D. Bioconcentration and Food-chain Transport

The measured log P of 2.48 for EEQ indicates a potential for some bioconcentration. Procter and Gamble (Ref. 5, 1984b) reported an estimated bioconcentration factor (BCF) of 45 for EEQ, based on the log P. No information was found for PEQ or its analogs.

E. Rationale for Ecological Effects Recommendations

Environmental fate considerations indicate that the ethoxylated quaternary ammonium compounds will sorb strongly to sludge solids and sediments. They may persist for relatively long periods of time under those conditions and accumulate in sediments in the vicinity of wastewater discharges. This information plus the demonstrated toxicity of EEQ to fish, aquatic invertebrates and algae, raise concerns for benthic organisms. Acute toxicity should be determined for representative freshwater and estuarine benthic organisms and, if the ethoxylated quaternary ammonium compounds are found to be relatively persistent in the environment, chronic studies on the same organisms may be warranted.

References

(1) Battin, A. Memorandum on exposure and release of ethoxylated quaternary ammonium compounds in liquid fabric softeners from Andrew Battin, Exposure Assessment Branch, Office of Toxic Substances, U.S. Environmental Protection Agency, to John D. Walker, Test Rules Development Branch. (February 2, 1988b).

(2) Battin, A. Memorandum on physical/chemical property estimations from Andrew Battin, Exposure Assessment Branch, Office of Toxic Substances, U.S. Environmental Protection Agency, to Robert Brink, TSCA Interagency Testing Committee (April 8, 1988c).

(3) Bourquin, A.W. and Przybyszewski, V.A. "Distribution of bacteria and nitrilotriacetate-degrading potential in an estuarine environment," *Applied and Environmental Microbiology*. 34:411–418 (1977).

(4) Capital City Products. Letter and unpublished information from John B. Braunwarth, Operations Manager, Capital City Products Co. Janesville, WI, to Robert Brink, TSCA Interagency Testing Committee (February 18, 1987).

(5) Procter and Gamble. Letter and unpublished information from T.W. Mooney, Manager, Technical Government Relations, The Procter and Gamble Co., Cincinnati, OH, to Arthur Stern, TSCA Interagency Testing Committee (September 12, 1984b).

(6) Procter and Gamble. Letter from R.N. Sturm, Associate Director, Bar Soap and Household Cleaning Product Development, Procter and Gamble Co., Cincinnati, OH, to Robert Brink, TSCA Interagency Testing Committee (April 19, 1988).

(7) Sherex. Unpublished information submitted from Howard M. Hickman, Sherex Chemical Co., Inc., Dublin, OH, to Martin Greif, TSCA Interagency Testing Committee (January 17, 1984).

(8) Sherex. Personal communication from Howard Hickman of Sherex Chemical Co., Inc. Dublin, OH, to L. Borghi, Dynamac Corporation (January 13, 1987).

[FR Doc. 88–11254 Filed 5–19–88; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 712 and 716

[OPTS-84028; FRL-3382-1]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its Twenty-second Report to EPA recommended that EPA give priority consideration to ten chemical substances in proposing chemical test rules. To assist EPA in its determination of which, if any, tests are needed for these substances, EPA is adding the ten substances to the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR). Eight of these ten substances are also being added to the TSCA section 8(d) Health and Safety Data Reporting Rule.

DATE: This rule shall become effective on June 20, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, Telephone: (202-554-1404).

SUPPLEMENTARY INFORMATION: This rule adds ten chemical substances to the PAIR and eight of these ten chemical substances to the section 8(d) Health and Safety Data Reporting Rule. Manufacturers, processors, and importers of these chemicals will be required to report unpublished health and safety data and/or end use, exposure, and volume data to the Agency. Elsewhere in today's issue of the **Federal Register**, EPA is announcing the receipt of the Twenty-second Report of the ITC, which was transmitted to EPA on May 2, 1988.

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures (chemicals) to be given priority consideration in proposing chemical test rules. For some of these chemicals the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the chemical or publish in the **Federal Register** its reasons for not doing so. For the remainder of the recommended substances, no time limit for Agency response is imposed.

