Monsanto

MONSANTO INDUSTRIAL CHEMICALS CO.
800 N. Lindbergh Boulevard
St. Louis, Missouri 63166
Phone: (314) 694-1000

January 15, 1974

As your supplier of Aroclor*, Inerteen** and Pyranol***, which your company purchases for dielectric fluid applications, we would like to take this opportunity to share with you the information we have of the Environmental Protection Agency's recent actions relating to PCBs in effluent streams.

1. On July 6, 1973, the EPA published in the Federal Register a proposed list of Toxic Pollutants. PCBs were included on the list.

2. On July 16, July 30, August 1, August 3 and November 29, 1973, public hearings were held by the Effluent Standards and Water Quality Information Advisory Committee to consider information pertinent to proposing effluent standards for toxic pollutants.

3. On September 7, 1973 the Toxic Pollutants list was published without change.

4. On December 27, 1973 the EPA published proposed effluent standards for the Toxic Pollutants. Persons adversely affected by the proposed standards may file, by January 18, 1974, objections according to rules published

*Registered Trademark, Monsanto Company
**Registered Trademark, Westinghouse Corporation
***Registered Trademark, General Electric Company

MCL003009

January 4, 1974. Comments may be submitted in writing within 90 days. A public hearing will commence on January 25, 1974.

Copies of the Federal Register notices which pertain to these actions are attached for your use.

During this period Monsanto has commented both formally and informally to the EPA and to the Advisory Committee. Copies of our comments are attached. In addition, the General Electric Company has submitted comments. Copies of these are also enclosed.

The EPA acknowledges that time limitations established by court order required publication of the proposed standards at this time and that in some cases there may be inadequacies in the underlying data base. Comments and technical data are solicited. Industries involved with PCBs are expected to comment.

We sincerely believe the standard proposed for PCBs is unrealistically low and unwarranted and we are deeply concerned of the adverse effect it will have on the continued use of PCBs with the resulting harmful impact on the power generation and distribution industry at a time when our nation is experiencing a serious energy crisis. We believe that we should all express our concern to the EPA and we strongly urge that your company, either independently or through your trade organizations, submit appropriate comments and participate at the public hearings which will be held in the very near future.

It is our understanding that the January 25th meeting will be a prehearing conference. Any person desiring to testify at subsequent hearings must inform the presiding officer of his intentions at this prehearing conference. Persons adversely affected by the proposed standards who desire to testify should file, by January 18, 1974, objections as outlined in the Federal Register, Vol. 39, No. 3, January 4, 1974; a copy of which is attached.

Correspondence relating to objections and public hearings should be submitted in quadruplicate and filed with the:

Hearing Clerk
U.S. Environmental Protection Agency
Washington, D.C. 20460

Opportunity also exists for submitting comments during the 90-day period ending March 27, 1974 to:

MCL003010

Dr. C. Hugh Thompson
Chairman, Hazardous and Toxic Substances
Regulation Task Force
Office of Water Program Operations
U.S. Environmental Protection Agency
Washington, D.C. 20460

The U.S. Department of Commerce has expressed a strong desire to be of service to industry in this matter and would like to receive copies of correspondence, comments, presentations, etc. This material may be sent to:

Mr. Fred Stein
Office of Environmental Affairs
U.S. Department of Commerce
Room 4424
Main Commerce Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

We plan to keep you further advised of our activities in this matter and hope you can share with us any information your company may have to offer.

Sincerely,

T. L. Gossage
Marketing Director
Specialty Products
Functional Product Groups

cs
Attachments

MCL003011

Dr. Philip E. Schambra, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006 (202/382-6754).

STEVEN D. JELLINEK,
Acting Staff Director.

[FR Doc.73-23752 Filed 11-5-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

Notice of Meeting and Agenda

Notice is hereby given of a meeting of the Effluent Standards and Water Quality Information Advisory Committee established under Section 515 of the Federal Water Pollution Control Act ("the Act") (33 U.S.C. 1374; Public Law 92-500) to be held in Room 1112 (Conference Room), Building #2, Crystal Mall, Arlington, Virginia, November 29, 1973, at 9 a.m. This is a regularly scheduled meeting of the Committee.

The agenda for this meeting includes: Developments on Matrix Method; Proposed Limitations for Industries as Published in the FEDERAL REGISTER; Establishment of Effluent Limitations for Items on Toxic Substances List.

The meeting will be open to the public and under the direction of the Committee Chairman. Any member of the public wishing to attend or participate should contact Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, Environmental Protection Agency, Room 821, Crystal Mall, Bldg. #2, Washington, D.C. 20460 (Tel: 703 557-7390).

Dated: October 30, 1973.

MARTHA SAGER,
Chairman, Effluent Standards & Water Quality Information Advisory Committee.

[FR Doc.73-23513 Filed 11-5-73;8:45 am]

NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Quality Criteria Advisory Committee will be held at 9:00 a.m. on November 16, 1973 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The agenda will include briefings and consultations on (1) the determination and documentation of adverse effects on the public health and welfare of manganese as an atmospheric pollutant; (2) candidate pollutants for review and reports by the National Academy of Sciences; and (3) the EPA Science Advisory Board and the future role of the committee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Ernst Linde, Scientist Administrator, National Environmental Research Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

The telephone number is 919-549-8411, extension 2266.

