Authority: 33 U.S.C. 1.

[FR Doc. 84-22567 Filed 8-23-84; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-FRL-2660-8]

Ocean Dumping; Extension of Interim Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA today extends the interim designation of several existing dredged material disposal sites to allow completion of final rulemaking with full public participation. The interim designations of the following sites are extended until July 31, 1985, or until final rulemaking is completed, whichever is sooner: Portland, ME; San Juan, PR; Charleston Harbor, SC; Wilmington Harbor, NC; Savannah River, GA; Sabine-Neches, TX; Mouth of Columbia River, OR. This action is necessary to provide acceptable ocean dumping sites for the disposal of dredged material essential to maintain navigation until formal rulemaking is completed.

DATE: This action will become effective on August 24, 1984. Comments must be received on or before September 24, 1984.

ADDRESS: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was extended on February 7, 1983 (48 FR 5557 et seq.). That list established the Portland, ME; San Juan, PR; Charleston Harbor, SC; Wilmington Harbor, NC; Savannah River, GA; Sabine-Neches, TX; and Mouth of Columbia River, OR, sites as interim sites and extended their period of use until July 31, 1984. Today's extension will modify the previous extension by placing these sites in a new list of sites having interim designation until July 31, 1985, or until final rulemaking is completed, whichever is sooner.

Rulemaking is in process on all of these sites, but it has not been possible to complete the rulemaking within the time of the existing extension and allow for full public participation in the process. This interim extension will allow careful consideration of all comments received during the rulemaking process.

Continued designation of these interim dredged material disposal sites is necessary to assure the uninterrupted availability of the adjacent harbors to interstate and foreign commerce. These site designations expired July 31, 1984. Accordingly, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Agency has determined that notice and public procedure on the interim designations, prior to their extension, is impracticable and contrary to the public interest. However, the Agency solicits public comment on the extension of the interim designations and will address any comments received in the final rulemaking. For the same reasons, EPA has determined, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(3), that there is good cause to make this extension effective immediately.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged materials at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

This action does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: August 14, 1984.

Henry L. Longest II,

Acting Assistant Administrator for Water.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by removing subparagraph (i) of § 228.12(a)(1). Subparagraph (iii) of § 228.12(a)(1) is redesignated as subparagraph (i). Subparagraph (ii) of § 228.12(a)(1) is revised to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

(a) * * *

(1) * * *

(ii) Until such time as formal rulemaking is completed or until July 31, 1985, whichever is sooner:

(A) Portland, ME.

(B) San Juan, PR.

(C) Charleston/Savannah/Wilmington (3 sites): Wilmington Harbor, NC; Charleston Harbor, SC; and Savannah River, GA.

(D) Sabine-Neches, TX.

(E) Mouth of Columbia River, OR (5 sites).

[FR Doc. 84-22656 Filed 8-23-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 465

[OW-FRL-2659-4]

Coil Coating Point Source Category; Effluent Limitations Guidelines Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects the promulgated effluent limitations and standards for the Coil Coating Point Source Category that appeared in the Federal Register on Wednesday, December 1, 1982, at 47 FR 54232. This notice corrects typographical errors, minor computational errors which were detected after the publication of the promulgated regulation and errors in the listing of some pollutants in the Appendices B through G. This correction of typographical errors reduces one chromium value from 0.34 to .034 mg/m² and increases one zinc value from 0.049 to 0.49 mg/m² and from 0.01 to 0.1 pounds per 1 million ft² in the final regulation. Minor computational errors appeared in several TSS values because an incorrect factor was used to calculate the final limit tables. This correction increases the TSS values which were published by less than ten percent.

ADDRESSES: Technical information about the Coil Coating regulation may be obtained by writing to Ms. Mary L. Belefski, Effluent Guidelines Division (WH-552), EPA, 401 M Street SW., Washington, D.C. 20460, or by calling (202) 382-7126. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, VA 22161 (703) 487-4600.

The Record is available for public review in EPA's Public Information Reference Unit, Room 2004 (Rear) (EPA Library), 401 M St., SW., Washington D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 382-7126.

In FR Doc. 82-31393 beginning on page 54232 in the issue of Wednesday, December 1, 1982, make the following corrections:

Appendix B [Corrected]

1. On page 54243, Column 2, Appendix B[a], remove pollutant No. "034 2,4-dimethylphenol; add pollutant No. "123 Mercury".

2. On page 54243, Column 3, Appendix B[c], remove pollutant No. "044 Methylene chloride (dichloromethane)"; add pollutants No. "034 2,4-dimethylphenol" and "126 Silver".

3. On page 54243, column 3, Appendix B[d], remove pollutants No. "011 1,1,1-trichlorethane" and "038 Ethylbenzene"; add pollutants No. "034 2, 4-dimethylphenol" and "126 Silver".

Appendix C [Corrected]

4. On page 54243, column 3, Appendix C[a], remove pollutants No. "044 Methylene chloride (dichloromethane)" and "123 Mercury".

5. On page 54243, column 3, Appendix C[b], remove pollutants No. "123 Mercury" and "126 Silver".

6. On page 54243, column 3, and on page 54244, column 1, Appendix C[c], delete pollutants No. "044 Methylene chloride (dichloromethane)", "123 Mercury" and "126 Silver"; add pollutant No. "038 Ethylbenzene".

Appendix D [Corrected]

7. On page 54244, column 1, Appendix D[a], remove pollutants No. "066 Bis(2-ethylhexyl)phthalate", "067 Butyl benzyl phthalate", 069 Di-n-octyl phthalate" and "070 Diethyl phthalate".

8. On page 54244, column 1, Appendix D[b], remove pollutants "066 Bis (2-ethylhexyl) phthalate and "070 Diethyl phthalate".

Appendix E [Corrected]

9. On page 54244, column 1, Appendix E[a] remove pollutant No. "120 Copper", add pollutant No. "034 2,4-dimethylphenol".

10. On page 54244, column 1, Appendix E[c], remove pollutant No. "124 Nickel", add pollutant No. "011 1,1,1-trichloroethane".

Appendix F [Corrected]

11. On page 54244, column 1, Appendix F[a], add pollutants No. "066 Bis (2-ethylhexyl) phthalate", "067 Butyl benzyl phthalate", "069 Di-n-octyl phthalate" and "070 Diethyl phthalate".

12. On page 54244, column 2, Appendix F[b], remove pollutants No. "011 1,1,1-trichlorethane," "029 dichloroethylene" and "030 1,2-trans-dichloroethylene."

Appendix G [Corrected]

13. On page 54244, column 2, Appendix G[a], remove pollutants No. "054 Isophorone" and "065 Phenol".

14. On page 54244, column 3, Appendix G[b], remove pollutants No. "011 1,1,1-trichloroethane", "029 1,1-dichloroethylen" and "030 1,2-trans-dichloroethylene"; and pollutants No. "073 Benzo(a)pyrene (3,4-benzo pyrene)", "074 3,4-benzofluoranthene [benzo(b)fluoranthene", "075 11,12-benzofluoranthene [benzo(b)fluoranthene], "076 chrysene", "077 Acenaphthylene", "078 Anthracene", "079 1,12-benzoperylene [benzo(ghi)perylene]", "080 Fluorene", "081 Phenanthrene", "082 1,2,5,6-dibenzanthracene [dibenzo (a,h)anthracene]", "083 Indeno[1,2,3-cd] pyrene" and "084 pyrene".