Elsewhere in today's issue of the **Federal Register**, EPA is announcing the receipt of the Twenty-second Report of the ITC, which was transmitted to EPA on May 2, 1988. The Twenty-second Report revises and updates the Committee's priority list of chemicals and adds ten substances to the section 4(e) priority list. This rule adds these ten substances to the PAIR and eight of the ten substances to the section 8(d) Health and Safety Data Reporting Rule which will require manufacturers, importers, and processors to report unpublished health and safety data and/or volume, end use, and exposure data to EPA. The two substances added to the PAIR but which are not added to the section 8(d) Health and Safety Data Reporting Rule are not being added because they were previously listed under the section 8(d) rule (Hexane, 1,6-diisocyanato- (CAS Number 822-06-0) 52 FR 16022, May 1, 1987; 2-Butenal (CAS Number 4170-30-3) 51 FR 2890, January 22, 1986).

To assist EPA in responding to the ITC recommendations, EPA has developed two model information-gathering rules (PAIR and the section 8(d) Health and Safety Data Reporting Rule) which provide for the automatic addition to ITC priority list substances. Whenever EPA announces the receipt of an ITC report, EPA may, at the same time without notice and comment, amend the two model information-gathering rules by adding the recommended substances. The amendment adding these substances to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication.

EPA issued PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR Part 712. This model section 8(a) rule established standard reporting requirements for manufacturers and importers of the chemicals listed in the rule. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710-35). EPA uses this model section 8(a) rule to gather current information on substances of concern quickly.

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR Part 716. EPA revised the section 8(d) model rule on September 15, 1986 (51 FR 32720). The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemical substances and mixtures to submit to EPA copies and lists of unpublished health and safety studies on the listed chemicals that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

II. Chemicals To Be Added

The following ITC priority list substances for which reporting is required under 40 CFR Parts 712 and/or 716 are listed by ITC designation in ascending Chemical Abstracts Service Registry Number (CAS No.) order:

A. *Designated for response within 12 months:*

CAS No. and Name

822-06-0 Hexane, 1,6-diisocyanato-

B. *Recommended with Intent-to-Designate:*

CAS No. and Name

4170-30-3 2-Butenal

C. *Recommended without being designated for response within 12 months:*

CAS No. and Name

68122-86-1 Imidazolium compounds, 4,5-dihydro-1-methyl-2-nortallow alkyl-1-[2-tallow amidoethyl], Me sulfates

68153-35-5 Ethanaminium, 2-amino-*N*-[2-aminoethyl]-*N*-(2-hydroxyethyl)-*N*-methyl-, *N,N'*-ditallow acyl derivs., Me sulfates (salts)

68389-88-8 Poly[oxy-1,2-ethanediyl), alpha-[2-[bis[2-aminoethyl]methylammonio]ethyl]-omega-hydroxy-,*N,N'*-dicoco acyl derivs., Me sulfates (salts)

68389-89-9 Poly[oxy-1,2-ethanediyl), alpha-[2-[bis[2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-,*N,N'*-bis[hydrogenated tallow acyl) derivs., Me sulfates (salts)

68410-69-5 Poly[oxy-1,2-ethanediyl), alpha-[2-[bis[2-aminoethyl]methylammonio]ethyl]-omega-hydroxy-,*N,N'*-ditallow acyl derivs., Me sulfates (salts)

68413-04-7 Poly[oxy[methyl-1,2-ethanediyl)], alpha-[2-[bis[2-aminoethyl)methylammonio]methylethyl]-omega-hydroxy-, *N,N'*-ditallow acyl derivs., Me sulfates (salts)

68554-06-3 Poly[oxy-1,2-ethanediyl), alpha-[3-[bis[2-aminoethyl]methylammonio]-2-hydroxypropyl]-omega-hydroxy-, *N*-coco acyl derivs., Me sulfates (salts)

70914-09-9 Poly[oxy-1,2-ethanediyl), alpha-[2-[bis[2-aminoethyl]methylammonio]ethyl]-omega-hydroxy-,*N,N'*-di-C_{14-18} acyl derivs., Me sulfates (salts)

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the substances named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency no later than August 18, 1988. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA should read § 712.30(a)(3). This section allows these persons to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this submission accepted in lieu of a current data submission.

Complete details of the reporting requirements, including exemptions and a facsimile of the reporting form, are fully described in 40 CFR Part 712. Copies of the form are available from the TSCA Assistance Office at the address which precedes Unit I.

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed, the listed substance must submit to EPA:

A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process; or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

Detailed guidance for reporting unpublished health and safety data is provided in the section 8(d) Health and Safety Data Reporting Rule published in the **Federal Register** of September 15, 1986 (51 FR 32720) (40 CFR 716.60). Also found there are the reporting exemptions.