STANLEY M. GREENFIELD,
Assistant Administrator for Research and Development.

[FR Doc.73-23512 Filed 11-5-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19849 etc.]

BRINDLEE BROADCASTING CO. ET AL.

Application for Construction Permits

In re applications of BRINDLEE BROADCASTING CORPORATION, Arab, Alabama, Requests: 92.7 MHz, #224; 2 kW (H & V); 360 feet, Docket No. 19849, File No. BPH-7961. HELTON & NORRIS ENTERPRISES, INC., Arab Alabama. Requests: 92.7 MHz, #224; 3 kW (H & V); 300 feet, Docket No. 19850, File No. BPH-8054. MARSHALL COUNTY BROADCASTING COMPANY, INC., Arab, Alabama. Requests: 92.7 MHz, #224; 3 kW (H & V); 300 feet, Docket No. 19851, File No. BPH-8224; for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting under delegated authority, has before it the captioned applications which are mutually exclusive in that each of the applicants has requested authority to operate on the same FM broadcast channel allocated to the same community. Accordingly, a comparative hearing must be held.

2. Section 73.210 of our rules provides that the main studio of a commercial FM broadcast station must either be located in the proposed city of license or that good cause must be shown for locating the main studio outside the community. However, the Commission's Report and Order in Docket No. 19028, 27 F.C.C. 2d 851 (1971), states that it is not necessary for the Commission to consider and approve an FM main studio location at an AM main studio site in the case of commonly owned AM and FM stations licensed to serve the same principal community, since prior Commission approval is already required for an AM main studio location outside the community of license other than at the AM transmitter site, and since an AM main studio location at the AM transmitter site is presumed to be consistent with the main studio rules and the public interest. Both Marshall County Broadcasting Company, Inc. (Marshall), and Helton & Norris Enterprises, Inc. (Helton), propose to locate their studio sites outside of the city of Arab. Since Marshall proposes to locate its FM studio at its AM studio site, its proposal is consistent with the rules and the public interest. Helton, which is not an AM licensee, proposes to locate its main studio at its FM transmitter site, four miles northeast of the Arab city limits. However, Helton has submitted a showing that its studio site is only five miles from downtown Arab, in an area which appears to be readily accessible by highway and which has ample parking. We find that Helton's showing in regard to its proposed studio site is adequate and therefore no issue concerning this matter will be specified.

3. The applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, *It is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

5. *It is further ordered*, That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

6. *It is further ordered*, That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: October 29, 1973.

Released October 30, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-23560 Filed 11-5-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8400]

ALABAMA POWER CO.

Notice of Filing of Proposed Service Agreement

OCTOBER 30, 1973.

Take notice that Alabama Power Company by letter dated September 11, 1973, pursuant to Section 35.12 of the Federal Power Commission's Regulations, on September 14, 1973, filed a service agreement dated July 23, 1973, with Clarke-Washington Electric Membership Corporation to cover a new delivery point located in Thomasville in Clarke County, Alabama. Said service is proposed to be rendered pursuant to Alabama Power Company's FPC Rate Schedule REA-1.

Any person desiring to be heard or to protest said filing should file a petition to intervene, or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and proce-

MCL003012

graph (a)(2) of this section and such other pertinent information as may be available, that:

(i) Existing facilities, qualified staff, and other resources available to the applicant during the fiscal year in question, either directly or through affiliation agreements and contractual arrangements, are adequate and appropriate for assisting the Federal Government in such drug abuse treatment and rehabilitation programs as may be available for persons who are in the catchment area, or that the applicant has reasonable prospects for obtaining, during the fiscal year in question, such additional resources as may be necessary for the provision of such assistance; and

(ii) Utilization of the applicant's existing or anticipated resources for assisting the Federal Government in such drug abuse treatment and rehabilitation programs as may be available for residents of the area would not necessitate curtailment of drug abuse treatment and rehabilitation services provided or to be provided directly by the applicant or curtailment of other mental health services provided or to be provided by the applicant.

(3) *Assurance.* Upon a determination that it is feasible for the applicant to assist the Federal Government in treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems in accordance with paragraph (c)(3) of this section the Secretary shall provide a written notification to the applicant which shall briefly state the bases for the Secretary's determination. The notification will be accompanied by a form for providing the required assurance. The applicant shall promptly execute the assurance and return it to the Secretary. The assurance imposes a continuing obligation upon the applicant not to refuse a request from an agency or department of the Federal Government to enter into an agreement under which the applicant's facilities may be used, to the maximum extent practicable, in drug abuse treatment and rehabilitation programs provided by such departments or agencies for persons who are in the catchment area served by the applicant: *Provided, however,* That the Secretary may, upon a written request from the applicant which shall be supported by pertinent information, determine that it is not feasible for the applicant to comply with its assurance in a particular fiscal year or that it is not practicable for the applicant to enter into a specific agreement which has been proposed by a department or agency of the Federal Government.