§ 465.11 [Corrected]

15. On page 54245, column 3, 465.11 in the table; change: "Mg/m²" to "mg/m²".

§ 465.12 [Corrected]

16. On page 54245, column 3, 465.12 table headings under BAT effluent limitations should match the table headings under 465.11 BPT effluent limitations.

17. On page 54245, column 3, 465.12 in the table; change: "Mg/m²" to "mg/m²".

§ 465.13 [Corrected]

18. On page 54245, column 3, 465.13 table headings under NSPS should match the table headings under 465.11 BPT effluent limitations.

19. On page 54245, column 3, 465.13 in the table; change: "Mg/m²" to "mg/m²".

20. On page 54245, column 3, 465.13; (b) For TSS; change: "3.48" to "3.79"; and change: "0.72" to "0.78".

§ 465.14 [Corrected]

21. On page 54246, column 1, 465.14 table headings under PSES should match the table headings under 465.11 BPT effluent limitations.

22. On page 54246, column 1, 465.14 in the table; change: "Mg/m²" to "mg/m²".

§ 465.15 [Corrected]

23. On page 54246, column 1, 465.15 in the table; change: "Mg/m²" to "mg/m²".

§ 465.21 [Corrected]

24. On page 54246, column 2, 465.21 in the table; change: "Mg/m²" to "mg/m²".

§ 465.22 [Corrected]

25. On page 54246, column 2, 465.22 in the table; change: "Mg/m²" to "mg/m²".

§ 465.23 [Corrected]

26. On page 54246, column 3, 465.23 in the table; change: "Mg/m²" to "mg/m²".

27. On page 54246, column 3, 465.23; For TSS; change: "3.78" to "4.12", and change: "0.78" to "0.84".

§ 465.24 [Corrected]

28. On page 54246, column 3, 465.24 in the table; change: "Mg/m²" to "mg/m²".

§ 465.25 [Corrected]

29. On page 54246, column 3, 465.25 in the table; change: "Mg/m²" to "mg/m²".

§ 465.31 [Corrected]

30. On page 54247, column 1, § 465.31 in the table; remove the closing parenthesis after "mg/m²".

§ 465.32 [Corrected]

31. On page 54247, column 2, § 465.32 in the table; remove the closing parenthesis after "mg/m²".

§ 465.33 [Corrected]

32. On page 54247, column 2, § 465.33 in the table; change: "Mg/m²" to "mg/m²".

33. On page 54247, column 2, § 465.33; For TSS; change: "5.23" to "5.70", and "1.07" to "1.17".

§ 465.34 [Corrected]

34. On page 54247, column 3, § 465.34 in the table; change: "Mg/m²" to "mg/m²".

35. On page 54247, column 3, § 465.34; For Chromium; change: "0.34" to "0.034".

§ 465.35 [Corrected]

36. On page 54247, column 3, § 465.35 in the table; change: "Mg/m²" to "mg/m²".

37. On page 54247, column 3, § 465.35; For Zinc; change: "0.049" to "0.49", and "0.01" to "0.10".

Dated: August 9, 1984.

Henry L. Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 84-22537 Filed 8-23-84; 8:45 am]

BILLING CODE 6960-50-M

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40 CFR Part 704

[OPTS-82012; FRL 2605-5]

Reporting and Recordkeeping Requirements Category of Chemical Substances Known as Chlorinated Naphthalenes; Submission of Notice of Manufacture or Import

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule requires manufacturers and importers of chlorinated naphthalenes (CNs) to notify EPA of current and prospective manufacture or import of CNs. This reporting rule will allow EPA to track the manufacture, import, and end uses of CNs, and to investigate the health and environmental impacts of such activity. Small businesses that manufacture or import CNs are exempt from this rule.

EFFECTIVE DATE: This rule shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on September 2, 1984. This rule becomes effective on October 8, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0036.

I. Authority

The Agency is promulgating this rule pursuant to section 8(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a). Section 8(a) authorizes the Administrator to promulgate rules which require each person, (other than a small manufacturer or processor) who manufactures or processes or who proposes to manufacture or process a chemical substance, to submit such reports as the Administrator may reasonably require.

This rule applies to a category of 19 chemical substances known as chlorinated naphthalenes (CNs), and requires current and prospective manufacturers and importers to notify EPA of any current or prospective manufacture or import of CNs. The notice must state whether a person is manufacturing CNs, or is importing or proposing to import CNs as a chemical substance in bulk or as part of a mixture. The notice must also include information on intended or expected uses, production quantities, chemical composition, and wastes.

II. Chemical Substances Subject to This Rule

This notification rule applies to a category of 19 chemical substances known as CNs. EPA is exercising the authority granted by section 26(c) of TSCA which allows EPA to take action with respect to a "group of chemical substances the members of which are similar in molecular structure. . . ." All CNs consist of two fused benzene rings where one or more of the eight hydrogen atoms are replaced with a chlorine atom. For this rule the category includes the 19 CNs listed on the TSCA Inventory of Chemical Substances in Commerce as follows:

CAS Registry Number	Chemical substance
90-13-1	Naphthalene, 1-chloro-
91-58-7	Naphthalene, 2-chloro-
1321-64-8	Naphthalene, pentachloro-
1321-65-9	Naphthalene, trichloro-
1335-87-1	Naphthalene, hexachloro-
1335-88-2	Naphthalene, tetrachloro-
1825-30-5	Naphthalene, 1,5-dichloro-
2050-69-3	Naphthalene, 1,4-dichloro-
2050-72-8	Naphthalene, 1,2-dichloro-
2050-73-9	Naphthalene, 1,7-dichloro-
2050-74-0	Naphthalene, 1,8-dichloro-
2050-75-1	Naphthalene, 2,3-dichloro-
2065-70-5	Naphthalene, 2,6-dichloro-
2196-75-6	Naphthalene, 1,3-dichloro-
2198-77-8	Naphthalene, 2,7-dichloro-
2234-13-1	Naphthalene, octachloro-
25586-43-0	Naphthalene, chloro-
32241-8-0	Naphthalene, heptachloro-
70776-03-3	Naphthalene, chloro derivs

The manufacture or import of CNs not listed on the Inventory requires submission of a premanufacture notice under section 5(a)(1) of TSCA. Accordingly, they are not covered by this rule.

Based on the structural similarity of the members of the category and the available health and environmental effects data on certain CNs, EPA believes there is a reasonable basis for concern about the entire category of CNs. While some category members may present more or less concern for the effects identified, EPA does not believe there is adequate justification for distinguishing between individual category members.

III. Background

During the 1920s about 20 million pounds of CNs were produced annually. Their primary end use was as a cable insulator. Other major past applications include use in: Wood preservatives, engine oil and gasoline additives, electroplating masking compounds, and dye production and dye carriers. Since the 1920s the use of CNs declined steadily. Current use consumes approximately 30,000 pounds of CNs per year; all of these are imported. Domestic production ceased in 1980. CNs are currently used as refractive index oils and as impregnants for capacitors.