C. Submission of PAIR Reports and Section 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to: TSCA Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. ATTN: (insert either PAIR or 8(d) Reporting)

D. Removal of Chemicals From the Rules

Any person who believes that section 8 (a) or (d) reporting required by this rule is unwarranted, should promptly submit to the Agency in detail the reasons for that belief. EPA may then remove the substance from this rule. When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the **Federal Register**.

IV. Release of Aggregate Data

The Agency will follow procedures for the release of aggregate statistics as prescribed in a rule related notice published in the **Federal Register** of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than August 18, 1988.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $12,915. To calculate this figure EPA used the TSCA Inventory to generate a list of manufacturers and importers of these substances. Since no companies qualify as small businesses as defined in 40 CFR 712.25(c), EPA expects six firms to report a total of eleven reports.

Reporting Cost (dollars)

(a) 11 reports expected at $807/report	$8,877
(b) 6 familiarization cases at $673/case	4,038
Total	12,915
Average cost per site	2,153
Average cost per firm	2,153

Reporting Burden (hours)

(a) Familiarization: 18 hours per site × 6 sites	108
(b) Reporting: 16 hours per report × 11 reports	176
Total	284 hours

EPA Cost

Processing Cost = 11 reports × $91/report = $1,001.

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for these substances is $18,890. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the data is not current. Therefore, EPA intends to overestimate rather than underestimate the reporting burden.

Nevertheless, the cost of this rule is low in comparison with its potential benefits. Health and safety studies concerning these substances would improve EPA's ability to identify potential public health and environmental problems with regard to these chemicals. The Agency therefore

would be better able to determine whether further regulatory action would be necessary.

The estimated reporting costs are broken down as follows:

Initial corporate review	$2,040
Site identification	1,224
File searches at affected sites	2,484
Title listing	126
Photocopying	1,627
Managerial review	9,792
Reporting on newly-initiated studies	90
Submissions after initial reporting period	1,507
Total	18,890

VI. Rulemaking Record

The following documents constitute the record for this rule (docket control number OPTS–84028). All of these documents are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE–G004, 401 M St., SW., Washington, DC.

1. This final rule.

2. The economic analyses for this rule.

3. The Twenty-second Report of the ITC.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) for review, because the automatic listing of designated substances is provided for in 40 CFR 712.30(c) and 716.18(b)—final rules which have been previously reviewed by OMB under the terms of the Executive Order.

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control numbers 2070–0054 and 2070–0004.

List of Subjects in 40 CFR Parts 712 and 716

Chemicals, Environmental protection, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: May 6, 1988.

J. Merenda,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In Part 712:

a. The authority citation for Part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by adding the following substances to paragraph (w) in CAS Number order as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(w) * * *

CAS No.	Substance	Effective date	Reporting date
822-06-0	Hexane, 1,6-diisocyanato-	6/20/88	8/18/88
4170-30-3	2-Butenal	6/20/88	8/18/88
68122-86-1	Imidazolium compounds, 4,5-dihydro-1-methyl-2-nortallow alkyl-1-(2-tallow amidoethyl), Me sulfates	6/20/88	8/18/88
68153-35-5	Ethanaminium, 2-amino-*N*-(2-aminoethyl)-*N*-(2-hydroxyethyl)-*N*-methyl-, *N,N*-ditallow acyl derivs., Me sulfates (salts)	6/20/88	8/18/88
68389-88-8	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N*-dicoco acyl derivs., Me sulfates (salts)	6/20/88	8/18/88
68389-89-9	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl-omega-hydroxy-, *N,N*-bis (hydrogenated tallow acyl) derivs., Me sulfates (salts)	6/20/88	8/18/88
68410-69-5	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N*-ditallow acyl derivs., Me sulfates (salts)	6/20/88	8/18/88
68413-04-7	Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2-[bis(2-aminoethyl)methylammonio]methylethyl]-omega-hydroxy-, *N,N*-ditallow acyl derivs., Me sulfates (salts)	6/20/88	8/18/88
68554-06-3	Poly(oxy-1,2-ethanediyl), alpha-[3-[bis(2-aminoethyl)methylammonio]-2-hydroxypropyl]-omega-hydroxy-, *N*-coco acyl derivs., Me sulfates (salts)	6/20/88	8/18/88
70914-09-9	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N*-di-C_{14-18} acyl derivs., Me sulfates (salts)	6/20/88	8/18/88

PART 716—[AMENDED]

2. In Part 716:

a. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. By adding substances to paragraph (a)(1) numerically by CAS Number, and alphabetically to paragraph (a)(2) of § 716.120 to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