[FR Doc.73-13739 Filed 7-5-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 129]

WATER POLLUTION PREVENTION AND CONTROL

Proposed List of Toxic Pollutants

Notice is hereby given that the Acting Administrator, Environmental Protection Agency, proposes to establish a list of toxic pollutants in accordance with section 307(a)(1) of the Federal Water Pollution Control Act, as amended, (33 U.S.C.A. section 1317(a)) (Supp. 1973), (the Act) which provides in part:

> The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section.

The proposed list consists of the following pollutants:

LIST OF TOXIC POLLUTANTS

1. Aldrin (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8 - endo-exodimethanonaphthalene) Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo, exo-5,8-dimethanonaphthalene)
2. Benzidine and its salts (para-para'-diaminobiphenyl)
3. Cadmium and all cadmium compounds
4. Cyanide and all cyanide compounds
5. DDD(TDE) 1,1 - dichloro - 2,2 - bis(para-chlorophenyl)-ethane DDE (dichlorodiphenyldichloroethylene) 1,1 - dichloro-2,2-bis (para-chlorophenyl)-ethylene DDT (dichlorodiphenyltrichloroethane) 1,1,1 - trichloro-2,2-bis(para-chlorophenyl)-ethane
6. Endrin (1,2,3,4,10,10 - hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a - octahydro-1,4-endo-endo-5,8-dimethanonaphthalene)
7. Mercury and all mercury compounds
8. Polychlorinated biphenyls (PCB's)
9. Toxaphene (chlorinated camphene).

Evaluation of other water pollutants is continuing and the list will be revised from time to time as data become available and as the Administrator deems appropriate. The pollutants included on this initial list are toxic in very low concentrations. The single exception is the industrial chemical, benzidine, which was included because of its ubiquity and known carcinogenic properties.

The term "toxic pollutant" is defined in section 502(13) of the Act as "those pollutants or combinations of pollutants, including disease causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring." Thus; the definition is broad and potentially applicable to a large number of substances.

From other provisions of the Act, however, it is clear that the Congress intended that the Administrator be selective in determining which of the potentially large number of candidate substances actually should be listed at various times.

These other provisions include section 101(a)(3), which declares that "it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited" and section 307(a)(1), which states, in part, that the Administrator, in publishing the required list of toxic pollutants, "shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms." In addition, as indicated above, section 307(a)(1) provides that the Administrator shall revise the list from time to time.

Furthermore, when section 307(a) is viewed in the context of the Act as a whole, which includes a number of other provisions for preventing and controlling water pollution, it seems apparent that the Administrator's mandate under section 307(a) is to focus on those water pollutants which pose the most serious hazards to man and other organisms inhabiting or consuming water. It is also apparent that the Administrator has a mandate to establish priorities for dealing with such pollutants, i.e., to take action initially with respect to those pollutants which, based on available evidence, appear to pose immediate problems and therefore require abatement more rapidly than can be achieved under other provisions of the Act.

In accordance with this mandate, pollutants chosen for inclusion on the initial list meet the following criteria:

1. There is evidence that, either directly or through transformation or bioaccumulation, they are toxic, as defined by section 502(13), at extremely low concentrations in water, and
2. They are discharged in significant amounts from point sources, and
3. Point source discharges are known to have resulted in incidents involving the types of adverse effects cited in section 502(13), and/or
4. There is a significant potential for the occurrence or recurrence of such incidents as a result of point source discharges, and
5. Standard setting under section 307(a) is necessary because the prospective timing and effectiveness of abatement action under other provisions of the Act are not commensurate with the nature and seriousness of the problems identified by the above criteria, and
6. Adequate data are available to establish an effluent standard meeting the requirements of the Act.

MCL003013

The Environmental Protection Agency invites all interested parties to submit comments on this proposal. Comments shall be submitted in writing, preferably in triplicate, to Dr. C. H. Thompson, Office of Air and Water Programs, Environmental Protection Agency, Washington, D.C. 20460. All relevant comments received on or before August 6, 1973 will be considered. Comments received by the Agency will be available for inspection during normal business hours at the Office of Public Affairs, 401 M Street, S.W., Washington, D.C. 20460. Following consideration of comments, the list will be republished, with any modifications which the Administrator deems appropriate, and will then constitute the list required by section 307(a).

Dated: July 2, 1973.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.73-13870 Filed 7-5-73;10:15 am]

MCL003014

APPENDIX IV

REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN JUNE 1, 1973 AND JUNE 15, 1973

Agency	Title	General Nature of Comments	Source for copies of comments
Interstate Commerce Commission			
I-ICC-330.1-00:	Federal-aid Railroad Act of 1973.	EPA supports the intent of the proposed act. However, EPA is concerned over the exclusion from the act of environmental considerations beyond the general statement expressed under the congressional findings and declaration of purpose in title I.	A

APPENDIX V

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

B. Director of Public Affairs
Region I
Environmental Protection Agency
Room 2303
John F. Kennedy Federal Building
Boston, Massachusetts 02203

C. Director of Public Affairs
Region II
Environmental Protection Agency
Room 647
26 Federal Plaza
New York, New York 10007

