or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings,

(2) Deprive a person of a right to a fair trial or an impartial adjudication,

(3) Constitute an unwarranted invasion of personal privacy,

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(5) Disclose investigative techniques and procedures, or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of an agency, except that this provision shall not apply in any instance where such an agency has already disclosed to the public the content or nature of its proposed action, or where such an agency is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(j) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 1101.7 Transcripts of closed meetings.

(a) For every meeting closed pursuant to § 1101.6, the presiding officer of the meeting shall prepare a statement setting forth the time and place of the meeting, and the persons present, and such statement shall be retained by the Corporation.

(b) The Corporation shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (h) or (j) of § 1101.6, the Corporation shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Corporation shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two (2) years after such meeting, or until one year after the conclusion of any Corporation proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Within a reasonable time after the adjournment of a meeting closed to the public, the Corporation shall make available to the public, at the Corporation's headquarters, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Corporation determines to contain information which may be withheld under § 1101.6. Copies of such transcript, electronic recording or minutes shall be furnished to any persons at the actual cost of duplication or transcription.

§ 1101.8 Report to Congress.

The Corporation shall report to the Congress annually regarding its compliance with the requirements of the Government in the Sunshine Act, 5 U.S.C. 552b.

[FR Doc. 94–8504 Filed 4–8–94; 8:45 am]

BILLING CODE 8270–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 336

[Docket No. 92N–0346]

RIN 0905–AA06

Antiemetic Drug Products for Over-The-Counter Human Use; Amendment of Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the final monograph for over-the-counter (OTC) antiemetic drug products to revise a required warning and to add a similar warning for antiemetic drug products labeled for use only for children under 12 years of age. This final rule will ensure that warnings for ingredients contained in OTC antiemetic drug products are the same as those required for related ingredients used in other OTC drug products (e.g., antihistamines, antitussives, and nighttime sleep-aids). This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: April 11, 1995.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 30, 1987 (52 FR 15886), FDA issued a final monograph for OTC antiemetic drug products (21 CFR part 336) that included the following warning statement in § 336.50(c)(1) (21 CFR 336.50(c)(1)) for all antiemetics: "Do not take this product if you have asthma, glaucoma, emphysema, chronic pulmonary disease, shortness of breath, difficulty in breathing, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

In § 341.72 of the tentative final monograph for OTC antihistamine drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2200 at 2215), the agency proposed this same warning for all OTC antihistamines. Antihistamines should not be used by people who have any obstructive pulmonary disease in which clearance of secretions is a problem. The agency stated that respiratory distress symptoms, such as difficulty in

breathing and shortness of breath, are characteristic of chronic obstructive pulmonary disease. The agency concluded that such descriptive terms should be included in the warning in addition to the names of the diseases, in order to provide more information to the consumer.

In the final monograph for OTC antihistamine drug products, published in the **Federal Register** of December 9, 1992 (57 FR 58356 at 58374), the agency revised this warning to include the broader phrase "breathing problem" to describe symptoms such as shortness of breath and difficulty in breathing related to obstructive pulmonary disease. The change in wording will allow consumers to recognize respiratory distress symptoms more readily. The agency also removed the descriptive term "asthma" from the warning and replaced the term "chronic pulmonary disease" with the term "chronic bronchitis." The revised warning, which appears in § 341.72(c)(2) of the final monograph (21 CFR 341.72(c)(2)), reads as follows: "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

In the **Federal Register** of August 26, 1993 (58 FR 45216 and 45217), the agency proposed to revise the same warning in § 336.50(c)(1) for diphenhydramine and the other antiemetic ingredients listed in § 336.10 (21 CFR 336.10) (58 FR 45216 at 45217) and the same warning in § 338.50(c)(3) (21 CFR 338.50(c)(3)) for diphenhydramine used as an OTC nighttime sleep-aid (58 FR 45217 at 45218) to be consistent with the warning in § 341.72(c)(2) for OTC antihistamine drug products.

No comments were received in response to the proposed monograph amendment. Therefore, the agency is finalizing the amendment as proposed. Elsewhere in this issue of the **Federal Register**, the agency is also finalizing the amendment to the final monograph for OTC nighttime sleep-aid drug products mentioned above.

In the proposal (58 FR 45216 at 45217), the agency advised that any final rule resulting from the proposal would be effective 12 months after its date of publication in the **Federal Register**. Therefore, on or after April 11, 1995, any OTC drug product that is not in compliance with the final rule may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the rule that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (58 FR 45216 at 45217). The agency has examined the economic consequences of this final rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12866, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). This rulemaking for OTC antiemetic drug products is not expected to have an impact on small businesses. This final rule will require a minor, one-time labeling revision, which manufacturers will have 1 year to implement. The impact of this final rule appears to be minimal. Therefore, the agency concludes that this final rule is not a major rule as defined in Executive Order 12866. Further, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 336

Labeling, Over-the-counter drugs.

Therefore under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 336 is amended as follows:

PART 336—ANTIEMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 336 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 336.50 is amended by revising paragraph (c)(1) to read as follows:

§ 336.50 Labeling of antiemetic drug products.

* * * * *

(c) * * *

(1) *For products containing any ingredient identified in § 336.10—(i) When labeled for use in adults and for those products that can be and are labeled for use in children under 12 years of age.* "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

(ii) *For those products that can be and are labeled only for children under 12 years of age.* "Do not give this product to children who have a breathing problem such as chronic bronchitis or who have glaucoma, without first consulting the child's doctor."

* * * * *

Dated: March 4, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–8511 Filed 4–8–94; 8:45 am]

BILLING CODE 4160–01–F

---

21 CFR Part 338

[Docket No. 92N–0349]

RIN 0905–AA06

Nighttime Sleep-Aid Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to amend the final monograph for over-the-counter (OTC) nighttime sleep-aid drug products to revise a warning required for products that contain diphenhydramine citrate or diphenhydramine hydrochloride. This final rule will ensure that warnings are the same for diphenhydramine salts whether the ingredient is used in OTC nighttime sleep-aid, antihistamine, or antitussive drug products. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: April 11, 1995.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 14, 1989 (54 FR 6814), FDA issued a final

monograph for OTC nighttime sleep-aid drug products (21 CFR part 338) that included the following warning statement in § 338.50(c)(3) (21 CFR 338.50(c)(3)) for products containing diphenhydramine salts: "Do not take this product if you have asthma, glaucoma, emphysema, chronic pulmonary disease, shortness of breath, difficulty in breathing, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

In § 341.72 of the tentative final monograph for OTC antihistamine drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2200 at 2215), the agency proposed this same warning for all OTC antihistamines. Antihistamines should not be used by people who have any obstructive pulmonary disease in which clearance of secretions is a problem. The agency stated that respiratory distress symptoms, such as difficulty in breathing and shortness of breath, are characteristic of chronic obstructive pulmonary disease. The agency concluded that such descriptive terms should be included in the warning in addition to the names of the diseases, in order to provide more information to the consumer.

In the final monograph for OTC antihistamine drug products, published in the **Federal Register** of December 9, 1992 (57 FR 58356 at 58374), the agency revised this warning to include the broader phrase "breathing problem" to describe symptoms such as shortness of breath and difficulty in breathing related to obstructive pulmonary disease. The change in wording will allow consumers to recognize respiratory distress symptoms more readily. The agency also removed the descriptive term "asthma" from the warning and replaced the term "chronic pulmonary disease" with the term "chronic bronchitis." The revised warning, which appears in § 341.72(c)(2) of the final monograph (21 CFR 341.72(c)(2)), reads as follows: "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

In the **Federal Register** of August 26, 1993 (58 FR 45216 and 45217), the agency proposed to revise the same warning in § 336.50(c)(1) (21 CFR 336.50(c)(1)) for diphenhydramine and the other antiemetic ingredients listed in § 336.10 (21 CFR 336.10) (58 FR 45216 at 45217) and the same warning in § 38.50(c)(3) for diphenhydramine used as an OTC nighttime sleep-aid (58 FR 45217 at 45218) to be consistent with the warning in § 341.72(c)(2) for OTC antihistamine drug products.

No comments were received in response to the proposed monograph amendment. Therefore, the agency is finalizing the amendment as proposed. Elsewhere in this issue of the **Federal Register**, the agency is also finalizing the amendment to the final monograph for OTC antiemetic drug products mentioned above.

In the proposal (58 FR 45217 at 45218), the agency advised that any final rule resulting from the proposal would be effective 12 months after its date of publication in the **Federal Register**. Therefore, on or after April 11, 1995, any OTC drug product that is not in compliance with the final rule may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the rule that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (58 FR 45217 at 45218). The agency has examined the economic consequences of this final rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12866, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). This rulemaking for OTC nighttime sleep-aid drug products is not expected to have an impact on small businesses. This final rule will require a minor, one-time labeling revision, which manufacturers will have 1 year to implement. The impact of this final rule appears to be minimal. Therefore, the agency concludes that this final rule is not a major rule as defined in Executive Order 12866. Further, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 338

Labeling, Over-the-counter drugs.

Therefore under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 338 is amended as follows:

Part 338—NIGHTTIME SLEEP-AID DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 338 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 338.50 is amended by revising paragraph (c)(3) to read as follows:

§ 338.50 Labeling of nighttime sleep-aid products.

* * * * *

(c) * * *

(3) "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

* * * * *

Dated: March 4, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–8533 Filed 4–8–94; 8:45 am]

BILLING CODE 4160–01–F

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 102]

Camp Counselors; Limitation of Program Participation

AGENCY: United States Information Agency.

ACTION: Interim rule with request for comments.

SUMMARY: The Agency hereby amends existing regulations governing camp counselor exchanges in order to permit a limited opportunity for program participation in excess of two summers.

DATES: This interim rule will take effect April 11, 1994. The Agency will accept written comments regarding this rule for thirty days from date of publication.

ADDRESSES: Comments regarding this rule should be addressed as follows: United States Information Agency, Office of the General Counsel, Rulemaking 102, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547; telephone, (202) 619–6829.

SUPPLEMENTARY INFORMATION: On March 19, 1993, the Agency formally promulgated final regulations governing its administration of the Exchange Visitor Program. Set forth in this final rule were regulations affecting camp counselor exchanges including a provision which specifically limited camp counselor exchange participation to no more than two summers.

In an effort to adopt consensus regulations, the Agency discussed proposed regulations with all sponsors conducting camp counselor exchange programs. Consensus regulations were in fact adopted as a result of these lengthy discussions. However, subsequent to the publication of final regulations, objections regarding the limitations placed upon repeat program participation were raised. These objections were brought to the Agency's attention and in an effort to resolve them the Agency agreed to review the policy underlying its decision to limit program participation to not more than two summers.

The Agency's interest in setting forth a limitation on participation in camp counselor exchanges is twofold:

(i) To ensure that the Exchange Visitor Program does not become a vehicle for the staffing of camps with inexpensive foreign labor; and

(ii) To ensure that the opportunity for program participation is extended to the widest possible number of interested persons. Seeking to reach an acceptable balance, the Agency elected to impose a two summers of participation rule to meet these dual policy objectives. All program sponsors acquiesced in this limitation which was in fact a relaxation of the then existing rule which limited participation to one summer.