(1) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset data
68122-86-1	Imidazolium compounds, 4,5-dihydro-1-methyl-2-nortallow alkyl-1-(2-tallow amidoethyl), Me sulfates.		6/20/88	6/20/98
68153-35-5	Ethanaminium, 2-amino-*N*-(2-aminoethyl)-*N*-(2-hydroxyethyl)-*N*-methyl-, *N,N*-ditallow acyl derivs., Me sulfates (salts).		6/20/88	6/20/98

CAS No.	Substance	Special exemptions	Effective date	Sunset data
68389-88-8	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-,*N,N'*-dicoco acyl derivs., Me sulfates (salts).	.....	6/20/88	6/20/98
68389-89-9	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-,*N,N'*-bis(hydrogenated tallow acyl) derivs., Me sulfates (salts).	.....	6/20/88	6/20/98
68410-69-5	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-,*N,N'*-ditallow acyl derivs., Me sulfates (salts).	.....	6/20/88	6/20/98
68413-04-7	Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2-[bis(2-aminoethyl)methylammonio]methylethyl]-omega-hydroxy-, *N,N'*-ditallow acyl derivs., Me sulfates (salts).	.....	6/20/88	6/20/98
68554-06-3	Poly(oxy-1,2-ethanediyl), alpha-[3-[bis(2-aminoethyl)methylammonio]-2-hydroxypropyl]-omega-hydroxy-, *N*-coco acyl derivs., Me sulfates (salts).	.....	6/20/88	6/20/98
70914-09-9	Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-,*N,N'*-di-C_{14-18} acyl derivs., Me sulfates (salts).	.....	6/20/88	6/20/98

* * * * * * * *

(2) * * *

Substance	CAS No.	Special exemptions	Effective date	Sunset date
* * * * * * * *				
Ethanaminium, 2-amino-*N*-(2-aminoethyl)-*N*-(2-hydroxyethyl)-*N*-methyl-, *N,N'*-ditallow acyl derivs., Me sulfates (salts).	68153-35-5	.....	6/20/88	6/20/98
* * * * * * * *				
Imidazolium compounds, 4,5-dihydro-1-methyl-2-nortallow alkyl-1-(2-tallow amidoethyl), Me sulfates.	68122-86-1	.....	6/20/88	6/20/98
* * * * * * * *				
Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N'*-bis(hydrogenated tallow acyl) derivs., Me sulfates (salts).	68389-89-9	.....	6/20/88	6/20/98
Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N'*-di-C_{14-18} acyl derivs., Me sulfates (salts).	70914-09-9	.....	6/20/88	6/20/98
Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N'*dicoco acyl derivs., Me sulfates (salts).	68389-88-8	.....	6/20/88	6/20/98
Poly(oxy-1,2-ethanediyl), alpha-[2-[bis(2-aminoethyl)methylammonio]ethyl]-omega-hydroxy-, *N,N'*-ditallow acyl derivs., Me sulfates (salts).	68410-69-5	.....	6/20/88	6/20/98
Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2-[bis(2-aminoethyl)methylammonio]methylethyl]-omega-hydroxy-,*N,N'*-ditallow acyl derivs., Me sulfates (salts).	68413-04-7	.....	6/20/88	6/20/98
Poly(oxy-1,2-ethanediyl), alpha-[3-[bis(2-aminoethyl)methylammonio]-2-hydroxypropyl]-omega-hydroxy-,*N*-coco acyl derivs., Me sulfates (salts).	68554-06-3	.....	6/20/88	6/20/98
* * * * * * * *				

[Approved by the Office of Management and Budget under control number 2070-0004)

[FR Doc. 88-11123 Filed 5-19-88; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Friday
May 20, 1988

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 99

Security Control of Air Traffic; Modification of the U.S. Air Defense Identification Zones (ADIZ); Final Rule and Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 99

[Docket No. 25113; Amdt. 99-13]

Security Control of Air Traffic; Modification of the U.S. Air Defense Identification Zones (ADIZ)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action amends Part 99 of the Federal Aviation Regulations by changing the lateral boundaries of ADIZ's around the Continental U.S., Alaska, and Guam. Additionally, this action makes editorial changes and deletes references to Distant Early Warning Identification Zones (DEWIZ), Domestic ADIZ's, and Coastal ADIZ's. The action is taken at the request of the Department of Defense for reasons of national security.

DATES: *Effective date*: June 30, 1988.

