to satisfy specified program data needs and thereby obviate the need for certain testing under the program. This principle has been clearly stated from the initiation of the program (see <http://www.epa.gov/chemrtk>). Further, EPA developed detailed guidance for program participants to use when searching for existing hazard test data (see <http://www.epa.gov/chemrtk/srchguid.htm>). HPV Challenge Program participants have formally committed to prepare and make available for public inspection test plans that will include extant hazard test data in the form of "robust" (i.e. detailed) summaries before any needed new testing is initiated (see <http://www.epa.gov/chemrtk>). The content of these summaries has been accepted and adopted by the International

Organization for Economic Cooperation and Development (OECD) for its Screening Information Data Set (SIDS) Program (for a description of the OECD HPV SIDS Program see <http://www.oecd.org/ehs/HPV.htm>).

HPV Challenge Program participants and other entities that would be subject to the associated TSCA section 4 test rule(s) have a strong incentive to provide the needed data voluntarily (if such data exist), and in particular where such data support a conclusion that some or all of the proposed testing is not necessary. Such responses have occurred with past TSCA section 4 test rules. The petitioners present no reason to support a presumption that chemical producers would not respond similarly in this case. By providing these extant hazard test data voluntarily, companies recognize that they will save themselves both money and time (see, e.g., Refs. 1, 3, 4).

EPA intends to consider including HPV chemicals that remain unsponsored in one or more TSCA section 4 test rules. Comments relating to the use of TSCA section 8 information gathering rules have been raised previously in association with developing TSCA section 4 test rules. The Agency previously responded "... that these sections of TSCA have served as useful tools in the gathering of production, release, health effects, and safety information for many previous test rule candidates. . . . However, the use of the rulemaking authorities under TSCA section 8 for information gathering purposes is not required prior to conducting rulemaking pursuant to TSCA section 4. . . and conventional rulemaking would not have produced section 8(a) and (d) data on a timely basis. Furthermore, any available studies could have been submitted to EPA in response to the proposed section 4 rule" published in the **Federal Register** of June 15, 1988 (53 FR 22300, 22304). Thus, based on its past experience in implementing TSCA section 4 rules, EPA believes that potentially regulated persons will have a strong incentive during any proposed HPV rule comment period to submit any existing data, of which the Agency may not be aware, that are relevant to the specified test rule endpoints. In so doing, these persons may demonstrate to EPA that proposed testing on a particular endpoint for a chemical is not needed, and EPA may eliminate such testing from the rule.

*C. The Requested Regulations Would be a Less Effective and Efficient Means to Gather Extant Screening-level Hazard Data on HPV Chemicals than the HPV Challenge Program, which is Similar to the Internationally Accepted OECD SIDS Program*

Over the past several years, EPA and the regulated community have expressed a general preference for voluntary approaches, where feasible, in data gathering under TSCA (as opposed to regulatory approaches, such as the regulations requested by this petition). The voluntary HPV Challenge Program represents one of the most successful voluntary programs to collect chemical toxicity and fate data ever developed by EPA in cooperation with industry and others. To date, the HPV Challenge Program has resulted in commitments by 437 companies, acting individually or through 155 consortia, to provide basic toxicity and fate information on 2080 HPV industrial chemicals, either by submitting extant data in the form of "robust" summaries, or by agreeing to conduct testing where extant data are not available. The success of the HPV Challenge Program is due to the benefits that accrue under voluntary programs that would not be available under regulatory approaches. These benefits include but are not limited to: Less resource intensive, less adversarial, needed information will be submitted sooner and will be available to the public sooner, and stakeholders are provided more effective interactive input than a similar program developed solely via regulatory means.

EPA believes that the success of the HPV Challenge Program could be undermined by the promulgation of the requested TSCA sections 8(a) PAIR and 8(d) rules, which, as described in Unit III.B. would largely duplicate data that companies have already committed to provide voluntarily under the program, and which could also delay the program significantly due to the time needed to promulgate the regulations (potentially years), permit an industry response, and allow EPA to review the information. For example, if a TSCA section 8(d) rule was promulgated for all HPV Challenge Program chemicals, the rule would require the submission of complete copies of all unpublished health and safety studies for program chemicals, rather than "robust" summaries of existing studies as required in the HPV Challenge Program. Given the scope of the program, the standardized format for "robust" summaries is a much more useful format for access and review by EPA and others, including the public-at-large for purposes of the program. By

contrast, with a TSCA section 8(d) rule, the Agency would have to manage the information, complete a full review of the studies, and extract the "robust" summary type information on its own at substantial taxpayer cost. In addition, the data will be more quickly and easily, accessible, searchable and useable under the HPV Challenge Program because they will be submitted electronically in a standardized format, whereas they would be submitted primarily in hard copy in an unstandardized format under the requested regulation.