Although consensus had been reached between the Agency and designated camp counselor exchange sponsors, camps throughout the United States found the two summers of participation limitation to be unworkable. The camps brought these problems forward and the Agency again examined the relative interests of the participants, sponsors, and camps and determined that a modification of the limitation was appropriate.

Accordingly, the Agency has determined that § 514.30 should be amended in order to permit repeat participation in excess of two summers for a percentage of each sponsor's camp counselor exchange participants. Based upon representations made to the Agency by the American Camping Association, the Agency is satisfied that provisions which allow no more than ten percent of a sponsor's participants to participate more than twice is sufficient to meet the needs of the United States camping community. The Agency is also satisfied, in light of representations made by the American Camping Association that repeat counselors will not be used for inappropriate staffing purposes.

Public Comment

The Agency invites comment from the public on this regulation notwithstanding that it is under no legal requirement to do so. The designation of exchange visitor sponsors and the administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the United States. The Administrative Procedure Act, 5 U.S.C. 553(a)(1)(1989) specifically exempts such functions from the requirements of the Act.

The information collection requirement contained in this regulation will be submitted to the Office of Management and Budget (OMB) for review and approval under the provisions of the Paperwork Reduction Act. In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: March 17, 1994.

Les Jin,

General Counsel.

Accordingly, 22 CFR part 514 is amended as follows:

1. The authority citation for part 514 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorg. Plan. No. 2 of 1977; E.O. 12048; USIA Delegation Order No. 85–5 (50 FR 27393).

2. Section 514.30 is amended by removing paragraph (b)(3); by revising the last sentence of paragraph (i) to read as set forth below; and by adding paragraph (j) to read as follows:

§ 514.30 Camp counselors.

* * * * *

(1) * * * Such report shall reflect the participant's name, camp placement, and the number of times the participant has previously participated in a camp counselor exchange.

(j) In order to ensure that as many different individuals as possible are recruited for participation in camp counselor programs, sponsors shall limit the number of participants who have previously participated more than once in any camp counselor exchange to not more than ten percent of the total number of participants that the sponsor placed in the immediately preceding year.

[FR Doc. 94–8538 Filed 4–8–94; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8487]

RIN 1545–AR51

Minimum Coverage Requirements; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to the final regulations (TD 8487), which was published in the **Federal Register** for Friday, September 3, 1993 (58 FR 46835). The amendments to the final regulation provide minimum coverage requirements.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Dave Munroe, (202) 622–4606 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 410(b) of the Internal Revenue Code of 1986.

Need for Correction

As published, TD 8487 contains instructional language which may prove to be misleading and is, therefore, clarified.

Correction of Publication

Accordingly, the publication of final regulations (TD 8487), which were the subject of FR Doc. 93–21379, is corrected as follows:

On page 46842, column 2, preceding § 1.410(b)–6, in instructional "Par. 9.",

paragraph 2, line 2, the language "(d)(2), and (g) as set forth below." is corrected to read "(d)(2)(i), (d)(2)(ii), and (g) as set forth below.".

Cynthia E. Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 94–8510 Filed 4–8–94; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

[CGD 92–100a]

RIN 2115–AE35

Noxious Liquid Substances Lists

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its Noxious Liquid Substances (NLSs) regulations to include substances recently authorized for carriage by the Coast Guard or added to the International Maritime Organization's (IMO) Chemical Codes and is making minor technical and editorial changes and corrections. This action updates the current lists of oil-like and non-oil-like NLSs allowed for carriage.

EFFECTIVE DATE: May 11, 1994.

ADDRESSES: Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis G. Payne, Hazardous Materials Branch, (202) 267–1577.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. Curtis G. Payne, Project Manager, and Ms. Helen G. Boutrous, Project Counsel, Office of Chief Counsel.

Regulatory History

On May 24, 1993, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Noxious Liquid Substances Lists in the **Federal Register** (58 FR 29940). The Coast Guard received no letters commenting on the proposal. A public hearing was not requested and one was not held.

Related Rulemakings

Elsewhere in this edition of the **Federal Register**, the Coast Guard is publishing a final rule concerning bulk hazardous materials tables in 46 CFR parts 30, 150, 151, and 153 (CGD 92–100).

Background and Purpose

The Coast Guard is revising its lists of Category D NLSs and Categories C and D oil-like NLSs to reflect new entries added to table 30.25–1 of 46 CFR part 30 and tables 1 and 2 of 46 CFR part 153 by a separate rulemaking appearing elsewhere in this edition of the **Federal Register** (CGD 92–100). These are chemicals recently authorized by Coast Guard regulations or added to the IMO's Chemical Codes. Other chemical names are modified or deleted in accordance with IMO terminology. This rulemaking is administrative in nature and is intended to update Coast Guard chemical lists in 33 CFR part 151.

Discussion of Comments and Changes

1. In paragraph (c) of the "Discussion of Proposed Amendments," in the NPRM, the entry sodium silicate solution was shown as having its Pol. Cat. "downgraded" to III, from D. As a result, the entry would then be deleted from the list in § 151.47. This was in error. This entry's Pol. Cat. is in fact being "upgraded" to C. Therefore, this entry is not being deleted from the list at this time. As noted elsewhere in the NPRM, "upgrades" will be incorporated by a future rulemaking.

2. In the NPRM, new entries to the list of category D NLSs in § 151.47 were indicated by a plus sign, "+", preceding the name. For this final rule, the "+" is omitted.

Regulatory Assessment

This rulemaking is not a significant regulatory action under Executive Order 12866, and has not been reviewed by the Office of Management and Budget. It is also not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Assessment is unnecessary. This rulemaking is administrative in nature and merely updates NLS lists by adding cargoes recently authorized by the Coast Guard or added to the IMO Chemical Codes and by making other non-substantive editorial changes and corrections.

Small Entities

This final rule is merely administrative in nature. This final rule will result in no additional costs to industry. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Because this rulemaking is administrative in nature and will merely update current lists in Coast Guard regulations, there will be no Federalism implications.

Environment

The Coast Guard has considered the environmental impact of this rulemaking and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. This rulemaking is an administrative update of current lists to add chemicals already approved under Coast Guard regulation or international law and clearly will have no impact on the environment. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 151 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE AND MUNICIPAL OR COMMERCIAL WASTE

1. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C) and 1903(b); E.O. 11735, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

2. The list in § 151.47 is revised to read as follows:

§ 151.47 Category D NLSs other than oil-like Category D NLSs that may be carried under this part.

* * * * *

Acetophenone
Acrylonitrile-Styrene copolymer dispersion in Polyether polyol
iso- & cyclo-Alkane (C10–C11)
Alkenyl(C11+)amine
Alkyl(C8+)amine, Alkenyl (C12+) acid ester mixture
Alkyl dithiothiadiazole (C6–C24)
Alkyl ester copolymer (C6–C18)
Alkyl phenol sulfide (C8–C40)
Ammonium hydrogen phosphate solution
Ammonium nitrate solution (45% or less)
Ammonium nitrate, Urea solution (2% or less NH_3)
Ammonium phosphate, Urea solution
Ammonium polyphosphate solution
Ammonium sulfate solution (20% or less)
Amyl alcohol (iso-, n-, sec-, primary)
Animal and Fish oils, n.o.s. *(see also Oil, edible)*
Animal and Fish acid oils and distillates, n.o.s.
Aryl polyolefin (C11–C50)
Brake fluid base mixtures
sec-Butyl acetate
Butylene glycol
iso-Butyl formate
n-Butyl formate
gamma-Butyrolactone
Calcium hydroxide slurry
Calcium long chain alkyl sulfonate (C11–C50)
Calcium long chain alkyl phenate (C8–C40)
Calcium long chain alkyl phenate sulfide (C8–C40)
Caprolactam solutions
Choline chloride solution
Citric acid (70% or less)
Cyclohexanol
Decahydronaphthalene
Decane
Decylbenzene (n-)
Diacetone alcohol
Dialkyl(C10–C14) benzenes
Dialkyl(C7–C13) phthalates
Diethylene glycol butyl ether acetate
Diethylene glycol dibutyl ether
Diethylene glycol ethyl ether acetate, *see* **POLY(2–8)ALKYLENE GLYCOL MONOALKYL(C1–C6) ETHER ACETATE**
Diethylene glycol methyl ether acetate, *see* **POLY(2–8)ALKYLENE GLYCOL MONOALKYL(C1–C6) ETHER ACETATE**
Diethylene glycol phenyl ether
Diethylene glycol phthalate
Di-(2-ethylhexyl)adipate
Di-(2-ethylhexyl)phthalate
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution
Diisobutyl ketone
Diisodecyl phthalate
Diisononyl adipate
Diisononyl phthalate
2,2-Dimethylpropane-1,3-diol
Dinonyl phthalate
Dipropylene glycol dibenzoate
Dipropylene glycol methyl ether, *see* **POLY(2–8)ALKYLENE GLYCOL MONOALKYL(C1–C6) ETHER**
Ditridecyl phthalate
Diundecyl phthalate
Dodecenylsuccinic acid, dipotassium salt solution
2-Ethoxyethanol
Ethoxy triglycol *(crude)*
Ethyl acetate
Ethyl acetoacetate
Ethyl butanol
Ethylenediaminetetraacetic acid, tetrasodium salt solution
Ethylene glycol
Ethylene glycol acetate
Ethylene glycol dibutyl ether
Ethylene glycol ethyl ether
Ethylene glycol isopropyl ether
Ethylene glycol methyl butyl ether
Ethylene glycol methyl ether
Ethylene glycol methyl ether acetate
Ethylene glycol phenyl ether
Ethylene glycol phenyl ether, Diethylene glycol phenyl ether mixture
2-Ethylhexanoic acid
Ethyl propionate
Ferric hydroxyethylethylene diamine triacetic acid, trisodium salt solution
Formamide
Glycerine (83%), Dioxanedimethanol (17%) mixture
Glyoxal solution (40% or less)
Heptanoic acid
Hexamethylenediamine adipate
Hexamethylenetetramine solutions
Hexanoic acid
Hexanol
N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution
Isophorone
Lactic acid
Latex (ammonia (1% or less) inhibited)
Long chain alkaryl sulfonic acid (C16–C60)
Magnesium long chain alkaryl sulfonate (C11–C50)
Magnesium long chain alkyl phenate sulfide (C8–C20)
3-Methoxybutyl acetate
Methyl acetoacetate
Methyl alcohol
Methyl butenol
Methyl butyl ketone
Methyl isobutyl ketone
Methyl tert-butyl ether
Methyl butynol
Methyl propyl ketone
N-Methyl-2-pyrrolidone
Myrcene
Naphthalene sulfonic acid-formaldehyde copolymer, sodium salt solution
Nonanoic acid (all isomers)
Nonanoic, Tridecanoic acid mixture
Nonyl methacrylate
Noxious Liquid Substance, (17) n.o.s.
Octadecenoamide solution
Octanoic acid
Octyl acetate
Oil, edible:
- Babassu
- Beechnut
- Castor
- Cocoa butter
- Coconut
- Cod liver
- Corn
- Cottonseed
- Fish
- Groundnut
- Hazelnut
- Nutmeg butter
- Olive
- Palm
- Palm kernel
- Peanut
- Poppy
- Raisin seed
- Rapeseed
- Rice bran
- Safflower
- Salad
- Sesame
- Soya bean
- Sunflower seed
- Tucum
- Vegetable
- Walnut