Comment date: Comments must be received by August 15, 1988.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. [25113], 800 Indpendence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald C. Matthews, Air Traffic Rules Branch, ATO-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Even though this action is in the form of a final rule which involves airspace modifications and was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire on any portion of the rule. When the comment period ends, the FAA will use the comments submitted together with other available information, to review the regulations. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulations. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this final rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25113." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

Air defense identification zones (ADIZ) are areas of airspace primarily over international waters, that are established to facilitate the monitoring of aircraft operations for national security and other purposes.

On October 23, 1986, the FAA received a petition from the U.S. military Joint Chiefs of Staff to initiate rulemaking action in order to amend portions of the Pacific and Gulf of Mexico Coastal ADIZ's by deleting those areas that lay south of the U.S. border with the Republic of Mexico.

Subsequent requests, the latest of which was received in December 1987, amended to original petition for realignment by requesting the realignment of Alaska DEWIZ to include the Aleutian Islands. Additionally, the Joint Chiefs of Staff requested that the FAA make editorial name changes to delete ambiguous terms such as Coastal, Gulf, Domestic, Pacific, and Distant Early Warning when referring to the different areas and, for standardization purposes, use the single term Air Defense Identification Zones. The ADIZ realignment was developed in support of the North American Defense Command (NORAD) mission of controlling access to sovereign airspace and peacetime mission of national security.

Additionally, the U.S. Air Force requested by letter dated September 29, 1987, that the FAA realign the Guam ADIZ. This request for a rule amendment is based on the increase in the level of potential threats to U.S. government personnel and facilities on the island of Guam.

The Department of Defense (DOD) by letter dated April 19, 1988, requested the FAA to upgrade the priority of the ADIZ petition and asked that the implementation of the ADIZ realignment be expedited.

Discussion

The FAA has reviewed the requests for amendment to Part 99 and finds that amendment to the ADIZ boundaries in Part 99 of the Federal Aviation Regulations is necessary to reconcile issues of Mexican sovereign airspace specifically, the alteration of the ADIZ in the Gulf of Mexico and in the southwest portion of the U.S., off the coast of lower California, aligns the ADIZ so that it does not extend into the sovereign airspace of the Republic of Mexico.

The alteration of the existing ADIZ boundaries in the Alaskan area would alleviate current flight plan and position reporting requirements for those pilots conducting operations in the Aleutian Island chain who presently depart some of the island airports and routinely must exit and reenter the ADIZ. Additionally, this amendment will eliminate a gap in the ADIZ on the western shore of Canada by providing a continuous ADIZ between the U.S. airspace and the Canadian Domestic ADIZ.

In regard to the requested modification of the Guam ADIZ, the FAA agrees with the DOD that an inner ADIZ for the defense of the Mariana Islands is necessary. Such an ADIZ will facilitate the implementation of new air defense procedures without causing any undue interference with local air traffic.

Additionally, the FAA concurs with the DOD in the simplification of the nomenclature of ADIZ's by removing references to specific types ad location names of ADIZ's. To accommodate the simplification aspect, minor editorial changes are necessary in the following: Sections 99.11, 99.13, 99.17, 99.19, 99.21, 99.23, 99.25, 99.43, 99.45, and 99.47.

The DOD has requested implementation of the revised boundaries of the ADIZ at the earliest possible date which would permit inclusion of the action in revised aeronautical charts to be issued on June 30, 1988. In response to the DOD assessment of the importance of the ADIZ realignment for national defense objectives, the FAA finds that further delay in the implementation of the rule for public notice and comment under 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, the FAA notes that a change in the ADIZ boundaries, primarily over international waters, is not the type of action which would normally involve public comment but for the change in the descriptive language in FAR Part 99. Neither the ADIZ action nor the editorial revisions

affect in any way the operating procedures which apply in the ADIZ or affect designations of controlled airspace or special use airspace. Notwithstanding the minimal impact of this action, the FAA is requesting comments on the final rule. Comments received will be used in determining whether additional rulemaking is needed.

For the above reasons the FAA has determined that this action is not a "major rule" under Executive Order 12291; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and does not warrant preparation of a regulatory evaluation as the overall impact on users of the system is to be minimal.

Federalism Determination

The amendment set forth herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which has been construed to preempt state law regulating the same subject. Therefore, in accordance with Executive Order 12612, it is determined that such a regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has also consulted with the Department of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854 inasmuch as this amendment involves airspace outside of the United States.