A regulatory approach to data collection could further delay the HPV Challenge Program information collection and review because a TSCA section 8(d) rule would require the submission of existing health and safety studies beyond those that would be useful in eliminating data needs from the HPV Challenge Program. For example, with respect to the requested TSCA section 8(d) rule, studies of mixtures that contain a substance included in the rule would generally have to be reported (40 CFR 716.10(a)(2)), and the rule would result in duplicative submissions if several manufacturers submit copies of the same study. Yet these additional studies would also need to be reviewed by the Agency even though they would not have the potential to affect the program. As a result of these and other difficulties, EPA agrees with the Chemical Manufacturers Association's (CMA's) comment that "the requested actions would undermine industry's ability to complete the work already underway in the HPV Challenge Program" (Ref. 3).

EPA's experience in implementing the OECD HPV SIDS Program in the United States has indicated that past efforts to bring forward extant hazard test data have been successful. Similar to the HPV Challenge Program, companies sponsoring SIDS chemicals frequently form consortia or collaborative panels and thus gain access to studies that may be held by other companies in other countries. Neither EPA nor the petitioners have identified any instance in the OECD HPV SIDS Program where proposed testing, subsequently performed, was later found to be duplicative of existing adequate test data.

Likewise, the International Council of Chemical Associations (ICCA) has demonstrated the willingness of industry to provide existing test data in order to satisfy screening-level data needs. This organization, which is also implementing a program that is similar to the HPV Challenge Program, will

make existing data held by international companies available for public use (Ref. 5).

EPA believes that the HPV Challenge Program must be given an opportunity to work before regulatory requirements are imposed. This belief is shared by the HPV Challenge Program participants, some of whom have stated that "From a time, cost and animal use perspective, the HPV Challenge Program represents the most efficient means yet devised to ensure the evaluation of existing chemical substances, and it must go forward in parallel with other similar international programs" (Ref. 3). EPA fully anticipates that the HPV Challenge Program will result in the submission of relevant extant hazard test data on the chemicals included in the program.

The HPV Challenge Program is similar in many ways to the voluntary OECD HPV SIDS Program. The OECD HPV SIDS Program is widely acknowledged to be a successful voluntary program that is internationally supported by 29 countries, including the United States. It is considered by those countries to be fully adequate for purposes of an initial assessment of chemical hazards. Further, EPA believes that pursuing development of TSCA sections 8(a) PAIR and 8(d) rules would require reporting of little relevant information beyond that obtained under the HPV Challenge Program as it is now structured. Compelling the submission of entire studies under a section 8(d) rule would place on EPA the burden of reviewing the studies, compiling summaries and making the summaries available to the public. Such an approach could potentially take months or years to accomplish, impose substantial costs on EPA with little likely benefit accruing to the HPV Challenge Program while unnecessarily delaying the program's goal of making screening-level hazard data on HPV chemicals publicly available. EPA also believes that there should be no further unnecessary delay collecting data under the HPV Challenge Program and making the data publicly available, and that it is in the public interest to proceed expeditiously with the HPV Challenge Program.

For the foregoing reasons, EPA is denying the petitioners' request. Although the Agency has decided to deny the petition, EPA recognizes that it may in the future have a legitimate need for information that can be obtained via TSCA section 8(a) PAIR and/or TSCA section 8(d) rules, for example, e.g., in order to support the development of future test rules for chemicals for which the Agency cannot base a finding under TSCA section 4(a)

on currently available hazard or exposure-related information.