In 1978 the Interagency Testing Committee (ITC), pursuant to section 4(e) of TSCA, recommended that the following tests be considered for CNs: Mutagenicity tests, teratogenicity tests, long-term carcinogenicity tests, environmental effects tests and chronic studies to evaluate the other effects of prolonged exposures (43 FR 16684, April 19, 1978). However, because CNs were no longer manufactured in the United States and were imported only in limited volumes, EPA decided not to propose a section 4 test rule (46 FR 54491, November 2, 1981).

Instead, EPA requested comments on several alternatives to testing. These included a significant new use rule

(SNUR) under section 5(a)(2), a section 8(a) reporting rule, and listing CNs pursuant to section 5(b)(4). Comments on these alternatives were received from the Natural Resources Defense Council (NRDC) and the Chemical Manufacturers Association (CMA).

CMA preferred the use of a section 8(a) rule rather than a SNUR. However prior to promulgating a section 8(a) rule, CMA stated that EPA should, independent of the ITC's review, study the available information on CNs and determine that in the event exposure to CNs became significant CNs would be a strong candidate for a testing rule. Section 8(a) does not require such a determination and, even if exposure is anticipated to become significant, EPA is not restricted to regulatory action under section 4.

NRDC recommended that EPA combine a section 8(a) rule with the placement of CNs on the section 5(b)(4) list and a SNUR. NRDC agreed with CMA that a section 8(a) rule would keep EPA apprised of the pattern of production and use of CNs, but was concerned that the section 8(a) small business exclusion would deprive EPA of essential production and use information. By placing CNs on the section 5(b)(4) list and promulgating a SNUR, small manufacturers would not be exempt from section 8(a) reporting requirements (section 8(a)(3)(A)(ii)), and persons engaging in a significant new use of CNs would also be required to report to EPA (section 5(b)(2)(A)).

EPA believed that a section 8(a) rule might not provide notice of all potentially significant exposures to CNs. These chemical substances have the potential to produce adverse human health and environmental effects, and because small businesses are exempt from section 8(a) reporting requirements, significant adverse exposures could occur without EPA's knowledge. Without notification EPA would not initiate an examination of the exposure, the chemical substance, or regulatory action to protect against an adverse exposure. EPA also believed that the use of section 5(b)(4) was not presently needed but that it was possible that CNs would be included on the list at a later date.

EPA proposed in the **Federal Register** of May 6, 1983 (48 FR 20668), a SNUR for CNs that would have required persons to notify EPA at least 90 days prior to any import greater than 100,000 pounds per year or any manufacture of CNs in the United States. The proposed rule set forth EPA's reasoning for utilizing a SNUR rather than the regulatory approaches suggested by the commenters.

Commenters to the proposed SNUR discussed the appropriateness, advantages, and disadvantages of utilizing a SNUR for CNs; and again suggested either promulgating a section 8(a) rule or, in addition to the SNUR, promulgating a rule that combines sections 8(a) and 5(b)(4). These comments are more fully discussed in Unit IV.B of this preamble.

After a careful review of the comments to all the **Federal Register** notices for CNs, the high cost of producing CNs, the impact of section 6(e) of TSCA on the manufacture of CNs, the current and projected uses of CNs, the human exposure to and environmental release of CNs, and the toxicity of CNs, EPA has decided to promulgate this section 8(a) reporting rule.

Even though EPA had proposed a SNUR for CNs, it has decided to adopt one of the alternatives that has been considered by EPA and discussed by commenters—a section 8(a) reporting rule. Since the section 8(a) reporting rule is less burdensome than a SNUR and the issues involved were raised for comment, first during consideration of the ITC designation and subsequently in the SNUR proposal, EPA has decided that no further comment is necessary. The provisions of the rule are very similar to other section 8(a) rules, and the small business exemption is the same exemption used by EPA in other section 8(a) rules. Except for certain exclusions, this final rule requires all manufacturers and importers of CNs to notify EPA of any current or prospective manufacture or import of CNs. There is no longer a 100,000 pound per year exclusion for importers.

The proposed SNUR for CNs made these substances subject to section 12(b) of TSCA, the export reporting requirements. Since EPA is promulgating a section 8(a) rule rather than a SNUR the export reporting requirements no longer apply to CNs.

IV. Reasons for This Rule

A. EPA's Concerns for Health and Environmental Effects of CNs

1. *Toxicity.* EPA is primarily concerned about the potential for oncogenicity (the capacity to produce or form tumors) in humans exposed to CNs. Although there are no known human studies on oncogenic effects caused by CNs, there are reports showing tissue changes in exposed animals that may indicate a tumorigenic response. EPA is also concerned about the potential for liver degeneration, hyperkeratosis (thickening of the skin), acute dermatitis, and other health effects in humans exposed to this class of chemical substances.

Chloracne is the most commonly reported human health effect from subchronic exposure to CNs. Several other health effects have also been reported in workers exposed for different lengths of time and seem to be linked with the higher CNs, tetra through octa. These effects include yellow atrophy and necrosis of the liver, malaise, anorexia, vertigo, nausea, and jaundice. Other observed human effects include perforating ulcers of the duodenum, varices of the esophagus, swollen gall bladder, gallstones, necrosis and fibrosis of the pancreas, parenchymatous degeneration of adrenal gland cells, and degeneration of the kidney tubules and glomeruli.

There are also potential ecological hazards that may result from a release of CNs into the environment. CNs are highly toxic to marine and freshwater algae, as well as aquatic and terrestrial invertebrates, and appear to be a cumulative toxicant in these organisms. Based on the calculated octanol/water partition coefficients for the eight major CNs, mono- through octa-chloronaphthalene, there is also reason to expect that CNs bioconcentrate and are transported through the food chain. Evidence the CNs may be transported through the aquatic food chain to fish-eating birds is the detection of CNs in plants, fish, and birds. Futhermore, based on analogy to other chlorinated hydrocarbons, EPA believes that CNs have the potential to persist in the environment.

2. *Exposure to and release of CNs* In the past, CNs were produced in large quantities and used in many applications that resulted in significant human exposure to and environmental release of CNs. For example, capacitors were impregnated with CNs by dipping the parts into an open vat. This process provided substantial opportunity for the release of vaporous CNs and their inhalation by workers. Dermal exposure may have occured when coated parts were handled manually. Environmental releases may have occurred from the volatilization of heated CNs, cleaning of process equipment, and disposal of rejected parts and other wastes. CNs have been detected in the air and water near capacitor plants.

Auto mechanics and consumers were frequently exposed dermally and via inhalation to CNs contained in engine oil and gear oil during changes of these fluids. Similarly, workers in the metalworking fluids industry were often exposed dermally and by inhalation to CNs contained in metalworking fluids during the machining of metal. Use of CNs as feedstocks in the production of dyes for textiles may have resulted in exposing workers to the unreacted chloronaphthalene present in the filter cake or waste material. Environmental releases of potential concern may have also resulted when CNs were used as feedstocks in the production of dyes. Probable releases include airborne emissions from reactor and condenser vents, discharges into liquid waste streams, and bottoms from distillation equipment used to produce CNs.

Today there is less consumption of and therefore less exposure to CNs. Only about 30,000 pounds of CNs are imported and processed annually, the largest percentage of which, 20,000 lbs., is for use in refractive index oils. Monochloronaphthalene is mixed with mineral oils to produce testing oils with various high refractive indices. Exposure to and release of CNs during the preparation of these mixtures are small because only simple mixing of liquids and filling of containers is involved. This operation is conducted under a ventilated hood and workers wear gloves and protective clothing.