D. Director of Public Affairs
Region III
Environmental Protection Agency
Curtis Bldg., 6th and Walnut Streets
Philadelphia, Pennsylvania 19106

E. Director of Public Affairs
Region IV
Environmental Protection Agency
Suite 300
1421 Peachtree Street, N.E.
Atlanta, Georgia 30309

F. Director of Public Affairs
Region V
Environmental Protection Agency
1 N. Wacker Drive
Chicago, Illinois 60606

G. Director of Public Affairs
Region VI
Environmental Protection Agency
1600 Patterson Street
Dallas, Texas 75201

H. Director of Public Affairs
Region VI
Environmental Protection Agency
1735 Baltimore Street
Kansas City, Missouri 64108

I. Director of Public Affairs
Region VIII
Environmental Protection Agency
Lincoln Tower, Room 916
1860 Lincoln Street
Denver, Colorado 80203

J. Director of Public Affairs
Region IX
Environmental Protection Agency
100 California Street
San Francisco, California 94102

K. Director of Public Affairs
Region X
Environmental Protection Agency
1200 6th Avenue
Seattle, Washington 98101

[FR Doc.73-14396 Filed 7-16-73;8:45 am]

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

Agenda and Notice of Public Hearings

Notice is hereby given of three public hearings to be held by the Effluent Standards and Water Quality Information Advisory Committee ("the Committee") established pursuant to section 515 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. section 1251 et seq. ("the Act"). The first hearing will be held on July 30, 1973 at 9:30 a.m. in Room D-23, O'Hare Inn, 6600 N. Mannheim Road, Rosemont, Illinois. The second hearing will be held on August 1, 1973 at 9:30 a.m. in Room 1750, Environmental Protection Agency, 26 Federal Plaza, New York, New York. The third hearing will be held on August 3, 1973 at 9:30 a.m. in Room 218, Environmental Protection Agency, 100 California Street, San Francisco, California. The hearings will be open to the public.

On Friday, July 8, 1973, the Acting Administrator of the Environmental Protection Agency published a proposed list of toxic pollutants in the FEDERAL REGISTER at pages 18644–45 in accordance with section 307(a)(1) of the Act. The proposed list consisted of the following pollutants:

LIST OF TOXIC POLLUTANTS

1. Aldrin (1, 2, 3, 4, 10, 10-hexachloro- 1, 4, 4a, 5, 8, 8a hexahydro- 1, 4, 5, 8 - endo-exodimethanonaphthalene) Dieldrin (1, 2, 3, 4, 10, 10-hexachloro- 6, 7- epoxy-1, 4, 4a, 5, 6, 7, 8, 8a-octahydro-1, 4-endo, exo-5, 8-dimethanonaphthalene)
2. Benzidine and its salts (para-para'-diaminobiphenyl)
3. Cadmium and all cadmium compounds
4. Cyanide and all cyanide compounds
5. DDD(TDE) 1, 1- dichloro-2, 2-bis (para-chlorophenyl)-ethane DDE (dichlorodiphenyldichloroethylene) 1, 1- dichloro-2, 2-bis (para-chlorophenyl)- ethylene DDT (dichlorodiphenyltrichloroethane) 1, 1, 1-trichloro-2, 2-bis (para-chlorophenyl)- ethane
6. Endrin (1, 2, 3, 4, 10, 10-hexachloro-6, 7-epoxy-1, 4, 4a, 5, 6, 7, 8, 8a-octahydro-1, 4-endo-endo-5, 8-dimethanonaphthalene)
7. Mercury and all mercury compounds
8. Polychlorinated biphenyls (PCB's)
9. Toxaphene (chlorinated camphene)

Pollutants chosen for inclusion on this initial list meet the following criteria:

1. There is evidence that, either directly or through transformation or bioaccumulation, they are toxic, as defined by section 502(13), at extremely low concentrations in water, and
2. They are discharged in significant amounts from point sources, and
3. Point source discharges are known to have resulted in incidents involving the types of adverse effects cited in section 502(13), and/or
4. There is a significant potential for the occurrence or recurrence of such incidents as a result of point source discharges, and
5. Standard setting under section 307(a) is necessary because the preventive timing and effectiveness of abatement action under other provisions of the Act are not commensurate with the nature and seriousness of the problems identified by the above criteria, and
6. Adequate data are available to establish an effluent standard meeting the requirements of the Act.

The purpose of the hearings noticed hereby will be to consider such scientific and technical information as is pertinent to the determinations required to be made by the Administrator when proposing effluent standards for toxic pollutants.

The hearings may be adjourned to subsequent dates in order to obtain further information.

Additional information concerning the hearings may be obtained by writing Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, environmental Protection Agency, Room 821, Crystal Mall, Building 2, Washington, D.C. 20460. The hearings will be held pursuant to the direction of the Chairman and in accordance with hearing procedures published in the FEDERAL REGISTER on Wednesday, April 11, 1973, at pages 9173–80. Certain persons or organizations may be invited by the Committee to appear and give oral testimony. Others desiring to appear and give oral testimony should contact the Committee at 703-557-7390 or may request the opportunity to appear by telegraphic notice or letter to Dr. Sager at the address listed above. Due to limitations of time, it may be necessary to limit the number of witnesses who may appear and give oral testimony. Witnesses will ordinarily be limited to 15-minute presentations to be followed by 15-minute periods of questions from the Committee.