Adoption of the Amendment

Accordingly, Part 99 of the Federal Aviation Regulations (14 CFR Part 99) is amended, effective 0901 u.t.c., June 30, 1988, as follows:

The Amendment

For the above reasons the FAA revises FAR Part 99 (14 CFR Part 99) as follows:

PART 99—SECURITY CONTROL OF AIR TRAFFIC

Subpart A—General

Sec.

99.1 Applicability.
99.3 General.
99.5 Emergency situations.
99.7 Special security instructions.
99.9 Radio requirements.
99.11 ADIZ flight plan requirements.
99.15 Arrival or completion notice.
99.17 Position reports; aircraft operating in or penetrating an ADIZ; IFR.
99.19 Position reports; aircraft operating in or penetrating an ADIZ; DVFR.
99.21 Position reports; aircraft entering the United States through an ADIZ; U.S. aircraft.
99.23 Position reports; aircraft entering the United States through an ADIZ; foreign aircraft.
99.27 Deviation from flight plans and ATC clearances and instructions.
99.29 Radio failure; DVFR.
99.31 Radio failure; IFR.

Subpart B—Designated Air Defense Identification Zones

99.41 General.
99.42 Conterminous U.S. ADIZ.
99.43 Alaska ADIZ.
99.45 Guam ADIZ.
99.47 Hawaii ADIZ.
99.49 Defense Area.

Authority: 49 U.S.C. 1348, 1354(a), 1502, 1510, and 1522; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

Subpart A—General

§ 99.1 Applicability.

(a) This subpart prescribes rules for operating civil aircraft in a defense area, or into, within, or out of the United States through an Air Defense Identification Zone (ADIZ), designated in Subpart B.

(b) Except for § 99.7, this subpart does not apply to the operation of an aircraft—

(1) In an ADIZ north of 30 degrees north latitude or west 86 degrees west latitude at a true airspeed of less than 180 knots;

(2) In the Alaskan ADIZ at a true airspeed of less than 180 knots while the pilot maintains a continuous listening watch on the appropriate frequency;

(3) From any point in the 48 contiguous States on an outbound track through the Southern Border ADIZ;

(4) Within the 48 contiguous States and the District of Columbia, or within the State of Alaska, which remains within 10 nautical miles of the point of departure; or

(5) Over any island, or within 3 nautical miles of the coastline of any island, in the Hawaiian ADIZ.

(c) Except as provided in § 99.7, the radio and position reporting requirements of this subpart do not apply to the operation of an aircraft within the 48 contiguous States and the District of Columbia, or within the State of Alaska, if that aircraft does not have two-way radio and is operated in accordance with a filed DVFR flight plan containing the time and point of ADIZ penetration and that aircraft departs within 5 minutes of the estimated departure time contained in the flight plan.

(d) An FAA ATC center may exempt the following operations from this subpart (except Section 99.7), on a local basis only, with the concurrence of the military commanders concerned:

(1) Aircraft operations that are conducted wholly within the boundaries of an ADIZ and are not currently significant to the air defense system.

(2) Aircraft operations conducted in accordance with special procedures prescribed by the military authorities concerned.

§ 99.3 General.

(a) The Air Defense Identification Zone (ADIZ) is an area of airspace over land or water in which the ready identification, location, and control of civil aircraft is required in the interest of national security.

(b) Unless designated as an ADIZ, a Defense Area is any airspace of the United States in which the control of aircraft is required for reasons of national security.

(c) For the purposes of this Part, a Defense Visual Flight Rules (DVFR) flight is a flight within an ADIZ conducted under the visual flight rules in Part 91.

§ 99.5 Emergency situations.

In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from the rules in this Part to the extent required by that emergency. He shall report the reasons for the deviation to the communications facility where flight plans or position reports are normally filed (referred to in this Part as "an appropriate aeronautical facility") as soon as possible.

§ 99.7 Special security instructions.

Each person operating an aircraft in an ADIZ or Defense Area shall, in addition to the applicable rules of this Part, comply with special security instructions issued by the Administrator in the interest of national security and that are consistent with appropriate agreements between the FAA and the Department of Defense.

§ 99.9 Radio requirements.

Except as provided in § 99.1(c), no person may operate an aircraft in an ADIZ unless the aircraft has a functioning two-way radio.

§ 99.11 ADIZ flight plan requirements.

(a) No person may operate an aircraft in or penetrate an ADIZ unless that

person has filed a flight plan with an appropriate aeronautical facility.