These refractive index oils are used in small amounts during the preparation of slides for observation in crime and petrographic laboratories. Dermal exposure may be frequent for the microscopist who manually prepares the slides. The low vapor pressure of monochloronaphthalene and the use of ventilation hoods would limit any inhalation exposures. CNs are still used in some capacitors, (primarily for military applications), and therefore the potential for human exposure to and releases to the environment of CNs continues. However, the exposure to and release of CNs are limited by the small amount of CNs processed for this use, and the expectation that workers are wearing impervious gloves in accordance with Occupational Safety and Health Administration regulations.

EPA would be concerned if previous end uses (i.e. use as a dye intermediate or dye carrier) resumed or if CNs were again produced or imported in large quantities. The domestic production or increased import of CNs would signal a resumption of past end uses, an increase in present uses, and/or the development of new end uses. If the use of CNs increases, exposures to CNs are likely to increase and these exposures may have significant human health or environmental effects.

B. Response to Comments on the Proposed SNUR

On May 6, 1983, EPA proposed a SNUR for CNs that would have required persons to notify EPA at least 90 days prior to any import greater than 100,000 pounds per year or any manufacture of CNS in the United States. The proposed rule would have provided EPA with notice of all potentially significant increases in exposures to CNs, and would have allowed EPA to act quickly to protect against adverse exposures. Commenters questioned EPA's authority to define significant new use as "any manufacture" or "any import greater than 100,000 pounds." Although this final rule does not implement that definition, EPA continues to believe that in appropriate circumstances these activities can be properly determined as significant new uses of a chemical substance.

Commenters also suggested again that EPA either promulgate a section 8(a) rule or, in addition to the SNUR, promulgate a combined sections 5(b)(4) and 8(a) rule. The reasoning for promulgating a rule that incorporates a SNUR, section 5(b)(4), and section 8(a) would be to subject all prospective manufacturers, importers, and processors of CNs to a reporting requirement. Pursuant to this regulatory mechanism small businesses and persons engaging in a significant new use of CNs would be required to report to EPA. EPA believes that for this category of chemical substances, there is only a small probability of generating additional information by combining sections 5(b)(4) and 8(a). Because of the high cost to manufacture CNs, the noted decline in the use of CNs, their rising cost, the availability of substitutes, and the increased awareness of CNs' adverse health and environmental effects, it is unlikely that a small business will manufacture CNs or that a person will engage in a significant new use of CNs.

Most of the cost of producing CNs arises from the need for special processes and equipment. A manufacturer must have glass equipment to distill CNs; because of the risk of combustion when other compounds are combined with CNs, the equipment must be set aside only for distilling CNs; and the distillation process results in residues which must be burned or buried. Another factor that increases the cost of producing CNs is the difficulty of isolating pure compounds. Only mono- and octa-CNs can be made into pure products. Other CN products are complex combinations of various CNs that require carefully controlled reaction and distillation processes to obtain the desired combination.

The manufacture of CNs may be subject to additional costs because this chemical process has a high potential for generating polychlorinated biphenyls (PCBs) (See 48 FR 55076). Section 6(e) of TSCA prohibits the manufacture, processing, distribution in commerce, and use of PCBs. A person may petition for an exemption to this rule, and the Administrator may grant an exemption only if (1) an unreasonable risk of injury to health or environment would not result, and (2) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such PCB.

EPA has promulgated a section 6(e) rule that exempts inadvertently generated PCBs from the PCB ban. However, in order to qualify for the exemption, manufacturers of inadvertently generated PCBs must sample for and monitor the PCB concentrations present in their products, in wastes vented to the ambient air, and in wastes discharged to the water. Process wastes containing PCBs must be disposed of according to disposal regulations; records must kept; and compliance to these regulations certified (49 FR 28172).

CNs are also regulated pursuant to rules promulgated under the Clean Water Act and the Resource Conservation and Recovery Act, see (40 CFR Parts 401.15, 403, and 261).

These large production costs have been the primary reason for the increases in the price of CNs and make it unlikely that CNs will be produced in small amounts or by a small manufacturer. The last domestic manufacturer of CNs produced 700,000 pounds in 1978 and only 100,000 pounds in 1980. By 1981, demand had declined to the point where the company found it more economical to import rather than manufacture CNs. This manufacturer believes that no United States manufacturer is currently equipped to produce CNs. Some companies, such as chlorinated paraffin producers, have the necessary chlorination equipment, but none has both the necessary reaction vessels and special distillation equipment.

After reviewing the significant aspects of CNs, EPA believes that a section 8(a) rule is, for this category of chemical substances, a resource efficient regulatory mechanism that will provide EPA with sufficient information to track the manufacture, import, and use of CNs. EPA will be notified when domestic manufacture occurs and can monitor the amount of CNs imported into the United States. Once alerted to possible increases in exposure to CNs, EPA could reevaluate its decision that a section 4 test rule is not warranted, or initiate other regulatory action.

V. Persons Subject to Reporting Requirements

Persons, as defined in 40 CFR 704.3(n), who are manufacturing or importing CNs on the effective date of this rule, must submit a notice to EPA within 30 days of the effective date. Persons who propose to import CNs on or after the effective date must notify EPA within 30 days of the effective date or within 15 days after making the management decision to import CNs, whichever is later in time. Lastly, persons who manufacture CNs after the effective date must notify EPA within 30 days after the first day of manufacture. In any event, a person is required to report only once for each CN produced or imported by that person.

Prospective importers and manufacturers must report at different times because EPA needs complete and accurate information. EPA believes that 15 days after a management decision to import CNs, importers can completely and accurately file the notice required by this rule. Manufacturers, however, are subject to an additional reporting requirement and are less able to submit the needed quality of information within the time prescribed for importers.

The additional reporting requirement for manufacturers of CNs concerns the wastes generated during the manufacturing process. Because these wastes have the potential to cause health and environmental harm, EPA needs to know the amount and constituents of the wastes, and the method for their disposal. Therefore, if the waste contains CNs the manufacturer must: Report the quantity of CNs present in the waste, identify the other constituents of the waste, state the rate of waste generation, describe where in the manufacturing process the waste is generated, and describe the method for disposal of the waste.

This rule also requires reporting from importers of mixtures containing CNs. Since TSCA defines manufacture as including import, EPA considers an importer of a mixture as the manufacturer of each chemical substance contained in the mixture. Therefore, a person intending to import a mixture containing CNs is required by this rule to submit a notice to EPA. An importer of a mixture may be exempt from reporting if the small business exemption is applicable. Thus, if a person with annual sales of less than $40 million but more than $4 million imports a mixture containing CNs, the importer is a small business and need not submit notice to EPA. However, if the annual import of a CN in a mixture exceeds 45,400 kilograms (not 45,400 kilograms of mixtures containing CNs) then the small business exemption no longer applies and the importer must submit notice.

No reporting is required from small manufacturers, small importers, and persons who manufacture or import CNs solely for research and development, as a byproduct or impurity, or as part of an article. The small business exemption standards were designed to reduce the paperwork burden on small chemical manufacturers while ensuring that EPA will receive sufficient chemical use, production, and exposure information to assess a chemical's risk to human health or the environment. EPA believes that these standards serve the purpose of this rule.