Although the opportunity to appear and give oral testimony must necessarily be limited because of the short time available to the Committee to hold public hearings and obtain additional information pursuant to the provisions of section 515 of the Act, all persons desiring to submit written statements or testimony to the Committee are encouraged to do so. Such statements or testimony should clearly indicate the pollutant or pollutants concerned and should be addressed to the "Effluent Standards and Water Quality Information Advisory Committee" at the address listed above.

Statements presented at the hearings or otherwise submitted to the Committee will be available to the public pursuant to section 10(b) of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), subject to the assessment of reasonable reproduction charges. Requests for such information should be directed to Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, Environmental Protection Agency,

MCL003015

Room 821, Crystal Mall, Building 2, Washington, D.C. 20460.

Dated July 11, 1973.

ROBERT L. SANSOM,
Assistant Administrator for Air and Water Programs.

[FR Doc.73-14586 Filed 7-16-73;8:45 am]

HEARING ON COMPLIANCE SCHEDULES FOR THE STATE OF KENTUCKY

Cancellation Notice

The public hearing scheduled for Thursday, July 26, 1973, in Frankfort, Kentucky (38 FR 16187), is hereby cancelled. This hearing was to be held for the purpose of permitting public participation in the development of compliance schedules for certain air pollution sources subject to Kentucky's plan for implementing national ambient air quality standards. Cancellation is necessitated by the recent court decision in "East Kentucky Rural Electric Cooperative Corp., et. al. v. EPA," Case No. 72-1629 (6th Cir., June 28, 1973), and a related case (72-1632) which vacated the Administrator's approval of the Kentucky implementation plan. A hearing on proposed compliance schedules for Kentucky will be held at a future time which will be announced in the FEDERAL REGISTER.

ALAN G. KIRK II,
Acting Assistant Administrator for Enforcement and General Counsel.

JULY 12, 1973.

[FR Doc.73-14602 Filed 7-16-73;8:45 am]

UNIROYAL CHEMICAL

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1408) has been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, CT 06525, proposing establishment of tolerances (40 CFR Part 180) for residues of the plant regulator succinic acid 2,2-dimethyl hydrazide in or on the raw agricultural commodities tomatoes at 40 parts per million and cranberries and pears at 20 parts per million.

The analytical method proposed in the petition for determining residues of the plant regulator is a colorimetric procedure in which the residue is hydrolyzed with 50 percent sodium hydroxide. The resulting unsymmetrical dimethyl hydrazine is distilled and reacted with trisodium pentacyanoamine ferrate to form a specific red color at pH 5. The color is measured spectrophotometrically at 490 and 600 nanometers.

Dated: July 11, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-14580 Filed 7-16-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-7775]

APPALACHIAN POWER CO.

Change in Time

JULY 6, 1973

On July 2, 1973, the attorney for Bedford, et al. requested that the prehearing conference scheduled for July 10, 1973 at 10 a.m. by notice issued June 1, 1973, be changed to the afternoon.

Upon consideration, notice is hereby given that the time for the commencement of the prehearing conference on July 10, 1973 is changed to 2 p.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-14527 Filed 7-16-73;8:45 am]

[Docket No. E-8294]

ARIZONA PUBLIC SERVICE CO.

Notice of Extension of Agreement

JULY 10, 1973.

Take notice that Arizona Public Service Company (Arizona) on June 11, 1973, tendered for filing an extension of Arizona Public Service Company, Rate Schedule FPC No. 10 to an expiration date of July 31, 1974. Arizona states that the extension is necessary to prepare the physical plant necessary to effectuate the agreement contained in the rate schedule. Arizona also says that all parties to the agreement concur in the extension.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before July 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-14538 Filed 7-16-73;8:45 am]

[Docket No. C173-691]

ATLANTIC RICHFIELD CO.

Notice Changing Date and Time of Hearing

JULY 9, 1973.

On July 6, 1973, Atlantic Richfield Company requested that the hearing fixed by the order issued July 2, 1973, be rescheduled. The request states that Transwestern agrees with the request.

Upon consideration, notice is given that the time and date of the hearing in the above matter is changed to July 16, 1973, at 1:30 p.m. in a hearing room of the Federal Power Commission at 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-14539 Filed 7-16-73;8:45 am]

[Docket No. C173-691]

ATLANTIC RICHFIELD CO.

Notice of Application; Correction

MAY 8, 1973.

In the Notice of Application, Issued April 20, 1973 and published in the FEDERAL REGISTER April 26, 1973, 38 FR 10331: Second paragraph, last line: Substitute the number "2,250,000" for the number "75,000."

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-14532 Filed 7-16-73;8:45 am]

[Docket No. C173-697]

C & K PETROLEUM, INC.

Postponement of Hearing

JULY 6, 1973.

On July 6, 1973, Staff Counsel requested that the hearing scheduled for July 9, 1973, by order issued May 29, 1973, in above-designated matter be postponed because of a conflict in the schedule of Administrative Law Judge Litt. The request states that all parties agree to the request.