Oil, misc:
- Animal, n.o.s.
- Coconut oil, esterified
- Coconut oil, fatty acid methyl ester
- Lanolin
- Linseed
- Neatsfoot
- Oiticica
- Palm oil, fatty acid methyl ester
- Palm oil, methyl ester
- Perilla
- Pilchard
- Soya bean (epoxidized)
- Sperm
- Tung
- Whale

Olefin/Alkyl ester copolymer (molecular weight 2000+)
Oleic acid
Palm kernel acid oil, methyl ester
Palm kernel oil, fatty acid methyl ester, *see* **PALM KERNEL ACID OIL, METHYL ESTER**
Palm stearin
Pentaethylenehexamine
Pentanoic acid
Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate
Polyalkylene glycols, Polyalkylene glycol monoalkyl ethers mixtures
Polyalkyl methacrylate (C1–C20)
Polyether (molecular weight 2000+)
Polyethylene glycol monoalkyl ether
Polyolefin amide alkeneamine (C28+)
Polyolefin amide alkeneamine borate (C28–C250)
Polyolefin amide alkeneamine polyol
Polyolefin anhydride
Polyolefin ester (C28–C250)
Polyolefin phenolic amine (C28–C250)
Polyolefin phosphorosulfide, barium derivative
Polypropylene glycol
n-Propyl acetate
Propylene glycol monoalkyl ether
Propylene glycol ethyl ether, *see* **PROPYLENE GLYCOL MONOALKYL ETHER**
Propylene glycol methyl ether, *see* **PROPYLENE GLYCOL MONOALKYL ETHER**
Propylene glycol methyl ether acetate
Propylene glycol phenyl ether
Sodium acetate solution
Sodium benzoate *solution*
Sodium carbonate solution
Soybean oil (epoxidized)
Sulfohydrocarbon (C3–C88)
Tallow
Tallow fatty acid
Tetrasodium salt of Ethylenediaminetetraacetic acid solution

Triethylene glycol ethyl ether, *see* POLY(2–8)ALKYLENE GLYCOL MONOALKYL(C1–C6) ETHER
Triethylene glycol methyl ether, *see* POLY(2–8)ALKYLENE GLYCOL MONOALKYL(C1–C6) ETHER
Triethyl phosphate
Trimethylol propane polyethoxylate
Tripropylene glycol methyl ether, *see* POLY(2–8)ALKYLENE GLYCOL MONOALKYL(C1–C6) ETHER
Trisodium salt of N-(Hydroxyethyl)-ethylenediamine triacetic acid solution
Urea, Ammonium mono- and di-hydrogen phosphate, Potassium chloride solution
Urea, Ammonium nitrate solution (2% or less NH_3)
Urea, Ammonium phosphate solution
Vegetable oils, n.o.s. (*see also Oil, edible*)
Vegetable acid oils and distillates, n.o.s.
Waxes:
Candelilla
Carnauba

* * * * *

§ 151.49 [Amended]

3. In § 151.49(a), remove the word "Cylclohexane" and add, in its place, the word "Cyclohexane"; remove the word "2-Methyl-1-pentene" and add, in its place the words "2-Methyl-1-pentene, *see* Hexene (all isomers)"; remove the words "(all isomers" of the entry "Pentene (all isomers" and add in their place the words "(all isomers)"; and remove the word "Toulene" and add, in its place the word "Toluene".

§ 151.49 [Amended]

4. In § 151.49(a), the following new entries are added in chemically proper alphabetized order:

* * * * *

Aviation alkylates
Cycloheptane
Cyclopentane
Hexane (all isomers)
Isopropylcyclohexane
Methyl cyclohexane
Olefin mixtures (C5-C7)
iso-Propylcyclohexane

* * * * *

§ 151.49 [Amended]

5. In § 151.49(b), remove the entries "Alkyl(C9-C17) benzenes" and "Dodecane (all isomers)".

Dated: February 28, 1994.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environment.

[FR Doc. 94–8363 Filed 4–8–94; 8:45 am]
BILLING CODE 4910–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–4861–4]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) reviewed Texas' application and has decided, subject to public review and comment, that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Texas' hazardous waste program revision, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Texas' application for the program revision is available for public review and comment.

DATES: This final authorization for Texas shall be effective June 27, 1994 unless EPA publishes a prior Federal Register (*FR*) action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business May 26, 1994.

ADDRESSES: Copies of the Texas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Texas Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin, TX 78711–3087, and U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 65202, phone (214) 655–6444. Written comments, referring to Docket Number TX–94–2, should be sent to Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–8528.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (RCRA or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266 268, 124, and 270.

B. Texas

Texas received final authorization to implement its hazardous waste management program on December 12, 1984, effective December 26, 1984 (see 49 FR 48300). This authorization was clarified in a notice published in the Federal Register on March 26, 1985 (see 50 FR 11858). Texas received final authorization for revisions to its program in notices published in the Federal Register on January 31, 1986, effective October 4, 1985 (see 51 FR 3952), on December 18, 1986, effective February 17, 1987 (see 51 FR 45320), on March 1, 1990, effective March 15, 1990 (see 55 FR 7318), on May 24, 1990, effective July 23, 1990 (see 55 FR 21383), on August 22, 1991, effective October 21, 1991 (see 56 FR 41626), and on October 5, 1992, effective December 4, 1992 (see 57 FR 45719). On December 8, 1992, the Texas Water Commission (TWC) submitted a final complete program revision application for additional program approvals. (In 1991, Texas Senate Bill 2 created the Texas Natural Resources Conservation Commission (TNRCC) which combined

the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993. Under Chapter 361 of the Texas Health and Safety Code, the TNRCC has sole responsibility for the administration of laws and regulations concerning hazardous waste). Today, Texas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA reviewed Texas' application, and made an immediate final decision that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until May 26, 1994. Copies of Texas' application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Texas' program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Texas' program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260–262, 264, 265, and 270 that were published in the **Federal Register** through June 30, 1990. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements. (As a result of the Texas reorganization presented above, TNRCC rules, once codified at Title 31 Texas Administrative Code, are now codified at Title 30 Texas Administrative Code).

Federal Citation	State analog
1. California List Waste Land Disposal Restrictions, July 8, 1987 [52 FR 25760], as amended on October 27, 1987 [52 FR 41295]. (Checklists 39 and 39.1).	Texas Solid Waste Disposal Act (TSWDA) §§361.017 and 361.024; Texas Health and Safety Code Ann. (THSC) (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 Texas Administrative Code (TAC) §305.51(c), §335.2(j), §335.112(a)(1), §335.152(a)(1), and §335.431(c), all effective November 23, 1993; and 31 TAC §335.77, effective September 1, 1989, as amended.
2. Exception Reporting for Small Quantity Generators of Hazardous Waste, September 23, 1987 [52 FR 35894]. (Checklist 42).	TSWDA §§361.017, and 361.024; THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 31 TAC §335.13(c), (d) and (g), effective March 31, 1992, as amended; and 30 TAC §335.74, effective November 23, 1993.
3. HSWA Codification Rule 2; Permit Application Requirements Regarding Corrective Action, December 1, 1987 [52 FR 45788]. (Checklist 44A).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §305.50(4)(A), effective November 23, 1993.
4. HSWA Codification Rule 2; Corrective Action Beyond Facility Boundary, December 1, 1987 [52 FR 45788]. (Checklist 44B).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 TAC §335.166(5), and 30 TAC 335.167(c), effective November 23, 1993.
5. HSWA Codification Rule 2; Corrective Action for Injection Wells, December 1, 1987 [52 FR 45788]. (Checklist 44C).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.121(f), and §335.121(e)(1)–(3), both effective November 23, 1993.
6. HSWA Codification Rule 2; Permit Modification, December 1, 1987 [52 FR 45788]. (Checklist 44D).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 31 TAC §305.62(d)(3), effective September 1, 1989, as amended.
7. HSWA Codification Rule 2; Permit as a Shield Provision, December 1, 1987 [52 FR 45788]. (Checklist 44E).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §305.124, effective November 23, 1993.
8. HSWA Codification Rule 2; Permit Conditions to protect Human Health and the Environment, December 1, 1987 [52 FR 45788]. (Checklist 44F).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §305.50(14), effective November 23, 1993.
9. HSWA Codification Rule 2; Post-Closure Permits, December 1, 1987 [52 FR 45788]. (Checklist 44G).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.2(i) effective November 23, 1993.
10. Technical Correction to Checklist 23, Small Quantity Generators, July 19, 1988 [53 FR 27162]. (Checklist 47).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 31 TAC §335.78(e) and §335.78(f)(2), both effective September 1, 1989, as amended.
11. Farmer Exemptions; Technical Corrections, July 19, 1988 [53 FR 27164]. (Checklist 48).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.41(d)(4) and §335.61 (b) and (e), all effective November 23, 1993.
12. Land Disposal Restrictions for First Third Scheduled Wastes, August 17, 1988 [53 FR 31138], as amended on February 27, 1989 [54 FR 8264]. (Checklists 50 and 50.1).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 TAC §335.112 (a)(1) and (a)(4), §335.152 (a)(1) and (a)(4), §335.211(b), and §335.431(c), all effective November 23, 1993.
13. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, September 2, 1988 [53 FR 34079]. (Checklist 52).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 TAC §335.1, §335.112 (a)(6) and (a)(9), and §335.152 (a)(5) and (a)(8), all effective November 23, 1993.
14. Land Disposal Restriction Amendments to First Third Scheduled Wastes, May 2, 1989 [54 FR 18836]. (Checklist 62).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.431(c), effective November 23, 1993.
15. Land Disposal Restrictions for Second Third Scheduled Wastes, June 23, 1989 [54 FR 26594]. (Checklist 63).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.431(c) effective November 23, 1993.