The notice must include company name and address, principal technical contact, and, to the extent that it is known to or reasonably ascertainable by the company, a description of the use or intended use of the CNs; chemical composition information; estimated production volume; and, if appropriate, the proposed date for initiating import.

After receiving notice of current or prospective manufacture or import of CNs, EPA will determine whether the activity presents or may present a risk to human health or the environment that necessitates additional regulatory action to investigate or control the activity.

The codified material following this preamble will appear in Part 704 of Title 40 of the Code of Federal Regulations (CFR). Part 704 was recodified in the **Federal Register** of May 25, 1983 (48 FR 23420). The scope and compliance, general definitions, exemptions, and confidentiality claim sections are now found in Subpart A of the recodified 40 CFR Part 704. Persons should familiarize themselves with Subpart A.

VI. Confidentiality

The procedures for submitting a notice with a confidentiality claim are set forth in 40 CFR Part 704.7. A person submitting a claim of confidentiality attests, among other things, that: my company has taken measures to protect the confidentiality of the information, we intend to continue to take such measures, and the information is not, and has not been, reasonably obtainable by other persons (other than government bodies) without our consent.

VII. Economic Impact

EPA estimates that compliance costs will range from $300–$2,000 for each notice. The cost estimate for data acquisition assumes that the data are known to or reasonably ascertainable by the person submitting the notice and therefore does not include laboratory costs for determining isomeric ratios. Cost include:

Data acquisition	$168–$1,632
Notice preparation (typing)	19–76
Managerial and legal review	111–333
Total	298–2,041

EPA expects to receive few notices under this rule because available information shows that there is only one importer of CNs and no domestic manufacturers. For reasons presented earlier, EPA does not expect this situation to change.

Upon receipt of a notice under this rule, EPA will decide what, if any, further information gathering, testing, or control actions are needed. Estimates of the costs of some possible actions are included in the economic support document that is contained in the public record for this rule. The actual costs of such actions will be assessed by EPA in the development of the appropriate follow-up action.

VIII. Judicial Review

Judicial review of this final rule may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA has decided to promulgate this rule for purposes of judicial review two weeks after publication in the **Federal Register**, as reflected in "DATES" in this notice. The effective date has, in turn, been calculated from the promulgation date.

IX. Public Record

EPA has established a public record for this rulemaking (docket number OPTS–82012) which is available for inspection in Rm. E–107, 401 M St., SW., Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes basic information considered by the Agency in developing this rule. The following is the list of those documents. EPA requests that it be notified of any omissions from this record within the next 30 days.

1. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, (43 FR 16684).

2. Response to the ITC (46 FR 54491) and all comments received thereon.

3. Economic analysis of proposed significant new use rule on chlorinated naphthalenes.

4. Economic Analysis of Final Section 8(a) Rule on Chlorinated Naphthalenes.

5. Chlorinated Naphthalenes: Workplace Exposure and Release.

6. Exposure assessment for incidentally produced Polychlorinated Biphenyls (PCBs) Volume III. (August 15, 1983).

7. Proposed significant new use rule for CNs (48 FR 20668) and all comments received thereon.

8. OMB comments and EPA's response.

X. Regulatory Assessment Requirements

A. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070–0036.

B. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities. There are no domestic manufacturers of CNs and only one importer. This rule also contains a small manufacturer exemption. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 95–345), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it will not have an effect of $100 million or more on the economy. It is expected to have an annual cost of less than $2,000. It is not anticipated to have a significant effect on competition, costs, or prices.

This regulation was submitted to OMB for review as required by Executive Order 12291.

XI. List of Subjects in 40 CFR Part 704

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements.

Dated: August 9, 1984.

Alvin L. Alm,

Acting Administrator.

PART 704—[AMENDED]

Therefore, Title 40, Chapter I, is amended by adding § 704.83 to read as follows:

§ 704.83 Chlorinated Naphthalenes.

(a) *Definitions.* (1) "Extent of chlorination" means the percent by weight of chlorine.

(2) "Import" means to import in bulk form or as part of a mixture.

(3) "Isomeric ratio" means the relative amounts of each isomeric chlorinated naphthalene that composes the chemical substance; and for each isomer the relative amounts of each chlorinated naphalene designated by the position of the chlorine atom(s) on the naphthalene.

(4) "Polychlorinated biphenyl" means any chemical substance that is limited to the biphenyl molecule and that has been chlorinated to varying degrees.

(5) "Small manufacturer" means a manufacturer (including importers) who meets either paragraph (a)(5) (i) or (ii) of this section:

(i) A manufacturer of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $40 million. However, if the annual production volume of a particular chemical substance at any individual site owned or controlled by the manufacturer is greater than 45,400 kilograms (100,000 pounds), the manufacturer shall not qualify as small for purposes of reporting on the production of that chemical substance at that site, unless the manufacturer qualifies as small under paragraph (a)(5)(ii) of this section.

(ii) A manufacturer of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $4 million, regardless of the quantity of the particular chemical substance produced by that manufacturer.

(iii) For imported mixtures containing a chemical substance identified in paragraph (b) of this section, the 45,400 kilograms (100,000 pounds) standard in paragraph (a)(5)(i) of this section applies only to the amount of the chemical substance in a mixture and not the other components of the mixture.

(6) "Waste" means any solid liquid, semisolid, or contained gaseous material that results from the production of a chemical substance identified in paragraph (b) of this section and which is to be disposed.

(b) *Substances subject to reporting.* The chemical substances subject to reporting under this section are:

Chemical substance	CAS registery number
Chloronaphthalene	25586–43–0
1-Chloronaphthalene	90–13–1
2-Chloronaphthalene	91–58–7
1,2-Dichloronaphthalene	2050–69–3
1,3-Dichloronaphthalene	2198–75–6
1,4-Dichloronaphthalene	1825–31–6
1,5-Dichloronaphthalene	2050–72–8
1,6-Dichloronaphthalene	2050–73–9
1,7-Dichloronaphthalene	2050–74–0
1,8-Dichloronaphthalene	2050–75–1
2,3-Dichloronaphthalene	2065–70–5
2,7-Dichloronaphthalene	2198–77–9
Trichloronaphthalene	1321–65–9
Tetrachloronaphthalene	1335–88–2
Pentachloronaphthalene	1321–64–8
Hexachloronaphthalene	1335–87–1
Heptachloronaphthalene	32241–08–0
Octachloronaphthalene	2234–13–1
Naphthalene, chloro derivs	70776–03–3

(c) *Persons who must report.* (1) Persons who are manufacturing or importing a chemical substance identified in paragraph (b) of this section on October 8, 1984.

(2) Persons who propose to import a chemical substance identified in paragraph (b) of this section on or after October 8, 1984.

(3) Persons who manufacture a chemical substance identified in paragraph (b) of this section after October 8, 1984.

(4) A person is required to report only once for each chemical substance identified in paragraph (b) of this section.

(d) *Persons exempt from reporting.* (1) Small manufacturers.

(2) Persons described in § 704.5.

(e) *What information to report.* Persons described in paragraph (c) of this section must notify EPA of current or prospective manufacture or import. The notice must include, to the extent that it is known to or reasonably ascertainable by the person making the report, the following information:

(1) Company name and address.

(2) Name, address, and telephone number of the principal technical contact.

(3) For chemical substances proposed to be imported, the proposed date of import.

(4) A description of the use(s) or intended use(s) for the chemical substance.