Upon consideration, notice is hereby given that the date of the hearing is postponed to July 13, 1973, at 10:00 a.m. in a hearing room of the Federal Power Commission at 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-14540 Filed 7-16-73;8:45 am]

[Docket No. E-8057]

COMISION FEDERAL DE ELECTRICIDAD

Application for Permit To Export Electric Energy

JULY 5, 1973.

Take notice that on February 28, 1973, Comision Federal de Electricidad (Applicant) filed with the Federal Power Commission, pursuant to Executive Order No. 10485, dated September 3, 1953, and the Commission's regulations thereunder, an application for a Presidential Permit authorizing the construction, operation, maintenance and connection of certain electric transmission facilities at the international border between the United States and Mexico. The facilities for which authorization is sought include one 3-phase electric power line operating nominally at 138,000 volts, 60 Hertz, and extending across the international border from a point near Laredo, Texas to Nuevo Laredo, Tampico, Mexico. Applicant has indicated to the Commission that the line will be used in the interchange of electric energy with an electric system in Mexico and that any transmission to Mexico will be in accordance with an authorization

MCL003016

graph (c)(14) in § 52.2123, paragraphs (a)(5) and (c)(16) in § 52.2223, paragraph (d)(3) in § 52.2481, paragraph (b)(9)(i)–(iii) in § 52.2524, paragraph (c)(3) in § 52.2753. As revised these paragraphs read as follows:

• • • • •

• • • (i) None of the above subparagraphs shall apply to a source which is presently in compliance with applicable regulations and which has certified such compliance to the Administrator by October 1, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(ii) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

(iii) Any owner or operator subject to a compliance schedule in this paragraph may submit to the Administrator no later than October 1, 1973, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after the final compliance date in the applicable compliance schedule of this paragraph. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

• • • • •

[FR Doc.73-18629 Filed 9-6-73;8:45 am]

SUBCHAPTER D—WATER PROGRAMS

PART 129—TOXIC POLLUTANT EFFLUENT STANDARDS

List of Toxic Pollutants

On July 6, 1973, notice was published in the FEDERAL REGISTER (38 FR 18044) that the Environmental Protection Agency was proposing a list of toxic pollutants pursuant to section 307(a)(1) of the Federal Water Pollution Control Act, as amended (33 U.S.C.A. section 1317(a) Supp 1973), (the Act) which provides in part:

> The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section.

That proposed list included aldrin-dieldrin, benzidine, cadmium, cyanide, DDT (DDE, DDD), endrin, mercury, polychlorinated biphenyls, and toxaphene.

Written comments on the proposed rulemaking were invited and received from interested parties and are on file with the Agency. All comments have been considered by the Environmental Protection Agency and certain ones have been adopted. These and other principal changes are discussed below.

Several comments dealt with the manner in which the inorganic components of the list were specified and argued that certain insoluble or innocuous forms of these substances should not be included in broad categories such as "all cadmium compounds." Effluent standards which must be developed for the listed pollutants will include analytical and sampling procedures which will distinguish between the toxic and innocuous forms of the designated pollutants.

A number of commenters expressed the opinion that the proposed selection criteria were vague and inadequate. It was obvious from the comments received that a great deal of confusion existed as to what materials could potentially be selected as toxic pollutants.

Accordingly, EPA has refined these criteria to make them more specific. These criteria entail two major advantages. First, they will provide for more informed public participation, by identifying the kinds of pollutants which the Agency proposes to examine and the types of data which are sought for each pollutant. Second, dischargers will be placed on notice concerning the class of pollutants which may become subject to standards under Section 307(a).

It is our intent that the process of selecting pollutants for the list of toxic pollutants will be a continuing one; as additional evidence is developed, additional pollutants will be added to the list.

Pollutants were chosen for inclusion on the initial list in light of the following criteria:

1. Data from laboratory or field studies indicate that the pollutant could, if discharged into water, constitute a serious environmental threat. The types of data examined in making this judgment are set forth in Part I below.

2. The pollutant is discharged, or has the potential to be discharged, from point sources and constitutes a very serious environmental threat.

3. Data are available to establish effluent standards meeting the requirements of the Act.

4. Standard setting under Section 307(a) is appropriate, and is necessary because the prospective timing and effectiveness of abatement actions under other provisions of the Act are not commensurate with the nature and seriousness of the problems identified by the above criteria.

I. EXPLANATION OF CRITERIA

The first criterion concerns the actual or potential damage that a water discharge of these materials may create by virtue of certain toxicological properties.

Detailed toxicological data are examined to determine whether one or more of these types of effects are known: bioaccumulation, carcinogenic, mutagenic and teratogenic effects, and high acute toxicity. Specifically, the following types of data are reviewed:

1. Available data concerning whether a substance or its chemical or biological transformation product is bioaccumulated through an aquatic mechanism to the extent that they result in:

(a) Reproductive impairment in any important species, or

(b) Concentrations in food sources in excess of applicable Federally established tolerance levels.

2. Data concerning carcinogenic, mutagenic, and teratogenic effects. Materials likely to be carcinogenic, mutagenic, or teratogenic to man are further evaluated as to their chemical, biological, and physical stability in water.