(b) Unless ATC authorizes an abbreviated flight plan—

(1) A flight plan for IFR flight must contain the information specified in § 91.83; and

(2) A flight plan for VFR flight must contain the information specified in § 91.83(a) (1) through (7).

(3) If airport of departure is within the Alaskan ADIZ and there is no facility for filing a flight plan then:

(i) Immediately after takeoff or when within range of an appropriate aeronautical facility, comply with provisions of paragraph (b)(1) or (b)(2) as appropriate.

(ii) Proceed according to the instructions issued by the appropriate aeronautical facility.

(c) The pilot shall designate a flight plan for VFR flight as a DVFR flight plan.

§ 99.15 Arrival or completion notice.

The pilot in command of an aircraft for which a flight plan has been filed shall file an arrival or completion notice with an appropriate aeronautical facility, unless the flight plan states that no notice will be filed.

§ 99.17 Position reports; aircraft operating in or penetrating an ADIZ; IFR.

The pilot of an aircraft operating in or penetrating an ADIZ under IFR—

(a) In controlled airspace, shall make the position reports required in § 91.125; and

(b) In uncontrolled airspace, shall make the position reports required in § 99.19.

§ 99.19 Position reports; aircraft operating in or penetrating an ADIZ; DVFR.

No pilot may operate an aircraft penetrating an ADIZ under DVFR unless—

(a) That pilot reports to an appropriate aeronautical facility before penetration: The time, position, and altitude at which the aircraft passed the last reporting point before penetration and the estimated time of arrival over the next appropriate reporting point along the flight route;

(b) If there is no appropriate reporting point along the flight route, that pilot reports at least 15 minutes before penetration: The estimated time, position, and altitude at which he will penetrate; or

(c) If the airport departure is within an ADIZ or so close to the ADIZ boundary that it prevents his complying with paragraphs (a) or (b) of this section, that pilot has reported immediately after taking off: the time of departure, altitude, and estimated time of arrival over the first reporting point along the flight route.

§ 99.21 Position reports; aircraft entering the United States through an ADIZ; United States aircraft.

The pilot of an aircraft entering the United States through an ADIZ shall make the reports required in §§ 99.17 or 99.19 to an appropriate aeronautical facility.

§ 99.23 Position reports; aircraft entering the United States through an ADIZ; foreign aircraft.

In addition to such other reports as ATC may require, no pilot in command of a foreign civil aircraft may enter the U.S. through an ADIZ unless that pilot makes the reports required in §§ 99.17 or 99.19 or reports the position of the aircraft when it is not less than one hour and not more than 2 hours average cruising distance from the United States.

§ 99.27 Deviation from flight plans and ATC clearances and instructions.

(a) No pilot may deviate from the provisions of an ATC clearance or ATC instruction except in accordance with § 91.75 of this chapter.

(b) No pilot may deviate from the filed IFR flight plan when operating an aircraft in uncontrolled airspace unless that pilot notifies an appropriate aeronautical facility before deviating.

(c) No pilot may deviate from the filed DVFR flight plan unless that pilot notifies an appropriate aeronautical facility before deviating.

§ 99.29 Radio failure; DVFR.

If the pilot operating an aircraft under DVFR in an ADIZ cannot maintain two-way radio communications, the pilot may proceed in accordance with original DVFR flight plan or land as soon as practicable. The pilot shall report the radio failure to an appropriate aeronautical facility as soon as possible.

§ 99.31 Radio failure; IFR.

If a pilot operating an aircraft under IFR in an ADIZ cannot maintain two-way radio communications, the pilot shall proceed in accordance with § 91.127 of this chapter.

Subpart B—Designated Air Defense Identification Zones

§ 99.41 General.

The airspace above the areas described in this subpart is established as an ADIZ Defense Area. The lines between points described in this subpart are great circles except that the lines joining adjacent points on the same parallel of latitude are rhumb lines.

§ 99.42 Conterminous U.S. ADIZ.