(5) A description of the isomeric ratio and extent of chlorination of the chemical substance and the impurity level of polychlorinated biphenyls.

(6) The quantity (by weight) manufactured or imported within 12 months prior to October 8, 1984, if any, and the estimated quantity (by weight)

to be manufactured or imported for the first 3 years following the date of the report or the date of the intended start of import whichever occurs later.

(7) The number of persons exposed to the chemical substance during manufacture, import, processing, distribution in commerce, use, and disposal.

(8) If a manufacturer's waste contains one or more of the chemical substances identified in paragraph (b) of this section, the manufacturer must:

(i) Provide the quantity (by weight) of the chemical substances identified in paragraph (b) of this section present in the waste.

(ii) Identify the constituents of the waste and their concentrations,

(iii) State the rate of waste generation as a percentage of production volume,

(iv) Describe where in the manufacturing process the waste is generated, and

(v) Describe the method for disposal of the waste.

(f) *When to report.* Persons who are manufacturing or importing a chemical substance identified in paragraph (b) of this section on October 8, 1984 must notify EPA by November 6, 1984.

(2) Persons who propose to import a chemical substance identified in paragraph (b) of this section on or after October 8, 1984 must notify EPA by November 6, 1984, or 15 days after making the management decision described in § 704.3(p) whichever is later in time.

(3) Persons who manufacture a chemical substance identified in paragraph (b) of this section after October 8, 1984 must notify EPA within 30 days after the initial date of manufacture.

(g) *Where to send reports.* Reports must be submitted by certified mail to the United State Environmental Protection Agency, Document Processing Center, P.O. Box 2070, Rockville, MD 20852. ATTN: Chlorinated Naphthalene Notification.

[FR Doc. 84-22535 Filed 8-23-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61 and 62

[Docket No. FEMA-FIA]

National Flood Insurance Program Coverage; Sales and Eligibility Provisions

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule revises the National Flood Insurance Program (NFIP) regulations dealing with flood insurance coverage, the Standard Flood Insurance Policy terms and provisions, the sale of flood insurance in communities participating in the NFIP and the administration, by communities, of community record keeping efforts as part of the NFIP community participation arrangements. The purpose of this rule is, also, to revise the Program regulations to reflect business practices followed in the Flood Insurance Manual used by private sector property insurance-agents and brokers in producing flood insurance business, coverage changes in the contract of flood insurance, and the business practices of "Write-Your-Own" companies, which market and service flood insurance coverage under arrangements with the Federal Insurance Administrator (see 48 FR 46789, published October 14, 1983).

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street, SW., Washington, D.C. 20472; telephone number (202) 287-0740.

SUPPLEMENTARY INFORMATION: On April 27, 1984, FEMA published for comment in the **Federal Register** (Vol. 49, Page 18131) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were the result of a continuing reappraisal, begun in 1981, of the NFIP from the standpoint of maintaining a business-like approach to the administration of the NFIP by emulating successful property insurance programs in the private sector while, at the same time, supporting the major FEMA goals of achieving greater administrative and fiscal effectiveness in the operation of the NFIP (see "National Flood Insurance Program Coverage Sales and Loss Prevention Provisions," 47 FR 19138, May 4, 1982, and "National Flood Insurance Program Coverage, Sales and Eligibility Provisions, 48 FR 39066, August 29, 1983).

A number of the twenty-six comments received (two of which were from the same organization) were not in regard to the revisions that were proposed. Based on the comments that did address proposed revisions, substantive changes have been made in two areas to the proposed rule.

The first area is the proposal to exempt from the exclusionary language in the Standard Flood Insurance Policy (SFIP), whereby coverage is not provided for finished elements enclosed and contained below the elevated floors of an elevated building, those buildings that were in existence prior to the effective date of the community's initial Flood Insurance Rate Map (FIRM) so long as the building was not substantially improved after issuance of the initial FIRM. While some comments suggested granting the same or a similar exemption from the companion exclusionary language applying to finished basements and their contents, FEMA found the comment of the State official (the Flood Insurance Coordinator of one of the more active States in flood plain management) more cogent. In commenting on this proposed elevated building exemption, he pointed out that this would impact primarily coastal communities and stated, "it seems that by grandfathering in the structures in these areas, the NFIP is taking a step backwards toward achieving fiscal soundness." With the ratio of losses and expenses to premiums for basement buildings and elevated buildings running almost four times that ratio for other buildings, FEMA believes that this State official's view is compelling and that a more equitable distribution of economic burdens between the general taxpaying public and the affected policyholders in this subsidized Program will be achieved by not making this proposed exemption. Therefore, this proposed change has been deleted from this final rule, so that this exclusion of coverage for both Post-FIRM and Pre-FIRM buildings remains in effect.

The second area is the proposal to provide reimbursement for the reasonable expenses incurred, up to the amount of the policy's deductibles, for the purchase of sandbags used in saving the property due to the imminent danger of a flood loss and preserving the property at the premises after a flood loss. A number of comments supported this revision and asked that the material covered include not only the sandbags, but also the sand itself, plastic sheeting, lumber, and similar expenses. FEMA intended that sand be covered and has clarified that in this final rule. FEMA agrees that plastic sheeting and lumber are part of a reasonable measure to save and preserve the property by the use of sandbags, so coverage for those items in connection with the use of sandbags has been provided for in this final rule. Most of the sandbag comments also recommended that the cost of labor be covered. The proposed rule did provide for the value of the insured's own labor at prevailing Federal minimum wage rates, so this final rule makes no change to the proposed rule in regard to this item. One comment suggested that the evacuation orders required for reimbursement of sandbag expenses not be limited to orders issued by the community, but rather should include such orders issued by any legally authorized official. That suggested change has been made in this final rule. The Supplementary Information section of the proposed rule pointed out that the sandbag provisions had conditions to avoid the speculative stockpiling of costly sandbags. One comment favored stockpiling because of possible availability problems. FEMA continues to believe that the speculative stockpiling of costly sandbags should be avoided and that the conditions in the sandbag provisions are reasonable. Therefore, these conditions remain in this final rule. Because the SFIP currently provides for reimbursement for one way of protecting insured contents, i.e., by removing them to a safe place, with only a $50 deductible, this final rule provides reimbursement for sandbag expenses only under building coverage. This final rule also conforms the provision for reimbursement of contents removal expenses in the SFIP General Property Form to that provision in the SFIP Dwelling Form by adding the condition that removal must be to a place protected from the elements. One other change to the sandbag provisions was made for internal consistency: "used in saving" was changed to "for the purpose of saving."

Two other revisions that were proposed received comments. Both of these revisions were designed to make the NFIP insurance concepts and usage consistent with the flood plain management aspects of the NFIP. One of these comments was on the proposed revision of the definition of "start of construction" to conform the definition for the flood plain management purposes of the NFIP to the definition for insurance purposes of the NFIP. A State official, while concurring with using as the start of construction date, the building permit date, as described in the proposed definition, suggested one modification: using the actual start of construction date if it is known or can be certified. For purposes of consistency, FEMA has decided to make no changes to the proposed rule, so this final rule is the same as the proposed rule in the definition of "start of construction."