3. Data concerning high order of toxicity as measured by short-term lethality tests. In this connection a classification of a substance as "highly toxic" to man according to classifications established by the Department of Transportation and the Environmental Protection Agency (36 FR 2934, February 12, 1971, 40 CFR 162.3) and the Environmental Protection Agency and the Food and Drug Administration testing procedures (40 CFR 162.8 and 21 CFR 191.10) is particularly relevant. According to the references cited above, substances which have an oral LD50 of 50 mg/kg of body weight or less or have a dermal LD50 of 200 mg/kg of body

MCL003017

weight of less are defined as highly toxic to mammals and are examined further. The term "oral LD50" means that single oral dose which is lethal to one-half of the test population within 14 days. The term "dermal LD50" means that dose dermally absorbed in 24 hours which is lethal to one-half of the test population within 14 days.

For the protection of aquatic life, substances proposed to be classified as "highly toxic" according to the National Academy of Sciences water pollution ranking system may be considered for inclusion in the list. Such substances are those which are toxic to aquatic life as measured by a 96 hour LC50 of 10 mg/l or less. The term "LC50" means that concentration of a substance in water which is lethal to one-half of the test population in the specified time periods. Testing methods such as those found in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, part 231, 1971, or their equivalent will be considered adequate.

The second criterion concerns the seriousness of discharges or potential discharges of the pollutant from point sources. Relevant here are such factors as the nature and extent of toxic effects associated with the pollutant, the extent to which discharges of the pollutant have been identified, and the production, distribution, and use pattern of the pollutant. Data must be available from well documented field studies showing damage to important organisms from discharges of the compound into waters, or technically sufficient to show the material has the potential to be environmentally harmful after being discharged from point sources to the water.

The third criterion concerns setting effluent standards for pollutants on the list. The following are representative of the categories of data useful in standard setting for each material.

1. Toxicity to man and other organisms;
2. Carcinogenicity, mutagenicity, and teratogenicity data;
3. Transport paths of the material in the environment;
4. Bioaccumulation and bioconcentration;
5. Chemical, physical, and biological transformations in the environment;
6. Reliability and accuracy of analytical procedures;
7. Chemical characteristics;
8. Production and industrial or commercial utilization;
9. Sources of the pollutant to water;
10. Environmental incidents attributable to the material (fish kills, etc.);
11. Presence of the material in the environment, residue levels in various organisms, ambient concentrations in rivers, lakes, etc.;
12. State and Federal regulatory requirements concerning the material;
13. Classes and characteristics of waters into which the material is discharged.

The fourth criterion concerns the overall environmental effect of the control measures available, including the use of substitute products, and possible effects upon ground water or other environmental media.

II. The Pollutants Selected

The emergency standards promulgated by the Department of Labor for occupational carcinogens (38 FR 10929, May 3, 1973), have forced a shift in the manufacture of benzidine from the previous producers to the end users. The resulting potential for increased water pollution by this known carcinogen and the adverse effects on the environment which may result, require the listing of benzidine. Public comments have indicated that the material should be included, and that discharges should be severely controlled. Other public comments indicated that the material does not meet the selection criteria as proposed July 6, 1973. Benzidine does meet the criteria set forth herein. It was also asserted that the DOL standards would protect both the work place and the environment. However, those standards are designed to prevent occupational exposure, not to control discharges into water.

Mercury is on the list because its organic form is known to bioaccumulate to the extent that it poses a threat to the health of man through concentration in food sources, so as to exceed applicable tolerance levels. Control of point source discharges is urgently needed, and available data are sufficient for standard setting. Public comments noted that the discharge of this material should be severely restricted. Some comments were received recommending deletion of the material from the list because of questions of solubility and demethylation of mercury and its compounds. It should be noted, however, that all forms of mercury in the aquatic environment can be methylated to methylmercury, the most hazardous form.

Aldrin-dieldrin are on the list because of their high order of toxicity to aquatic organisms and their bioaccumulative properties. Control is necessary now and there are adequate data to support effluent standards. Some comments indicated that aldrin-dieldrin should be deleted because of possible conflict with on-going cancellation proceedings under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Administrator has an obligation to control toxic pollutants under FWPCA which is independent of his authority under FIFRA. These responsibilities cannot be abdicated. Moreover, it is too early to ascertain the precise determinations which will be required under the FWPCA, and the impact on the FIFRA proceedings. Accordingly, deletion of aldrin-dieldrin is not considered to be warranted at this time.

Cadmium is included on the list because of toxicity to aquatic organisms. From our studies, it was determined that there are several hundred dischargers of cadmium, and controls are urgently needed. Public comment supported the inclusion of this material because of its high order of toxicity to aquatic organisms, potential concentrations in the food web, and its widespread discharge.

Some commenters objected to the inclusion of "Cadmium and all cadmium compounds" on the list because some relatively innocuous forms of the element would be included. The final effluent standards will distinguish among the various forms in which the element may occur.