Federal Citation	State analog
16. Land Disposal Restrictions; Correction to the First Third Scheduled Wastes, September 6, 1989 [54 FR 36967, as amended on June 13, 1990 [55 FR 23935]. (Checklists 66 and 66.1).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.211(b) and §335.431(c), both effective November 23, 1993.
17. Reportable Quantity Adjustment Methyl Bromide Production Wastes, October 6, 1989 [54 FR 41402]. (Checklist 68).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 TAC §335.1 and §335.29, both effective November 23, 1993.
18. Reportable Quantity Adjustment (F024 & F025), December 11, 1989 [54 FR 50968]. (Checklist 69).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.1 and §335.29, both effective November 23, 1993.
19. Listing of 1,1-Dimethyl-hydrazine Production Wastes, May 2, 1990 [55 FR 18496]. (Checklist 75).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 TAC §335.1 and §335.29, both effective November 23, 1993.
20. HSWA Codification Rule: Double Liners; Correction, May 9, 1990 [55 FR 19262]. (Checklist 77).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §335.168(c) and §335.173(c), both effective November 23, 1993.
21. Land Disposal Restrictions for Third Scheduled Wastes, June 1, 1990 [55 FR 22520]. (Checklist 78H).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; and 30 TAC §305.69(i) Appendix I.B.1.b., §335.1, §335.29, §335.62(2), §335.69(a)(4), §335.111(c), §335.112 (a)(1) and (a)(10)–(a)(13), §335.152(a)(9)–(a)(12), and §335.431(c), all effective November 23, 1993.
22. Organic Air Emission Standards for Process Vents and Equipment Leaks, June 21, 1990 [55 FR 25454]. (Checklist 79).	TSWDA §§361.017, and 361.024, THSC (Vernon's Supp. 1991), effective June 7, 1991, as amended; 30 TAC §335.1, §305.50(4)(A), §335.2(j), §335.112 (a)(1), (a)(4), (a)(19), and (a)(20), §335.115(4), §335.152 (a)(1), (a)(4), (a)(16) and (a)(17), and §335.155(3), all effective November 23, 1993.
23. Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption, July 19, 1988 [53 FR 27290]. (Checklist 49).	TSWDA §§361.017 and 361.024; THSC (Vernon 1990), effective September 1, 1989, as amended; Texas Water Code (TWC) §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; and 31 TAC §335.1 and §335.2(g), both effective August 1, 1990.
24. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, September 2, 1988 [53 FR 34079]. (Checklist 52N).	TSWDA §§361.017, and 361.024; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; 31 TAC §335.1, effective August 1, 1990; and 31 TAC §335.112(a)(6) and §335.152 (a)(5), (a)(8) and (a)(9), all effective December 13, 1991, as amended.
25. Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities and Notification, September 13, 1988 [53 FR 35412]. (Checklist 53).	TSWDA §§361.017, and 361.024; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; and 31 TAC §335.1, effective August 1, 1990.
26. Permit Modifications for Hazardous Waste Management Facilities, September 28, 1988 [53 FR 37912], as amended on October 24, 1988 [53 FR 41649]. (Checklists 54 and 54.1).	TSWDA §§361.017, and 361.024; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; Texas Open Records Act, TEX. REV. CIV. STAT. ANN. art.6252–17a (Vernon 1990); 31 TAC §305.2, §305.66, and §335.124, all effective November 23, 1993; 31 TAC §305.62(a), effective October 29, 1990; 31 TAC §335.112(a)(6), §335.152 (a)(3) and (a)(5), all effective December 13, 1991, as amended; 31 TAC §305.64(a) and (g), and §305.144, §305.62(d)(3), §305.62(e)(2)(C)(iv)–(e)(2)(C)(xi), all effective October 29, 1990; 31 TAC §305.62(e), effective July 17, 1989; 31 TAC 305.100, effective October 8, 1990; 31 TAC §305.102, §305.171, and §305.172(10), all effective October 29, 1990; 31 TAC §305.69(a), §305.69(a)(1)(A)–(a)(1)(C), §305.69 (a)(2) and (a)(3), §305.69 (b) and (b)(1), §305.69(b)(1)(A)–(b)(1)(D), §305.69(b)(2), §305.69(b)(2)(A)–(b)(2)(G), §305.69(b)(3)–(b)(6), §305.69(b)(6)(A)–(b)(6)(C), §305.69 (b)(6)(C)(i) and (b)(6)(C)(ii), §305.69 (b)(6)(D) and (b)(6)(E), §305.69(b)(7), §305.69(b)(7)(A)–(b)(7)(C), §305.69 (b)(7)(C)(i) and (b)(7)(C)(ii), §305.69(b)(7)(D), §305.69 (b)(8) and (b)(9), §305.69 (b)(9)(A) and (b)(9)(B), §305.69(b)(10)–(b)(14), §305.69(b)(14)(A)–(b)(14)(C), §305.69(b)(15), §305.69(c), §305.69(c)(1), §305.69(c)(1)(A)–(c)(1)(D), §305.69(c)(2), §305.69(c)(2)(A)–(c)(2)(F), §305.69(c)(3)–(c)(6), §305.69(d), §305.69 (d)(1) and (d)(2), §305.69(d)(2)(A), §305.69 (d)(2)(B)(i) and (d)(2)(B)(ii), §305.69(d)(2)(C), §305.69(e), §305.69 (e)(1) and (e)(2), §305.69 (e)(2)(A) and (e)(2)(B), §305.69(e)(3), §305.69(e)(3)(A)–(e)(3)(C), §305.69 (e)(4) and (e)(5), §305.69 (e)(5)(A) and (e)(5)(B), §305.69(e)(5)(B)(i)–(e)(5)(B)(v), §305.69(e)(6), §305.69 (e)(6)(A) and (e)(6)(B), §305.69(f), §305.69 (f)(1) and (f)(2), §305.69(g), §305.69(g)(1), §305.69(g)(1)(A)–(g)(1)(E), §305.69(g)(2), and §305.184(1)–(3), all effective October 29, 1990.
27. Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, October 11, 1988 [53 FR 39720]. (Checklist 55).	TSWDA §§361.017, and 361.024; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; 31 TAC §335.157 (a)(1) and (a)(2), §335.158, §335.163(1)(A), §335.163 (1)(A)(i) and (1)(A)(ii), §335.163(1)(C), §335.163(7), §335.163 (7)(A) and (7)(B), §335.163(8), §335.163(8)(A)–(8)(E), §335.163(9), §335.163(9)(A)–(9)(F), §335.163(10), §335.164(3)–(6), §335.164 (6)(A) and (6)(B), §335.164(7), §335.164(7)(A)–(7)(D), §335.164(7)(D)(i)–(7)(D)(iv), §335.164(7)(E), §335.164 (7)(E)(i) and (7)(E)(ii), §335.164 (7)(E)(ii)(I) and (7)(E)(ii)(II), §335.164(7)(F), §335.164(7)(F)(i)–(7)(F)(iv), §335.164(8), §335.165(3), §335.165 (3)(A) and (3)(B), §335.165(4), §335.165 (4)(A) and (4)(B), and §335.165(6)–(10), all effective October 29, 1990.

Federal Citation	State analog
28. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes, October 31, 1988 [53 FR 43878]. (Checklist 56).	TSWDA §§361.003; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; and 31 TAC §335.1, effective August 1, 1990.
29. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes, October 31, 1988 [53 FR 43881]. (Checklist 57).	TSWDA §§361.003(11); THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; and 31 TAC §335.1, effective August 1, 1990.
30. Hazardous Waste Miscellaneous Units; Standards applicable to Owners and Operators, January 9, 1989 [54 FR 615]. (Checklist 59).	TSWDA §§361.003, 361.024, 361.088; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; and 31 TAC §305.50(4), effective July 17, 1989.
31. Amendment to Requirements for Hazardous Waste Incinerator Permits, January 30, 1989 [54 FR 9596]. (Checklist 60).	TSWDA §§361.003, 361.024, 361.088; THSC (Vernon 1990), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1990), effective September 1, 1985, as amended; and 31 TAC §305.174, effective October 29, 1990.
32. Delay of Closure Period for Hazardous Waste Management Facilities, August 14, 1989 [54 FR 33376]. (Checklist 64).	TSWDA §§361.017 and 361.024; THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 27.019 (Vernon 1992), effective September 1, 1985, as amended; 31 TAC §§335.152(a), 335.152(a)(1), 335.152(a)(5), 335.152(a)(6), 335.112(a), 335.112(a)(1), 335.112(a)(6), and 335.112(a)(7), all effective December 13, 1991; and 31 TAC 305.69(h), Appendix I, D.1.f., effective October 29, 1990.
33. Mining Waste Exclusion I, September 1, 1989 [54 FR 36592]. (Checklist 65).	TSWDA §§361.003, 361.017, and 361.024; THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011, (Vernon 1992), effective September 1, 1985, as amended; and 31 TAC 335.1, effective August 4, 1989.
34. Testing and Monitoring Activities, September 29, 1989 [54 FR 40260]. (Checklist 67).	TSWDA §§361.003, 361.017, and 361.024, THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011, (Vernon 1992), effective September 1, 1985, as amended; and 31 TAC §§335.2(j) and 335.29, both effective November 23, 1993.
35. Changes to Part 124 Not Accounted for by Present Checklists, June 30, 1983 [48 FR 30113]; July 26, 1988 [53 FR 28118]; September 26, 1988 [53 FR 37396]; and January 4, 1989 [54 FR 246]. (Checklist 70).	TSWDA §§361.017, 361.024, 361.032, 361.066, and 361.068; THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, 26.011, and 27.019 (Vernon 1992), effective September 1, 1985, as amended; 31 TAC 281.22, effective July 14, 1987; 31 TAC §§305.42, 305.44, 305.62, 305.102, 305.103, and 305.105, 305.127 (1)(B), (2) and (3), 305.142, and 305.144, all effective October 29, 1990; 305.143, 31 TAC 305.66, effective April 21, 1989; 31 TAC §§305.100, 305.101, 305.121, 305.122(a), 305.125, and 305.128, all effective October 8, 1990; 31 TAC §§305.123, 305.124, 305.141, 305.142, 305.143, and 305.146, all effective June 19, 1986; and 31 TAC 305.145, effective April 8, 1987.
36. Mining Waste Exclusion II, January 23, 1990 [55 FR 2322]. (Checklist 71).	TSWDA §§361.003, 361.017, and 361.024; THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011, (Vernon 1992), effective September 1, 1985, as amended; 31 TAC 335.1, effective August 4, 1989; and 31 TAC 335.10(a)(6), effective November 23, 1993.
37. Modification of F019 Listing, February 14, 1990 [55 FR 5340]. (Checklist 72).	TSWDA §§361.003, 361.017, and 361.024, THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended. TWC §§5.103, 5.105, and 26.011, (Vernon 1992), effective September 1, 1985, as amended; 31 TAC 335.1, effective August 4, 1989.
38. Testing and Monitoring Activities; Technical Corrections, March 9, 1990, [55 FR 8948]. (Checklist 73).	TSWDA §§361.003, 361.017, and 361.024, THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended. TWC §§5.103, 5.105, and 26.011, (Vernon 1992), effective September 1, 1985, as amended; and 31 TAC §§335.2(j) and 335.29, effective November 23, 1993.
39. Criteria for Listing Toxic Wastes; Technical Amendment, May 4, 1990 [55 FR 18726]. (Checklist 76).	TSWDA §§361.003, 361.017, and 361.024; THSC, Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 26.011 (Vernon 1992), effective September 1, 1985, as amended; and 31 TAC 335.1, effective August 4, 1989.
40. Financial Responsibility; Settlement Agreement (Amendment to Checklist 24's Optional Designation of 264.113 and 265.113), June 26, 1990 [55 FR 25976]. (Checklist 24A).	TSWDA §§361.017 and 361.024, THSC Chapter 361 (Vernon's Supp. 1992), effective September 1, 1989, as amended; TWC §§5.103, 5.105, and 27.019 (Vernon 1992), effective September 1, 1985, as amended; and 31 TAC §§335.112(a)(6) and 335.152(a)(5), both effective December 13, 1991.

Texas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that Texas' application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised.

Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize Texas' program and for incorporation by reference of those provisions of Texas' statutes and regulations that EPA will enforce under section 3008, 3013, and 7003 of RCRA. Therefore, EPA is

reserving amendment of 40 CFR part 272, subpart E, until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(A), 6926, 6974(b).