The other of these comments was on the proposed revision to the requirements for record keeping by NFIP participating communities in regard to the elevation of a building. The proposed revision would eliminate the requirement for records of a building's lowest *habitable* floor," requiring instead records of a building's "lowest floor," a term which was defined in the proposed rule. The comment from a local government official was that the floor of an unfinished residential garage that did not impede the flow of flood waters by virtue of the opening of its doors should not be considered the lowest floor of the building for either flood plain management requirements of the NFIP or insurance rating purposes of the NFIP. FEMA agrees, and since the proposed rule specifically provides for this in the definition of "lowest floor," the final rule makes no change to the proposed rule in regard to the lowest floor provisions. One other comment was made on the lowest floor issue. A State official recommended that the Elevation Certification Form used by the NFIP to show the elevation of the lowest floor of a building be sent to the community permit official. That recommendation will be held for further study in connection with the possibility of some community rating options FEMA will be considering.

Also to be held for further consideration are comments on some of the NFIP's mobile home provisions received from two trade associations and a comment from a FEMA Regional Office on floodproofing. These comments, which do not concern revisions that were proposed, will be considered for the FY85 NFIP rulemaking process.

Comments on other matters that were not being considered for revision in the proposed rule, such as eliminating the finished basement limitation, eliminating the exclusion for losses from sewer backup or seepage, extending the waiting period for new policies from five to fifteen days, and a complaint about the application of the mandatory purchase requirement to a particular property, are not being dealt with here, and no rule changes in regard to them are being planned.

Editorial revisions have been made to clarify the intent of the changes to the condominium provisions and the provisions for premium refunds for policies having terms of three (3) years. Also, an inadvertent inconsistency between the SFIP Dwelling Form and the SFIP General Property Form earth movement exclusions has been resolved by revising paragraph D of the PERILS EXCLUDED section of the SFIP General Property Form to agree with Article III.A.1 of the SFIP Dwelling Form.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 "C" Street, SW., Washington, D.C. 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, and 62

Flood insurance.

Accordingly, Parts 59, 60, 61, and 62 of Subchapter B of Chapter 1 of Title 44 are amended as follows:

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

1.a. At § 59.1, the definition of "Basement" is added in alphabetical order, as follows:

§ 59.1 Definition.

* * * * *

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

b. At § 59.1, the definition of "Habitable Floor" is deleted.

2. At § 59.1, the definition of "Lowest Floor" is added in alphabetical order, as follows:

* * * * *

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *provided* that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of section 60.3.

* * * * *

3. At § 59.1, the definition of "Start of Construction" is amended to read as follows:

* * * * *

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97-348]), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "actual start" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, the "actual start" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, the "actual start" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

* * * * *

4. Section 59.22(a)(9)(iii) is revised to read as follows:

§ 59.22 Prerequisites for the sale of flood insurance.

(a) * * *

(9) * * *

(iii) Maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a FHBM or FIRM, any certificates of floodproofing, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed;

* * * * *

PART 60—[AMENDED]

5. Section 60.3 (b)(5) and (e)(2) are revised to read as follows:

§ 60.3 Flood plain management criteria for flood-prone areas.

* * * * *

(b) * * *

(5) For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FHBM: (i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

* * * * *

(e) * * *

(2) For the purpose of the determination of applicable flood insurance risk premium rates within Zone V1-30 on a community's FIRM: (i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

* * * * *

PART 61—[AMENDED]

6. Section 61.5(h)(2)(ii)(B) is revised to read as follows:

§ 61.5 Special terms and conditions.

* * * * *

(h) * * *

(2) * * *

(ii) * * *

(B) Provided paragraph (h)(2)(ii)(A) of this section does not apply, the insured remits and the insurer receives that additional premium required to purchase for the current policy term and for the previous policy term, if then insured, the limits of coverage for each kind of coverage as was initially requested by the insured within thirty (30) days from the date the insurer gives the insured written notice of additional premium due, in which case the policy shall be reformed, from its inception date, to provide flood insurance coverage to the insured in the amounts of coverage initially requested. Silence or other failure to remit the additional premium required, or nonreceipt of such premium by the insurer within thirty (30) days from the date of notice of premium due, shall be deemed to be refusal to pay the additional premium due and any subsequent payment of the additional premium due shall not reform the policy from its inception date but shall only add the additional amount of coverage to the policy for the remainder of its term, pursuant to 44 CFR 61.11, with any excess of premium paid being returned to the insured. Provided, however, under this subsection "B" as to any mortgagee (or trustee) named in the policy, the insurer shall give a notice of additional premium due and the right of reformation shall continue in force for the benefit only of the mortgagee (or trustee), up to the amount of the insured indebtedness, for thirty (30) days after written notice to the mortgagee (or trustee); provided, further, the insurer is under no obligation to send the insured any written notice of additional premium due or notice of premium due under this subsection "B".

* * * * *

7. Section 61.11(e) is revised to read as follows:

§ 61.11 Effective date and time of coverage under the Standard Flood Insurance Policy—New Business Applications and Endorsements.

* * * * *

(e) With respect to any submission of an application in connection with new business, the payment by an insured to an agent or the issuance of premium payment by the agent, does not constitute payment to the NFIP. Therefore, it is important that an application for Flood Insurance and its premium be mailed to the NFIP (P.O. Box 459, Lanham, Maryland 20706) promptly in order to have the effective date of the coverage based on the application date plus the waiting period. If the application and the premium payment are received at the NFIP within ten (10) days from the date of application, the waiting period will be calculated from the date of application. Also, as an alternative, in those cases where the application and premium payment are mailed by certified mail within four (4) days from the date of application, the waiting period will be calculated from the date of application even though the application and premium payment are received at the NFIP after ten (10) days following the date of application. Thus, if the application and premium payment are received after ten (10) days from the date of the application or are not mailed by certified mail within four (4) days from the date of application, the waiting period will be calculated from the date of receipt by the NFIP. To determine the effective date of any coverage added by endorsement to a flood insurance policy already in effect, substitute the term "endorsement" for the term "application" in this paragraph (e). With respect to the submission of an application in connection with new business, a renewal of a policy in effect and an endorsement to a policy in effect, the payment by an insured to an agent or the issuance of premium payment to a Write-Your-Own (WYO) Company by the agent, accompanied by a properly completed application, renewal or endorsement form, as appropriate, shall commence the calculation of any applicable waiting period under this section, provided that the agent is acting in the capacity of an agent of a Write-Your-Own (WYO) Company authorized by 44 CFR 62.63, is under written contract to or is an employee of such Company, and such WYO Company is, at the time of such submission of an application in connection with new business or a renewal of or endorsement to flood insurance coverage, engaged in WYO business under an arrangement entered into by the Administrator and the WYO Company pursuant to § 62.63.