The area bounded by a line 26°00'N, 96°35'W; 26°00'N, 95°00'W; 26°30'N, 95°00'W; then along 26°30'N to; 26°30'N, 84°00'W; 24°00'N, 83°00'W; 24°00'N, 80°00'W; 24°00'N, 79°25'W; 25°40'N, 79°25'W; 27°30'N, 78°50'W; 30°45'N, 74°00'W; 39°30'N, 63°45'W; 43°00'N, 65°48'W; 41°15'N, 69°30'W; 40°32'N, 72°15'W; 39°55'N, 73°00'W; 39°38'N, 73°00'W; 39°36'30"N, 73°40'30"W; 39°30'N, 73°45'W; 37°00'N, 75°30'W; 36°10'N, 75°10'W; 35°10'N, 75°10'W; 32°01'N, 80°32'W; 30°50'N, 80°54'W; 30°05'N, 81°07'W; 27°59'N, 79°23'W; 24°49'N, 80°00'W; 24°49'N, 80°55'W; 25°10'N, 81°12'W; then along a line 3 nautical miles from a shoreline to; 25°45'N, 81°27'W; 25°45'N, 82°07'W; 28°55'N, 83°30'W; 29°20'N, 85°00'W; 30°00'N, 86°00'W; 30°00'N, 88°30'W; 29°00'N, 89°00'W; 28°45'N, 90°00'W; 29°26'N, 94°00'W; 28°42'N, 95°17'W; 28°05'N, 96°30'W; 26°25'N, 96°30'W; 26°00'N, 96°35'W; 25°58'N, 97°07'W; then westward along the Mexican Border to 32°32'03"N, 117°07'25"W; 32°30'N, 117°20'W; 32°00'N, 118°24'W; 30°45'N, 120°50'W; 29°00'N, 124°00'W; 37°42'N, 130°40'W; 48°20'N, 132°00'W; 48°20'N, 128°00'W; 48°30'N, 125°00'W; 48°29'38"N, 124°43'35"W; 48°00'N, 125°15'W; 46°15'N, 124°30'W; 43°00'N, 124°40'W; 40°00'N, 124°35'W; 38°50'N, 124°00'W; 34°50'N, 121°10'W; 34°00'N, 120°30'W: 32°00'N, 118°24'W; 32°30'N, 117°20'W; 32°32'03"N, 117°07'25"W.

§ 99.43 Alaska ADIZ.

The area bounded by a line 54°00'N, 136°00'W; 56°57'N, 144°00'W; 57°00'N, 145°00'W; 53°00'N, 158°00'W; 50°00'N, 169°00'W; 50°00'N, 180°00'; 50°00'N, 170°00'E; 53°00'N, 170°00'E; 60°00'N, 180°00'; 65°00'N, 169°00'W; then along 169°00'W to; 75°00'N, 169°00'W; then along the 75°00'N parallel to; 75°00'N; 141°00'W to; 69°50'N, 141°00'W; 71°18'N, 156°44'W; 69°52'N, 163°00'W; then south along 163°00'W to; 54°00'N, 163°00'W; 56°30'N, 154°00'W; 59°20'N, 146°00'W; 59°30'N, 140°00'W; 57°00'N, 136°00'W; 54°35'N, 133°00'W; to point of beginning.

§ 99.45 Guam ADIZ.

(a) *Inner boundary.* From a point 13°52'07"N, 143°59'16"E, counterclockwise along the 50-nautical-mile radius arc of the NIMITZ VORTAC (located at 13°27'11"N, 144°43'51"E); to a point 13°02'08"N, 145°28'17"E; then to a point 14°49'07"N, 146°13'58"E; counterclockwise along the 35-nautical-mile radius arc of the SAIPAN NDB (located at 15°06'46"N, 145°42'42"E); to a point 15°24'21"N, 145°11'21"E; then to the point of origin.

(b) *Outer boundary.* The area bounded by a circle with a radius of 250 NM centered at latitude 13°32'41"N, longitude 144°50'30"E.

§ 99.47 Hawaii ADIZ.

(a) *Outer boundary.* The area included in the irregular octagonal figure formed by a line connecting 26°30'N, 156°00'W; 26°30'N, 161°00'W; 24°00'N, 164°00'W; 20°00'N, 164°00'W; 17°00'N, 160°00'W; 17°00'N, 156°00'W; 20°00'N, 153°00'W; 22°00'N, 153°00'W; to point of beginning.

(b) *Inner boundary.* The inner boundary to follow a line connecting 22°30'N, 157°00'W; 22°30'N, 160°00'W; 22°00'N, 161°00'W; 21°00'N, 161°00'W; 20°00'N, 160°00'W; 20°00'N, 156°30'W; 21°00'N, 155°30'W; to point of beginning.

§ 99.49 Defense Area.

All airspace of the United States is designated as Defense Area except that airspace already designated as Air Defense Identification Zone.

Issued in Washington, DC, on May 13, 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88-11191 Filed 5-17-88; 12:30 pm]

BILLING CODE 4910-13-M