Dated: March 21, 1994.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 94–8579 Filed 4–8–94; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 271

[FRL–4861–8]

Ohio and Wisconsin: Schedules of Compliance for Modification of Hazardous Waste Programs

AGENCY: Environmental Protection Agency, Region V.

ACTION: Notice of Ohio's and Wisconsin's compliance schedules to adopt program modifications.

SUMMARY: On September 26, 1986, USEPA promulgated amendments to the deadlines for modifications to the State Resource Conservation and Recovery Act (RCRA) programs and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications. USEPA is today publishing compliance schedules for Ohio and Wisconsin to modify their respective programs, in accordance with 40 CFR 271.21(g) to adopt Federal program modifications.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: John Maher, Ohio Regulatory Specialist, Office of RCRA, USEPA, Region V, 77 W. Jackson, HRM–7J, Chicago, Illinois 60604, (312) 886–6085. Margaret Millard, Wisconsin Regulatory Specialist, Office of RCRA, USEPA, Region V, 77 W. Jackson, HRM–7J, Chicago, Illinois 60604, (312) 353–1440.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within a State is granted by USEPA if the Agency finds that the State program: (1) Is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). USEPA regulations for final authorization appear at 40 CFR 271.1 through 271.25. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Ohio

Ohio received final authorization of its base hazardous waste program on June 30, 1989 (54 FR 27173). The State received authorization for program revisions effective June 7,1991, (56 FR 14203) and August 19, 1991 (56 FR 28088).

C. Wisconsin

Wisconsin received final authorization for its base hazardouswaste program on January 31, 1986 (51 FR 3783). Wisconsin received subsequent authorization for revisions to its program that became effective on June 6, 1989 (54 FR 22278), January 22, 1990 (54 FR 48243), and April 24, 1992 (57 FR 15029).

D. Schedules

The States have agreed to obtain the needed hazardous waste program revisions. Pursuant to 40 CFR 271.21, USEPA expects the States to have obtained these revisions by December 31, 1994. Ohio and Wisconsin are to complete program revisions for the following Federal requirements:

Wood Preserving Listing; Technical Correction—56 FR 30192;

Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I—56 FR 32688;

Land Disposal Restrictions for Electric Arc Furnace Dust (K061)—54 FR 41164;

Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II—56 FR 42504;

Exports of Hazardous Waste; Technical Correction—56 FR 43704;

Liners and Leak Detection Systems for Hazardous Waste Disposal Systems—56 FR 03462;

Second Correction to the Third Third Land Disposal Restrictions—57 FR 08086;

Hazardous Debris Case-by-Case Capacity Variance—57 FR 20766 and; and

Lead Bearing Materials: Case-by-Case Capacity Variance——57 FR 28626.

Authority: This action is issued under authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: March 28, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94–8577 Filed 4–8–94; 8:45 am]

BILLING CODE 6560–50–F

---

40 CFR Parts 750 and 761

[OPPTS–66011A; FRL 4766–5]

RIN 2070–AB20

Polychlorinated Biphenyls; Exemptions From Prohibition Against Manufacturing, Processing, and Distribution in Commerce, and Use Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Section 6(e) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, distribution in commerce, and the use of PCBs unless the PCBs are totally enclosed. Section 6(e) gives EPA authority, however, to authorize these activities if the Administrator finds that they will not present an unreasonable risk of injury to health and the environment. This final rule addresses six individual petitions under TSCA section 6(e)(3)(B) for exemptions from the prohibition against the manufacture, processing and distribution in commerce of polychlorinated biphenyls (PCBs). In this final rule, EPA denies two petitions

and grants three petitions; the sixth petition has been withdrawn by the petitioner. EPA is also promulgating one use authorization under TSCA section 6(e)(2)(B). In addition, EPA is amending the Interim Procedural Rules at 40 CFR part 750 to require certain petitioners to reapply for EPA approval to continue PCB activities that EPA has previously approved.

DATES: This final rule shall become effective May 25, 1994. In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern daylight time on April 25, 1994.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, FAX: (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION: Section 6(e) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, distribution in commerce, and the use of PCBs unless the PCBs are totally enclosed. Section 6(e) gives EPA authority, however, to authorize these PCB activities if the Administrator finds that they will not present an unreasonable risk of injury to health or the environment. TSCA provides that EPA may set terms and conditions, including recordkeeping and reporting requirements, for granting an exemption.

I. Background

A. Statutory Authority

Section 6(e) of TSCA, 15 U.S.C. 2605(e), generally prohibits the manufacture of PCBs after January 1, 1979, the processing and distribution in commerce of PCBs after July 1, 1979, and the use of PCBs after October 11, 1977, unless otherwise authorized. While, section 6(e)(2)(A) of TSCA bans the use of PCBs in any manner other than a totally enclosed manner, section 6(e)(2)(B) provides that the Administrator may by rule authorize the use of PCBs if such use will not present an unreasonable risk of injury to health or the environment. Section 6(e)(3)(A) of TSCA prohibits the manufacture, processing, and distribution in commerce of PCBs in a manner other than totally enclosed. Section 6(e)(3)(B) provides that any person may petition the Administrator for an exemption from the prohibition on the manufacture, processing, and distribution in commerce of PCBs. The Administrator may by rule grant an exemption if the Administrator finds that "(i) an unreasonable risk of injury to health or the environment would not result, and (ii) 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 polychlorinated biphenyl" (15 U.S.C. 2605(e)(3)(B)(i) – (ii)). The Administrator may set terms and conditions for an exemption and may grant an exemption for not more than 1 year.

B. Regulatory Authority

EPA's Interim Procedural Rule for Manufacturing, Processing, and Distribution in Commerce Exemptions describes the required content for the manufacturing, processing, and distribution in commerce exemption petitions and the procedures EPA follows in rulemaking on exemption petitions. Those rules were published initially in the **Federal Register** of November 1, 1978 (43 FR 50905), and of May 31, 1979 (44 FR 31558) and are codified at 40 CFR 750.10 through 750.41. EPA's Procedural Rule for rulemaking under section 6 of TSCA, which governs use authorizations for PCBs, is found at 40 CFR 750.1 through 750.9.

C. History of this Rulemaking

EPA received for consideration six new exemption petitions under TSCA section 6(e)(3)(B) which are the subject of this final rule. The requests for exemption are as follows:

1. Petition for approval to distribute in commerce for export small quantities of PCBs for the purpose of research and development (ManTech Environmental Technology Inc., petitioner).

2. Petition for approval to process and distribute in commerce for export small quantities of PCBs for the purpose of research and development (Restek Corporation, petitioner).

3. Petition for approval to import from Canada, PCBs in oil and soil for laboratory analysis, and to export the unused portions of these samples following their analysis (National Chem Lab, petitioner).

4. Petition for approval to import capacitors and voltage transformers, which were inadvertently shipped into Canada, back to the United States for the purpose of disposal (General Motors, petitioner). The General Motors' petition was subsequently withdrawn.

5. Petition for approval to distribute in commerce for export PCB-Contaminated Transformers for salvage to the Far East (Joseph Simon Sons, petitioner).

6. Petition for approval to process and distribute in commerce analytical reference samples derived from actual waste materials (R.T. Corporation, petitioner).

The proposed rule for these exemption petitions and the amendment to the Interim Procedural Rules were published on March 2, 1992 (57 FR 7349). No substantive comments were received on the proposal that would impact EPA's decision to grant or deny a particular exemption petition. However, the Small Business Administration commented on whether EPA had properly exercised its certification authority under the Regulatory Flexibility Act (RFA) and had fully articulated its reasons for certifying there was no significant impact on a substantial number of small entities. This comment resulted in changes to the language under unit VIII.B. of the preamble to this final rule, where the authority to make the certification under the RFA and EPA's rationale for the certification is stated more precisely. In addition, comments were received concerning the Interim Procedural Rules. (See unit VII – Changes to the Interim Procedural Rules).

II. Unreasonable Risk Finding

Section 6(e)(3)(B)(i) of TSCA requires a petitioner to demonstrate that granting an exemption would not result in an unreasonable risk of injury to health or the environment.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur to health or the environment against the benefits to society from granting or denying each petition. Specifically, EPA considers the following factors:

A. Effects of PCBs on Human Health and the Environment

In deciding whether to grant an exemption, EPA considers the magnitude of exposure and the effects of PCBs on humans and the environment.

1. *Health effects.* EPA has determined that PCBs are toxic and persistent. PCBs can enter the body through the lungs, gastrointestinal tract, and skin, can circulate throughout the body, and can be stored in the fatty tissue.

2. *Environmental effects.* Certain PCB congeners are among the most stable chemicals known, which decompose very slowly once they are released in the environment. PCBs are absorbed and stored in the fatty tissue of higher organisms as they bioaccumulate up the food chain through invertebrates, fish, and mammals. This ultimately results in

human exposure through consumption of PCB-containing food sources.

3. *Risks.* Toxicity and exposure are the two basic components of risk. Based on animal data, EPA concluded that in addition to chloracne, PCBs may cause developmental toxicity, reproductive effects, and oncogenicity in humans. EPA also concluded that PCBs present a hazard to the environment.

A lengthy discussion of these factors is provided in the preamble to the August 24, 1988 proposed exemption rule (53 FR 32327) (Docket No. OPTS 66008F).

B. Benefits and Costs

The benefits to society of granting an exemption vary, depending on the activity for which the exemption is requested. The reasonably ascertainable costs of denying an exemption vary, depending on the individual petitioner. EPA has taken benefits and costs into consideration when evaluating each exemption petition.

III. Good Faith Efforts Finding

Section 6(e)(3)(B)(ii) of TSCA requires petitioners to demonstrate a good faith effort 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 PCBs. EPA considers several factors in determining whether a petitioner has demonstrated good faith efforts. For each petition, EPA considers the kind of exemption the petitioner is requesting and whether the petitioner expended time and effort to develop or search for a substitute. In each case, the burden is on the petitioner to show specifically what it did to substitute non-PCB material for PCBs or to show why it was not feasible to substitute non-PCBs for PCBs. To satisfy this finding for requests for an exemption to import PCBs, a petitioner must show why such activity must occur in the United States and what steps will be taken to eliminate the need to import PCBs in the future.

IV. Explanation of Class Exemption for Research and Development

Distinct from its authority to exempt PCBs from the ban on manufacturing, processing, and distribution in commerce, EPA may also authorize the use of PCBs. EPA authorized, indefinitely, the use of PCBs in small quantities for research and development in the Use Authorization Rule, 40 CFR 761.30(j), published in the **Federal Register** of July 10, 1984 (Docket No. OPTS 66008B). "Small quantities for research and development" is defined at 40 CFR 761.3 as "any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters, and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of PCBs, but not for research or analysis for the development of a PCB product." The processing and distribution in commerce of PCBs in small quantities for use in research and development is allowed via a class exemption in the PCB Exemptions Rule, 40 CFR 761.80(g), published in the **Federal Register** of August 8, 1986 (51 FR 28556) (Docket No. OPTS 66008E). This rule eliminated the need for each person who processes and distributes PCBs in commerce to file an individual exemption petition. EPA placed the following terms and conditions on the class exemption: (a) That all processors and distributors maintain records of their PCB activities for a period of 5 years; and (b) that any person or company that expects to distribute in commerce 100 grams (0.22 lb.) or more of PCBs for research and development in 1 year must report to EPA and identify the sites of PCB activities and the quantities of PCBs to be distributed in commerce. At that time EPA stated it would automatically renew the class exemption unless the petitioner changed the quantity of PCBs or manner of processing and distributing PCBs in commerce. In granting a class exemption, EPA retains the authority to terminate the class exemption, or to exclude any distributor from the class exemption, upon determining that the activities allowed in the class exemption will pose an unreasonable risk of injury to health or the environment. Any changes in the disposition of the class exemption, or the status of individuals within the class exemption, will be published in a notice of proposed rulemaking; and members of the class will be allowed to continue activities until a final rule is promulgated.