Appendix A(1) of Part 61—[Amended]

8. Appendix A(1) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is amended, in the following particulars:

a. At "Article III—Losses Not Covered," paragraph B.1 is revised to read as follows:

* * * * *

B. Losses of the following nature:

1. Loss caused by your failure to use means reasonably accessible to you to save the property from loss resulting from a flood and to preserve the property after a flood; however, when the insurance under this policy covers a building, the reasonable expenses incurred by you for the purchase of sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, for the purpose of saving the building due to the imminent danger of a flood loss and preserving the building at the premises after a flood loss, including the value of your own labor at prevailing Federal minimum wage rates, are a covered loss in an amount up to the amount of the minimum building deductible, without the policy's building deductible amount, as provided for at Article VI, being applied to this reimbursement, but being applied to any other benefits under the policy's building coverage. For reimbursement under this paragraph B.1 to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) a general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

* * * * *

b. "Article IV—Property Covered" is amended by the addition of the following to subparagraph A.1.:

* * * or, as described in the Application as a residence designed for principal use as a dwelling place for no more than one family, we cover your dwelling unit in a condominium building, along with your insurable tenant in common interest in the building's common elements; provided that, should the amount of insurance collectible under this policy for a loss, when combined with any recovery available to you as a tenant in common under any condominium association flood insurance coverage provided under the Act for the same loss, exceed the statutorily permissible limits of building coverage available for the insuring of single-family dwellings under the Act, then the limits of building coverage under this policy shall be reduced in regard to that loss by the amount of such excess;

* * * * *

c. "Article IV—Property Covered" is amended by the addition of the following at the end of paragraph C. Limitation:

* * * In the case of personal property owned by you in a condominium building, as a dwelling unit owner, as well as in common with other dwelling unit owners, should the amount of insurance collectible under this policy for a loss, when combined with any recovery available to you as a tenant in common under any condominium association flood insurance coverage provided under the Act for the same loss, exceed the statutorily permissible limits of contents coverage available for the insuring of single-family dwelling owners under the Act, then the limits of contents coverage under this policy shall be reduced in regard to that loss by the amount of such excess.

* * * * *

d. At Article VIII—General Conditions and Provisions, paragraph C. Other Insurance is revised to read as follows:

* * * * *

C. Other Insurance: We shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by us upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under said Act with respect to such property.

* * * * *

e. At Article VIII—General Conditions and Provisions, paragraph E. Cancellation of Policy By You is amended by the addition of a new subparagraph c, as follows:

* * * * *

c. You cancel a policy having a term of three (3) years, on an anniversary date, and the reason for the cancellation is:

(i) A policy of flood insurance has been obtained or is being obtained in substitution for this policy and we have received a written concurrence in the cancellation from any mortgagee of which the NFIP has actual notice, or (ii) you have extinguished the insured mortgage debt and are no longer required by the mortgagee to maintain the coverage.

Refund of any premium, under this subparagraph "c", shall be on a short-rate basis.

* * * * *

f. At Article VIII—General Conditions and Provisions, subparagraph F(2)(ii)(b) is amended by the addition, after the word "purchase", of the parenthetical phrase "(for the current policy term and the previous policy term, if then insured)"; and, by the deletion of the phrase "or within sixty (60) days of the loss if no notice of premium is received by you"; and, by the deletion of the phrase "or within sixty (60) days of the loss, whichever is sooner"; and, by the addition of the following, at the end of paragraph

(F)(2)(ii)(b), after deletion of the period: "; provided, further, we are under no obligation to send you any written notice of additional premium due or notice of premium due under this subsection."

Appendix A(2) of Part 61—[Amended]

9. Appendix A(2) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is amended in the following particulars:

a. At the "PERILS EXCLUDED" section, paragraph D is revised to read as follows:

* * * * *

D. By theft, fire, windstorm, wind, explosion, earthquake, land sinkage, land subsidence, landslide, gradual erosion, or any other earth movement except such mudslides (i.e., mudflows) or erosion as is covered under the peril of flood.

b. At the "PERILS EXCLUDED" section paragraph F is revised to read as follows:

* * * * *

F. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save the property from loss resulting from a flood and to preserve the property after a flood; however, when the insurance under this policy covers a building, the reasonable expenses incurred by the Insured for the purpose of sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, for the purpose of saving the building due to the imminent danger of a flood loss and preserving the building at the premises after a flood loss, are a covered loss in an amount up to the amount of the minimum building deductible, without the policy's building deductible amount, as provided for herein under "DEDUCTIBLES", being applied to this reimbursement, but being applied to any other benefits under the policy's building coverage. For reimbursement under this paragraph "F" to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) the threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) a general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood. Provided, further, that for contents covered herein and subject to the terms of the policy, including the limits of liability, the Insurer will reimburse the Insured for reasonable expenses necessarily incurred by him for removal or temporary storage (not exceeding 45 days), or both, of insured contents, from the described premises because of the imminent danger of flood if the contents so removed are placed in a fully enclosed building or otherwise reasonably protected from the elements.

* * * * *

c. At the "GENERAL CONDITIONS AND PROVISIONS" section, subparagraph E(2)(ii)(b) is amended by the addition, after the word "purchase", of the parenthetical phrase "(for the current policy term and the previous policy term, if then insured)"; and, by the deletion of the phrase "or within sixty (60) days of the loss if no notice of premium is received by the Insured"; and, by the deletion of the phrase "or within sixty (60) days of the loss, whichever is sooner"; and, by the addition of the following, at the end of subparagraph (E)(2)(ii)(b), after deletion of the period: "; provided, further, the Insurer is under no obligation to send the Insured any written notice of additional premium due or notice of premium due under this subsection."

d. At the "GENERAL CONDITIONS AND PROVISIONS" section, a new subparagraph is added to the end of paragraph "K. Cancellation of Policy or Reduction in Amount of Insurance", as follows:

* * * * *

This policy, if it is a policy for a term of three years, may be cancelled at any of its anniversary dates at the request of the Insured, provided, a policy of flood insurance has been obtained or is being obtained in substitution for this policy and the insurer receives a written concurrence in the cancellation from any mortgagee of which the insurer has actual notice; or the Insured has extinguished the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage. In such event, the premium refund shall be on a short-rate basis.

* * * * *

PART 62—[AMENDED]

10. Section 62.5, "Premium Refund", is amended by the addition of the following:

§ 62.5 Premium refund.

* * * A Standard Flood Insurance Policyholder may cancel a policy having a term of three (3) years, on an anniversary date, where the reason for the cancellation is that a policy of flood insurance has been obtained or is being obtained in substitution for the NFIP policy and the NFIP obtains a written concurrence in the cancellation from any mortgage of which the NFIP has actual notice; or the policyholder has extinguishing the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage. In such event, the premium refund shall be on a short-rate basis.

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 41943), E.O. 12127, dated March 31, 1979 (44 FR 19367) E.O. 11988, dated May 24, 1977 and 44 CFR 2, Delegation of Authority of Federal Insurance Administrator)

Dated: July 31, 1984.

Issued at Washington, D.C.

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 84–22518 Filed 8–23–84; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 81-496; FCC 84-294]

Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action adopts new rules and policies that relieve noncommercial educational FM and television stations of the obligation to follow formal ascertainment procedures and relaxes program log requirements for these licensees. The Commission found that the existing requirements in these areas were unnecessary to achieve its regulatory goals and that continued imposition of the burdens associated with them was therefore unwarranted.

DATE: Effective September 25, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lane Moten, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television and radio broadcast.

Report and Order (Proceeding Terminated)

In the matter of revision of program policies and reporting requirements related to Public Broadcasting Licensees; BC Docket No. 81–496.

Adopted: June 27, 1984.

Released: August 22, 1984.

By the Commission.

Introduction

1. This proceeding began with the adoption of a *Notice of Proposed Rule Making* on July 30, 1981. 46 FR 55125, published November 6, 1981.[1] The

[1] The proceeding also included a petition for rule making which had been filed by National Public Radio requesting deregulation of various aspects of public radio station operation.