#### IV. Comments Received

EPA received many comments in response to the **Federal Register** notice announcing EPA's receipt of this TSCA section 21 petition. EPA considered all comments received by February 23, 2000, in determining the proper response to the petitioners' requests. The majority of the comments were from individuals, most of whom identified themselves as members of one or more of the petitioning organizations. These comments urged EPA to grant the petition, but, generally did not provide additional support for the requested action beyond the rationales expressed in the petition itself. The United States Humane Society (Ref. 6) did present some additional reasons to support granting the petition. These comments which pertain primarily to the perceived limitations of the voluntary submission of extant data and the need for EPA to collect positive as well as negative extant data prior to the conduct of testing under the HPV Challenge Program are addressed throughout Unit III. (Ref. 6).

In addition, CMA, the Chemical Specialties Manufacturers Association (CSMA), the Soap and Detergent Association (SDA), the American Petroleum Institute (API), the Great Lakes Chemical Corporation (GLCC), the Silicones Environmental, Health and Safety Council (SEHSC), the Synthetic Organic Chemicals Manufacturers Association (SOCMA), Elf Atochem(ATO), and Environmental Defense all urged EPA to deny the petition in its entirety. These comments generally express the view that the "Framework" and design of the HPV Challenge Program will fulfill the need to make existing hazard test data available. CMA, CSMA, SDA, API, GLCC, SEHSC, SOCMA, ATO, and Environmental Defense presented a number of arguments in support of denying the petition.

All of the comments received by EPA on the petition are located in the official record, as described in Unit I.B.2.

#### V. References

1. Comments of Elf Atochem North America, Inc. February 2, 2000.
2. Comments of Environmental Defense. February 3, 2000.
3. Comments of the Chemical Manufacturers Association. February 2, 2000.
4. Comments of the Chemical Specialties Manufacturers Association. February 3, 2000.

5. International Council of Chemical Associations. Description of High Production Volume (HPV) Chemicals Initiative. <http://www.icca-chem.org/hpv/>. 2000.

#### List of Subjects

Environmental protection.

Dated: March 30, 2000.

**Susan H. Wayland,**

*Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.*

[FR Doc. 00-8543 Filed 4-5-00; 8:45 am]

**BILLING CODE 6560-50-F**

#### ENVIRONMENTAL PROTECTION AGENCY

[AZ023-NOA; FRL-6573-3]

#### Adequacy Status of the Maricopa County, Arizona Submitted PM-10 Attainment Plan for Transportation Conformity Purposes

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of adequacy determination.

**SUMMARY:** In this document, EPA is notifying the public that we have found that submitted Maricopa County (Phoenix, Arizona) serious area particulate matter (PM-10) attainment plan is adequate for transportation conformity purposes. As a result of our finding, the Maricopa Association of Governments and the Federal Highway Administration must use the PM-10 motor vehicle emissions budget from the submitted plan for future conformity determinations.

**DATES:** This determination is effective April 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** The finding is available at EPA's conformity website: <http://www.epa.gov/oms/traq/>, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity"). You may also contact Karina O'Connor, U.S. EPA, Region IX, Air Division (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105; (415) 744-1247 or [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

This notice announces our finding that the *Revised MAG 1999 Serious Area Particulate Plan for PM-10 for the Maricopa County Nonattainment Area* (February 2000), submitted by the Arizona on February 16, 2000, is adequate for transportation conformity purposes. EPA Region IX made this finding in a letter to the Arizona

Department of Environmental Quality and the Maricopa Association of Governments on March 29, 2000. We are also announcing this finding on our conformity website: <http://www.epa.gov/oms/transp/conform/pastsips.htm>.

Transportation conformity is required by section 176(c) of the Clean Air Act. Our conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). One of these criterion is that the plan provide for attainment of the relevant ambient air quality standard by the applicable Clean Air Act attainment date. We have preliminarily determined that the Maricopa County PM-10 plan does provide for attainment of the PM-10 standards and therefore, can be found adequate.

This adequacy finding is separate from and does not affect our February 25, 2000 finding that the plan is complete under section 110(k)(1) of the Clean Air Act.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision"). We followed this guidance in making our inadequacy determination on the Maricopa County PM-10 plan.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: March 30, 2000.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 00-8539 Filed 4-5-00; 8:45 am]

**BILLING CODE 6560-50-F**

#### ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-59370; FRL-6552-3]

#### Approval of Test Marketing Exemption for a Certain New Chemical (With Comment Period)

**AGENCY:** Environmental Protection Agency (EPA).