V. Disposition of Pending Exemption Petitions

A. Import

EPA received one exemption petition to import PCBs.

General Motors Corp. (GMC). On August 31, 1987, GMC requested an exemption to import PCBs into the United States from Canada, solely for the purpose of disposal, in indoor constant voltage transformers. On February 14, 1991, GMC withdrew this petition. As a result, no action was taken by EPA on the GMC exemption petition.

B. Import and Export

EPA received one exemption petition to import and export PCBs.

National Chem Lab. On December 3, 1987, EPA received a petition from National Chem Lab to import small test samples of oil and soil from Canadian Electric Utilities, and to export these samples following their analysis.

a. *Current petition.* The sample sizes would be less than 6 milliliters per sample of oil and less than 4 ounces of soil. These samples would then be analyzed for PCB content. Following their analysis these small laboratory test samples would be exported back to the utility that submitted them. National Chem Lab estimates that 5.072 ounces by volume or 0.283 pounds by weight of PCBs would be utilized per year. These figures were based on a sample submittal rate of 10,000 per year with 15 percent of the submitted samples containing PCB concentrations over 50 ppm.

The residue that evolves from distillation of the solvent used in the extraction process would be packaged in a common Department of Transportation (DOT) approved container and sent to an incinerator for disposal as required by the PCB disposal rules of 40 CFR 761.60. The extremely small amounts of PCBs that would be retained by National Chem Lab in testing for a contamination level would be disposed of in the United States as required in the PCB disposal rules. The economic consequences of denial would cost National Chem Lab an estimated income of $150,000 per year and result in a staffing level of three fewer employees. National Chem Lab also maintained that this exemption would enable it to expand its facilities and generate jobs in an area of Eastern Washington which badly needs jobs in non-agricultural enterprises.

b. *Decision on petition.* EPA has determined to deny this exemption petition. EPA has determined that the import (manufacture) of PCBs into the United States and the distribution in commerce of PCBs present an unreasonable risk of injury to health and the environment (See 40 CFR 761.20 and 44 FR 31514, 31537, May 31, 1979). EPA has also stated that "[i]t is the clear intent of TSCA to minimize the addition of PCBs to the environment of the United States." Id. In 1980, EPA closed the border to encourage foreign countries to develop their own capacity for properly handling and disposing of PCB waste. (See 45 FR 29115, May 1, 1980, filed at Docket No. OPTS 66008). Also, National Chem Lab has failed to provide evidence that both Canadian

and provincial border officials will accept the PCBs when they are returned to Canada upon completion of the PCB analysis.

Further, EPA has determined that the petitioner has not met the good faith efforts criterion. Although no non-PCB substitutes for PCB analytical standards currently exist, the petitioner has not demonstrated or provided any convincing rationale as to why there is a necessity for the PCBs to be imported into the United States, solely for the purpose of analysis. According to the Canadian Association for Environmental Analytical Laboratories, there are analytical laboratories within Canada for conducting PCB analysis (See Docket No. OPTS 66011). EPA does not want to encourage the expansion of PCB products or PCB services for companies when there are feasible alternatives already in place.

Implied in the petitioner's exemption application is a request to export the samples after analysis. Since EPA is denying the request to import, it is not addressing the request to export the samples back to their site of generation after analysis. No comments were submitted to EPA for further consideration during the comment period.

C. Export

EPA received two petitions relating to PCBs involved in research and development. Also, the same petitioners requested to export the PCBs. These petitions are discussed in this section. In addition, this section addresses the petition to export and distribute in commerce drained PCB-Contaminated Transformers.

1. *ManTech Environmental Technology, Inc. and Subsidiary (ManTech).* On November 16, 1987, NSIT (formerly known as Northrop Services, Inc.) submitted an exemption petition to export small quantities of PCBs for research and development to the international monitoring community for use in the identification and quantification of environmental contaminants. The annual export amount is estimated to be less than 500 grams of PCBs. On February 12, 1991, NSIT amended its petition and notified EPA that the company name had been changed to ManTech.

a. *Current petition.* ManTech obtains PCBs for environmental monitoring purposes and prepares analytical reference standards which are provided for a charge to laboratories engaged in monitoring activities.

The PCB standards will be available in solution (1.5 ml each) or in neat, essentially pure form in 50 to 100 mg aliquots. PCBs in the form of Aroclor mixtures as well as individual isomers, will be distributed in sealed 2–ml ampuls in accordance with the class exemption requirements. The total amount of PCBs to be exported in 1 year will not exceed 500 grams.

The standards will be packaged in sealed, glass primary ampules, labeled and placed in heat-sealed bags with appropriate labelling. The neat standards will then be wrapped individually in several layers of absorbent packaging material, placed in a secondary heat-sealed bag, and then in a standard corrugated cardboard container which will be filled with cushioning material and sealed with reinforced paper tape.

Solution standards will be placed in the first heat-sealed bag, then placed in form-fitting styrofoam containers which are wrapped in cellucrepe material and placed in a secondary heat-sealed bag. They will then be inserted into a padded mailer and sealed with fiberglass tape.

According to the letter submitted by ManTech on February 21, 1991, there is a charge for the standards which should accrue an estimated amount of $60,000 per year in sales from the foreign distribution of the analytical samples.

In its petition ManTech also states that it will support and encourage good quality assurance practices to several thousand laboratories in 93 foreign countries.

b. *Decision on petition.* EPA has determined to grant the ManTech petition. The Agency generally treats petitions for exemption to export PCBs more stringently than petitions to distribute PCBs within the United States. This is because once the PCBs cross beyond our borders, the United States loses its ability to monitor the handling and distribution activities, to inspect the receiving facilities for any regulatory violations, or to protect health or the environment from releases of those PCBs that might lead to additional PCB contamination in this country. However, EPA believes that those concerns are mitigated in the export of PCBs in small quantities for research and development particularly given the viscosity, quantity, marking, and packaging of the PCBs, as well as the careful handling of the PCBs by trained personnel as described in the petition. Since there are no substitutes for PCB analytical samples, the good faith efforts finding has been met. No comments were submitted to EPA for further consideration during the comment period.

ManTech is prohibited from exporting PCBs in excess of the amounts and quantities specified in its petition (i.e., less than 500 grams/year), and will be required to petition EPA and obtain an exemption prior to an increase in the quantity or a change in the manner of handling PCBs under the ManTech exemption. EPA will consider any such change as a new exemption petition and address the request by rulemaking. If ManTech wishes to continue its export activities beyond the 1–year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amended Interim Procedural Rules promulgated in this rule, must be submitted to EPA at least 6 months prior to the expiration of the exemption.

2. *Restek Corporation.* On June 8, 1990, Restek requested an exemption to process and distribute in commerce for export small quantities of PCBs for research and development to calibrate analytical instruments.

a. *Current petition.* Restek seeks to process and distribute small quantities (less than 100 grams/year) of PCBs for research and development under 40 CFR 761.80. The PCBs will be purchased from companies already exempted by EPA, then diluted to a concentration of 1,000 µg/mL in solvent. The only processing will be to prepare gravimetric standards of the PCBs. The concentration of these standards will be verified by gas chromatography. Once verified, these solutions will be packaged in a flame-sealed, amber glass ampul in volumes of 1 milliliter. The sealed ampuls will be overwrapped in a plastic tube with adequate cushioning to prevent damage during shipment. These solutions will be shipped via common carrier domestically and exported to foreign customers. Restek will comply with all relevant DOT and overseas shipping regulations.

All processing and distribution will be performed at the Restek facility at 110 Benner Circle, Bellefonte, PA. The estimated amount of PCBs to be processed and distributed in commerce, both domestic and foreign, will not exceed 100 grams per year. Restek states that the small amounts of laboratory waste generated during the production procedures will be collected and disposed of in accordance with all Federal, State, and local regulations, and the total amount of waste will be less than 1 gram per year. Restek states that all PCBs will be handled by qualified organic chemists.

There are no substitutes available which can be used to calibrate analytical instrumentation for PCBs. Restek estimates that the cost of denial of this petition could cause a loss of business amounting to $280,000 per year.

b. *Decision on petition.* EPA has determined to grant the Restek petition. As stated above, EPA generally treats petitions for exemption to export PCBs more stringently than petitions to distribute PCBs within the United States. This is because once the PCBs cross beyond our borders, the United States loses its ability to monitor the handling and the distribution activities, to inspect the receiving facilities for any regulatory violations, or to protect health or the environment from releases of those PCBs that might lead to additional PCB contamination in this country. However, EPA believes that those concerns are mitigated in the export of PCBs in small quantities for research and development particularly given the viscosity, quantity, marking, and packaging of the PCBs involved, as well as the careful handling of the PCBs by trained personnel as described in the petition. Further, since no PCB substitutes exist for analytical standards of PCBs, the good faith efforts criterion has been met. No comments were submitted to EPA for further consideration during the comment period.

Restek is prohibited from exporting PCBs in excess of the amounts and quantities specified in their exemption petition (less than 100 grams/year), and will be required to petition EPA to obtain an exemption prior to an increase in the quantity or a change in the manner of handling PCBs under the Restek exemption. EPA will consider any such change as a new exemption petition and address the request by rulemaking. If Restek wishes to continue its export activities beyond the 1–year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amended Interim Procedural Rules promulgated in this rule, must be submitted at least 6 months prior to the expiration of the exemption.

3. *Joseph Simon Sons, Inc.*. On April 9, 1987, Joseph Simon Sons, Inc. requested an exemption to distribute in commerce and export for disposal PCB-Contaminated Transformers that have been drained of all free-flowing liquids.

a. *Current petition.* The drained electrical transformers would be packaged in shipping containers at locations in the states of Utah, California, and Washington and then shipped to the Far East for salvage. To ensure that all the drained electrical transformers being exported had contained fluid with a PCB concentration of less than 500 ppm, Joseph Simon Sons would require its customers to provide analytical reports showing the serial number of each unit and the PCB concentration. The estimated pounds of drained electrical transformers to be processed from each of the 3 states identified would be 1 million pounds.

b. *Decision on petition.* EPA has determined to deny this request for an exemption. EPA has determined, due to the large amounts of PCBs and the availability of an alternative option, namely reclassifying the transformers to non-PCB status, that this petition fails the unreasonable risk and good faith efforts criteria as required in TSCA section 6(e)(3)(B). EPA is very stringent regarding the export of PCBs because once the PCBs cross beyond our borders, the United States loses its ability to monitor the handling and distribution activities, to inspect the receiving facilities for any regulatory violations, or to protect health or the environment from releases of those PCBs. Thus, EPA has found that the manufacturing, processing and distribution in commerce of PCBs and PCB Items for export in concentrations of 50 ppm or greater present an unreasonable risk of injury to health and the environment within the United States (40 CFR 761.20).

This petition requests to export a large amount, approximately 3 million pounds, of drained PCB-Contaminated Electric Equipment to the Far East for salvage. Generally, EPA does not allow export of PCB-contaminated equipment for disposal because some countries have failed to develop safe methods of PCB disposal and salvaging, and because EPA has limited ability to ensure that such activities, including reuse of the salvaged material, does not present an unreasonable risk of injury to health and the environment in the United States.

The Agency has previously recognized that PCB contamination is a global problem, and that use and other activities connected with PCBs outside the United States may lead to additional PCB contamination of this country. EPA concluded in 1979 that the distribution in commerce of certain PCBs for export constitutes an unreasonable risk of injury to health and the environment in the United States (44 FR 31514, May 31, 1979) and maintains that the activities proposed by the petitioner would present an unreasonable risk.

Further, in determining whether good faith efforts have been taken to develop a substitute for PCBs, EPA considers whether alternatives are available to the person requesting an exemption. In this case, there is a safer alternative available to petitioners, namely that the transformer be reclassified to non-PCB status through a drain, flush, and refill process according to 40 CFR 761.30(a)(2)(v). Such non-PCB transformers could then be exported for any purpose according to 40 CFR 761.20(b)(2). Because a readily available substitute for PCB-contaminated equipment exists, namely decontaminated equipment, the good faith efforts criterion has not been met. No comments were submitted to EPA for further consideration during the comment period.

D. Processing and Distribution in Commerce

EPA received one petition requesting an exemption to allow the processing and/or distribution in commerce of PCBs.

R.T. Corporation (RT Corp.). On March 31, 1989, RT Corp. requested an exemption to process and distribute in commerce PCBs as analytical reference samples derived from actual waste materials. Even if RT Corp. obtains such an exemption, use of such samples is banned unless authorized by rule. EPA is creating such a use authorization in this rule. (See unit VI. of this preamble for a further discussion.)

a. *Current petition.* RT Corp. seeks to blend samples containing PCBs in various materials that have been taken from spills and Superfund sites, duplicating real world laboratory situations. These samples will provide EPA, contract labs, and other facilities with interlaboratory comparability and access to real world references. RT Corp. states that these procedures will be done under controlled conditions by trained and experienced personnel using practices that are designed to minimize human and environmental exposure to hazardous substances. An estimated annual amount of approximately .5 pound of PCB samples will be distributed in commerce to environmental analytical laboratories in small quantities for inhouse Quality Assurance/Quality Control programs by Federal, State and municipal governments, and other clients wanting to ensure the accuracy of their analytical results.

These reference samples, which average 50 grams in weight, will be blended to homogeneity, packaged into 10 to 50 gram aliquots, and then marketed exclusively to laboratories. The total estimated annual amount of PCB-Contaminated material at <500 ppm concentration levels to be allowed under the exemption will be between 500 to 1,000 pounds. This equates to approximately .5 pound of pure PCBs. The values of the analytes of interest are determined by a round-robin analysis by

as many laboratories as necessary to attain a 95 percent level of confidence.

RT Corp. states that these samples will be shipped in accordance with all DOT shipping requirements and that they will be packaged in hermetically sealed containers bearing the PCB warning label. Once the PCBs are distributed in commerce, the risk of exposure to humans and the environment will be minimized by the small quantities of PCBs used in most applications, by the matrix containing the PCBs, and by the careful handling procedures typical of laboratory work.

b. *Decision on petition.* EPA has determined to grant the RT Corp. petition. EPA believes that, due to the small quantities of PCBs in these reference samples as well as the careful handling of the PCBs by trained personnel, there is no unreasonable risk presented by granting this exemption petition request. The good faith efforts criterion has been met because there are no substitutes for the "real world" waste samples of PCB material associated with this activity. RT Corp. must comply with all Federal, State, and local laws governing the handling of these samples. In addition, once the use of the samples is complete, all of the disposal requirements contained in 40 CFR part 761 apply.

One commenter to the proposal expressed support for issuing this use authorization. However, it was also suggested by this commenter that EPA broaden this authorization to include samples processed and distributed in connection with R&D activities. As noted by the commenter, EPA has already solicited comments on this revision in the June 10, 1991 Advance Notice of Proposed Rulemaking (ANPRM) with respect to amendments to the PCB disposal rules. A broader application of this use authorization is more appropriately addressed by the proposed Disposal Amendments in that the Agency will be able to obtain more extensive public comment and conduct a more comprehensive review of this issue.

RT Corp. is prohibited from distributing in commerce PCBs in excess of the amounts and quantities specified in this petition (i.e., less than .5 pound of PCBs), and will be required to petition EPA and obtain an exemption prior to an increase in the quantity or a change in the manner of handling PCBs under the RT Corp. exemption. EPA will consider any such change a new exemption petition and address the request by rulemaking. If RT Corp. wishes to continue its processing and distribution activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amended Interim Procedural Rules promulgated in this rule, must be submitted at least 6 months prior to the expiration of the exemption.

VI. Use Authorization for Analytical Reference Samples Derived from Waste Materials

EPA is granting a use authorization for analytical reference samples that contain PCBs and are derived from waste materials provided that the samples have been processed and distributed in commerce pursuant to an exemption granted under TSCA section 6(e)(3)(B). As discussed above, EPA has already granted an authorization for the use of PCBs in small quantities for research and development (40 CFR 761.30(j)). Also discussed above are the reasons EPA is granting an exemption for analytical reference samples derived from waste materials. These samples do not fit the definition for the use authorization granted under 40 CFR 761.30(j), and therefore, use of these samples requires an authorization.

EPA has determined to authorize the use of PCB analytical reference samples derived from waste materials when the samples have been processed and distributed in commerce pursuant to an exemption granted under TSCA section 6(e)(3)(B). EPA has determined that the use of such samples will not present an unreasonable risk of injury to health or the environment because such samples will be handled by laboratories that have established procedures for handling PCBs. Further, EPA has determined that the use of such samples will further efforts to implement, comply with, and enforce the requirements for PCBs under TSCA. Once the use of such samples is over, persons who have used the samples are subject to any Federal, State, and local law governing the disposal of the PCBs, including the rules found in 40 CFR part 761.

VII. Changes to Interim Procedural Rule

In this rule, EPA is adopting procedures for renewing exemptions. A petitioner granted an exemption in this rule or in any future rule, and who wishes to renew that exemption, must submit a letter by certified mail to EPA stating that a renewal is desired and certifying that the specific type(s) of PCB activities, the procedures for handling the PCBs, the amount of PCBs handled, and all other activities specified in the original exemption request have not been changed.

To provide EPA with sufficient time to include the renewal submission in the next PCB exemption rulemaking, the request and certification must be sent by certified mail and received by EPA at least 6 months prior to the expiration date of the existing exemption.

If the renewal submission is not received at least 6 months prior to the expiration date, the original exemption activities must cease at the 1-year expiration date. If there are any increases from the original petition in the amounts of PCBs or any changes in the manner in which they are handled, EPA will consider the submission to be a petition for a new exemption.

This amendment does not affect exemption petitions granted under §761.80(g) or petitions granted by EPA prior to the effective date of this final rule, provided the type of activities, the procedures for handling the PCBs, and any other terms of the exemption have not changed. However, any petitioner granted an exemption in a prior rule who wishes to alter the activities as previously approved by the Agency in granting the exemption must submit a new petition and must refrain from any of the new activities until EPA makes a determination on that petition by rulemaking. EPA will review the new petition during the next rulemaking process and determine whether to grant or deny the exemption.

A commenter suggested EPA refine its procedures and the time it takes to respond to an exemption petition. Ideally, EPA would like to respond to exemption petitions more expeditiously; however, this is not practical. Several factors influence the review and processing of exemptions, such as, the complexity of issues, the number of petitions and the structure of the rulemaking process. Although the schedule for responding to exemption petitions may not be aggressive enough for some, in this rulemaking, EPA has, to the extent possible, modified the filing procedures for the exemption rulemaking process.

One commenter suggested that to relieve the resource burden necessary to carry out the rulemaking process, EPA should also automatically renew petitions that are based on a renewal letter, and that involve minor changes that do not present an unreasonable risk to health and the environment. EPA agrees that allowing automatic renewal for minor changes would provide more flexibility. However, TSCA only authorizes the Administrator to grant exemptions by rule, if he/she determines the activity in question does not present an unreasonable risk to health and the environment and that the

petitioner has met the good faith effort criteria (15 U.S.C. 6(e)(3)(B)). Consequently, the Administrator cannot forego rulemaking and renew all exemptions automatically without an analysis of risk as suggested by the commenter.

VIII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, it has been determined that this rule is not "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (the Act), 5 U.S.C. 603, EPA prepared an initial regulatory flexibility analysis, which describes the impacts of the rule on small business entities in connection with the proposed rulemaking.

In this analysis, EPA tried to estimate the cost of this proposed rule on the small businesses whose petitions EPA has denied. For purposes of this regulatory flexibility analysis, EPA considers a small business to be one whose annual sales revenues were less than $40 million. This cutoff is in accordance with EPA's definition of a small business for purposes of reporting under section 8(a) of TSCA, which was published in the **Federal Register** of November 16, 1984 (49 FR 45430).

Pursuant to section 605(b) of the Regulatory Flexibility Act, which provides that section 603 of the Act "shall not apply to any proposed or final rule if the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities," the Administrator certifies that this rule will not have a significant impact on a substantial number of small entities. In addition, EPA is sending a copy of this rule to the Chief Counsel for Advocacy of the Small Business Administration.

EPA further notes that section 606 of the Act states that the requirements of section 603 do not alter in any manner standards otherwise applicable by law to Agency action. Current law, section 6(e)(3)(A) and (B) of TSCA and EPA's PCB Ban Rule, 40 CFR part 761, prohibits the manufacture, processing, and distribution in commerce of PCBs. This rule, under section 6(e)(3)(B) of TSCA, would exempt persons from these prohibitions where petitioners have demonstrated that granting an exemption would not result in an unreasonable risk of injury to health or the environment and that they have made good faith efforts to develop substitutes for PCBs. Both small and large businesses must meet the same statutory standard. Thus, even if EPA believed that it was an economically desirable policy to grant an exemption petition for a small business, it could do so only if the small business met the requirements set forth in TSCA. This rule would not add to the burden placed on small businesses, it would only remove the prohibition placed on such businesses through granting an exemption. Owners of individual small businesses who elect to petition the Administrator to engage in activities otherwise banned by the statute have already considered the economic consequences of conducting these activities, and nonetheless have opted to pursue an authorization for these activities. Finally, because this rule basically would benefit some small entities, without imposing direct economic costs on others, EPA believes that it is appropriate to certify that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of OMB to review certain information collection requests by Federal Agencies. Under OMB Control Number 2070–0021, OMB has approved a general information collection request submitted by EPA for purposes of collecting information for rulemakings on PCB exemption petitions, and for any recordkeeping or reporting conditions to PCB exemption petitions granted by EPA.

Public reporting burden for this collection of information is estimated to average 5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

IX. Official Rulemaking Record

For the convenience of the public and EPA, all of the information originally submitted and filed in dockets number OPTS–66001, 66002, 66008–66008K (manufacturing, processing, and distribution in commerce exemptions) is being consolidated into this docket (docket number OPTS–66011).

Public comments are not listed because these documents are exempt from **Federal Register** listing under TSCA section 19(a)(3). A public record, along with a complete index, is available for inspection in the Non-Confidential Information Center, Monday through Friday (excluding holidays) from 12 noon to 4 p.m. in Room G–102 (401 M St., SW., Washington, DC).

Previous Rulemaking Record

Previous rulemaking related to exemptions are cited in the Index to the Rulemaking Record for Polychlorinated Biphenyls, Manufacturing, Processing, and Distribution in Commerce; Exemptions, Docket Number OPTS 66011 at A2–File.

List of Subjects

40 CFR Part 750

Adminstrative practice and procedure, chemicals, Environmental protection, Hazardous substances.

40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: March 30, 1994.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR Chapter I, Subchapter R is amended as follows:

PART 750—[AMENDED]

1. In part 750.

a. The authority citation for part 750 continues to read as follows:

Authority: 15 U.S.C. 2605.

b. In §750.11 by removing paragraph (b), by redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively, by revising newly designated paragraph (b), by designating the undesignated text appearing at the end of the section as paragraph (d) and revising it, and by adding new paragraph (e) to read as follows:

§750.11 Filing of petitions for exemption.

* * * * *

(b) *Where to file.* All petitions must be submitted to the following location: OPPT Document Control Officer (7407), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

* * * * *

(d) *Request for further information.* The Agency reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by §750.13.

(e) *Renewal requests.* (1) Any petitioner who has been granted an exemption under section 6(e)(3)(B) of TSCA, on or after May 25, 1994, and who seeks to renew that exemption without changing its terms, must submit a letter by certified mail to EPA requesting that the exemption be granted for the following year.

(i) This letter must contain a certification by the petitioner that the type of activities, the procedures for handling the PCBs, the amount of PCBs handled, and any other aspect of the exemption have not changed from the original exemption petition request.

(ii) This letter must be received by EPA at least 6 months prior to the expiration of the existing exemption.

(iii) If a petitioner fails to make a submission or the submission is not timely under this section, the exemption will expire 1 year from the effective date of granting that exemption.

(iv) EPA will address a timely submission of a renewal request by rulemaking and either grant or deny the request.

(2) Any petitioner who has been granted an exemption on or after May 25, 1994, and who seeks to increase the amount of PCBs handled or to change the type of activities, the procedures for handling the PCBs, and any other aspect of their existing exemption must submit a new exemption petition to EPA. The existing exemption activity may continue until the new submission is addressed by rulemaking, provided the activity conforms to the terms of the current exemption approved by EPA, and the petitioner complies with the conditions of paragraph (e)(1) of this section.

(3) Any petitioner who has been granted a TSCA section 6(e)(3)(B) exemption in a rule prior to May 25, 1994, and who seeks to increase the amount of PCBs handled or to change the type of activities, the procedures for handling the PCBs, and any other aspect of their existing exemption must submit a new exemption petition to EPA. The existing exemption activity may continue until the new submission is addressed by rulemaking, provided the activity conforms to the terms of the original exemption approved by EPA.

§§750.13 and 750.14 [Amended]

c. In §§750.13 and 750.14 change the reference "§750.11(d)" to read "§750.11(c)".

d. Section 750.31 is amended by removing paragraph (b), by redesignating paragraphs (c), (d) and (e) as paragraphs (b), (c) and (d), respectively, by revising newly designated paragraph (b), and by adding a new paragraph (e) to read as follows:

§750.31 Filing of petitions for exemption.

* * * * *

(b) *Where to file.* All petitions must be submitted to the following location: OPPT Document Control Officer (7407), East Tower, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

(e) *Renewal requests.* (1) Any petitioner who has been granted an exemption under 40 CFR 761.80, except paragraph (g) of 40 CFR 761.80, on or after May 25, 1994, and who seeks to renew that exemption without changing its terms, must submit a letter by certified mail to EPA requesting that the exemption be granted for the following year.

(i) This letter must contain a certification by the petitioner that the type of activities, the procedures for handling the PCBs, the amount of PCBs handled, and any other aspect of the exemption have not changed from the original exemption petition request.

(ii) This letter must be received by EPA at least 6 months prior to the expiration of the existing exemption.

(iii) If a petitioner fails to make a submission or the submission is not timely under this section, the exemption will expire 1 year from the effective date of granting that exemption.

(iv) EPA will address a timely submission of a renewal request by rulemaking and either grant or deny the request.

(2) Any petitioner who has been granted an exemption on or after May 25, 1994, and who seeks to increase the amount of PCBs handled or to change the type of activities, the procedures for handling the PCBs, and any other aspect of their existing exemption must submit a new exemption petition to EPA. The existing exemption activity may continue until the new submission is addressed by rulemaking, provided the activity conforms to the terms of the current exemption approved by EPA, and the petitioner complies with the conditions of paragraph (e)(1) of this section.

(3) Any petitioner who has been granted a TSCA section 6(e)(3)(B) exemption in a rule prior to May 25, 1994, and who seeks to increase the amount of PCBs handled or to change the type of activities, the procedures for handling the PCBs, and any other aspect of their existing exemption must submit a new exemption petition to EPA. The existing exemption activity may continue until the new submission is addressed by rulemaking, provided the activity conforms to the terms of the original exemption approved by EPA.

PART 761—[AMENDED]

2. In part 761

a. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614 and 2616.

b. In §761.30 by adding paragraph (p) to read as follows:

§761.30 Authorizations.

* * * * *

(p) *Analytical reference samples.* PCBs in analytical reference samples derived from waste materials may be used only when the samples originated from a person who has been granted an exemption to process and distribute in commerce such samples under TSCA section 6(e)(3)(B). Once the use of such samples is completed, disposal of such samples is governed by all applicable Federal, State, and local laws, including the rules contained in this part.

c. In §761.80 by adding paragraphs (c)(2) and (m)(7) and by revising paragraphs (h) and (n) to read as follows:

§761.80 Manufacturing, processing and distribution in commerce exemptions.

* * * * *

(c) * * *

(2) ManTech, Research Triangle Park, NC 27709.

* * * * *

(h) The Administrator grants the following petitioners an exemption for 1

year to process and distribute in commerce PCBs for analytical reference samples derived from actual waste materials:

(1) R.T. Corporation, Laramie, WY 82070.

(2) [Reserved]

* * * * *

(m) * * *

(7) Restek Corporation, Bellefonte, PA 16823.

(n) The 1–year exemption granted to petitioners in paragraphs (a) through (c)(1), (d), (f), and (m)(1) through (m)(6) of this section shall be renewed automatically as long as there is no increase in the amount of PCBs to be processed and distributed, imported (manufactured), or exported, nor any change in the manner of processing and distributing, importing (manufacturing), or exporting of PCBs. If there is such a change, a new exemption petition must be submitted to EPA and it will be addressed through an exemption rulemaking. In such a case, the activities granted under the existing exemption may continue until the new petition is addressed by rulemaking, but must conform to the terms of the existing exemption approved by EPA. The 1–year exemption granted to petitioners in paragraphs (c)(2), (h) and (m)(7) of this section may be extended pursuant to 40 CFR 750.11(e) or 750.31(e).

* * * * *

[FR Doc. 94–8465 Filed 4–8–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3180

[WO–610–4111–02–2411–24 1A; Circular No. 2652]

RIN 1004–AB73

Onshore Oil and Gas Unit Agreements: Unproven Areas; Correction.

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors in the final rule amending regulations on onshore oil and gas unit agreements: Unproven areas, published in the Federal Register on November 2, 1993 (58 FR 58630).

EFFECTIVE DATE: December 2, 1993.

ADDRESSES: Inquiries and suggestions should be sent to: Director (610), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, (202) 452–0340, or Wayne Stevens, (916) 978–4735.

SUPPLEMENTARY INFORMATION: The final rule that is the subject of these corrections amended 43 CFR part 3180, Onshore Oil and Gas Unit Agreements: Unproven Areas, to provide compensatory royalty for unleased Federal tracts included within unit participating areas; to clarify the effective date of approval for unit agreements; and to revise the appeal provisions (43 CFR part 3180, subpart 3185) for consistency with the related provisions in the Onshore Oil and Gas Operating Regulations, 43 CFR part 3160.

As published, the final rule contained some errors that are in need of correction. The final rule also contained misleading language in certain provisions relating to compensatory royalty for unleased Federal tracts included in participating areas. These provisions must be clarified to reflect properly the basic intent of the rule.

The following corrections are made in the final rule amending 43 CFR part 3180, Onshore Oil and Gas Unit Agreements: Unproven Areas, which was published on November 2, 1993 (58 FR 58630).

1. On page 58630, middle column, correct the first line of second full paragraph to read "The comments cite *Ptasynski* and".

2. On page 58630, middle column, correct the third line from the bottom to read "the unit operator without compensation".

3. On page 58630, right column, correct the twelfth line from the bottom to read "the rule is consistent with this approach".

§ 3181.5 [Corrected]

4. On page 58632, right column, § 3181.5, remove all after "30 CFR part 206," in line 12 and replace with "provided that no additional royalty shall be due on any production subject to compensatory royalty under this provision."

§ 3186.1 [Corrected]

5. On page 58633, middle column, § 3186.1, section 12 of model unit agreement, correct line 13 from the top to read "the several tracts of unitized land and".

§ 3186.1 [Corrected]

6. On page 58633, middle column, § 3186.1, section 12 of model unit agreement, correct lines 23 and 24 from the top to read "allocated to the working interest owner(s) of each tract of unitized land in said participating".

§ 3186.1 [Corrected]

7. On page 58633, right column, § 3186.1, section 17 of model unit agreement, correct line 2 of paragraph (b) to read "approved under section 11 of this agreement".

§ 3186.1 [Corrected]

8. On page 58633, right column, § 3186.1, section 17 of model unit agreement, correct line 11 of paragraph (b) to read "holding working interests in committed leases within".

§ 3186.1 [Corrected]

9. On page 58633, right column, § 3186.1, section 17 of model unit agreement, correct line 22 of paragraph (b) to read "the committed tracts within the".

§ 3186.1 [Corrected]

10. On page 58633, right column, § 3186.1, section 17 of model unit agreement, correct line 26 of paragraph (b) to read "royalty assessment under section 14".

Dated: March 31, 1994.

Mat Millenbach,

Assistant Secretary of the Interior.

[FR Doc. 94–8446 Filed 4–8–94; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 40, 98, 147, 150, 151, and 153

[CGD 92–100]

RIN 2115–AE35

Bulk Hazardous Materials

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations on carriage of bulk hazardous materials by adding cargoes recently authorized for carriage by the Coast Guard or added to the International Maritime Organization's (IMO) Chemical Codes and by making minor technical and editorial changes and corrections. This action updates the bulk hazardous materials tables and better informs persons shipping a bulk hazardous material of that material's compatibility and special handling requirements.

EFFECTIVE DATES: May 11, 1994.

ADDRESSES: Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406),