DDT, DDD, and DDE are on the list because of their acute toxicity to aquatic organisms, and their bioaccumulative properties, which are known to cause harmful effects in higher life forms, such as birds. The data are sufficient for the establishment of effluent standards. Public response in favor of inclusion of DDT, DDD, and DDE noted the existence of much data on the harmful effects of these materials. One commenter stated that DDD degrades rapidly, and does not have many of the effects associated with DDT. It was determined, however, that DDD should also be included because of its toxicity and bioaccumulative properties.

Endrin is highly toxic to aquatic life at low concentrations. Considerable data are available on endrin, and control of point sources is necessary at present. Those public comments that supported its inclusion cited considerable data, and urged stringent control. One commenter alleged that the sole manufacturing facility is under control, and that further restriction is unnecessary and redundant. However, available technical and scientific data support inclusion. Moreover, the manufacturer of the material is not the only point source, since formulators also contribute endrin contaminated wastes to the environment.

Polychlorinated biphenyls are on the list because of their high order of toxicity to man and aquatic organisms, and because of their bioaccumulative potential. The data are adequate, and the point source discharges require prompt control. Public comments indicated that the materials should be included because of their widespread use, and their demonstrated harm to aquatic life. These commenters urged that discharges be as low as possible. No comments were received recommending deletion of polychlorinated biphenyls.

Toxaphene is on the list because of its high order of toxicity to aquatic life. Considerable data are available concerning this compound, and prompt control of known point sources is required. Public comments in support of the material being included cited much of the available toxicity data. Some commenters argued that this material did not meet the selection criteria published in connection with the proposed list of July 6, 1973. Toxaphene does meet the criteria set forth in this notice.

Since toxaphene has infrequently been reported to be present in the environment, some commenters urged its deletion. However, controls are necessary because the material continues to be manufactured, formulated, and distrib-

MCL003018

uted in large quantities. Thus, the potential for harmful discharges is considerable.

Cyanide is on the list because of its high order of toxicity to aquatic life. There are many different types of point source discharges and a variety of receiving bodies of water which must be protected from the discharge of this material. The data are adequate to support effluent standards. The public commenters in favor of inclusion cited data on toxicity to aquatic life in very low concentrations. Those commenters who recommended deletion for the most part objected to inclusion of "all cyanide compounds." It was argued that only compounds which dissociate in water to form toxic concentrations of cyanide ion or hydrogen cyanide should be included. The proposed effluent standards will take these comments into account, and may specify special sampling, analysis, and reporting requirements.

III. The Length of the List

Several commenters recommended that the final list include a larger number of pollutants than were included on the proposed list. In addition, a number of commenters requested shortening the list. Most of the latter recommended removal of specific pollutants; these recommendations have been discussed in the preceding section.

As required by section 515 of the Act, EPA notified the Effluent Standards and Water Quality Information Advisory Committee on June 6, 1973, of our intention to propose effluent standards for toxic pollutants under section 307(a). The Committee held hearings on the proposed list in Washington, D.C. (July 16), Chicago, Ill. (July 30), New York, N.Y. (August 1), and San Francisco, Calif. (August 3). The Committee has agreed to provide scientific and technical information concerning the listed pollutants, but has made no recommendations to date concerning the length of the list.

Pursuant to the consent decree entered into by EPA in the case of *NRDC v. Fri*, Civ. Action No. 849-73 (D.D.C.), EPA must publish proposed standards for all pollutants included on this initial list no later than December 3, 1973.

Additional toxic pollutants lists may be published in the future under section 307(a). The Agency will examine a wide range of pollutants in constituting such lists. Among those which will be examined are the following pollutants which were identified in public comments on the initial list:

arsenic	ortho-chlorophenol
selenium	beta-naphthol
chromium	alpha-naphthol
lead	beryllium
asbestos	nickel
boron	antimony
zinc	heptachlor
chlordane	camphor
lindane	methyl parathion
acridine	parathion
hydroquinone	di-n-butyl phthalate

The Agency will examine other pollutants in addition, including chlorinated hydrocarbons, organophosphates, heavy metals, and materials listed as occupational carcinogens by the Department of Labor (38 FR 10929, May 3, 1973).

Persons interested in assisting the Environmental Protection Agency in setting standards for the pollutants listed in Section IV are invited to submit scientific and technical data, and other information concerning the listed pollutants, to Dr. C. Hugh Thompson, Chairman, Hazardous and Toxic Substance Regulation Task Force, Office of Water Program Operations, Environmental Protection Agency, Washington, D.C. 20460. In particular, the thirteen categories of standard-setting data set forth in Section I above are sought for all pollutants listed in Section IV. The Agency is also interested in obtaining data on technology for waste control treatment and disposal of the pollutants listed in Section IV.

In addition, the Agency will review any data submitted on pollutants proposed to be placed on future lists. The pollutants listed above are merely representative of pollutants identified in public comment which may be candidates for selection. Data on those pollutants, and on other pollutants which may be candidates for selection, should be submitted to the Chairman, Hazardous and Toxic Substance Regulation Task Force, at the address set forth in the preceding paragraph.

Dated August 31, 1973.

JOHN QUARLES,
Acting Administrator.

IV. The List of Toxic Pollutants

Pursuant to section 307(a) of the Federal Water Pollution Control Act, as amended, effluent standards will be established for the pollutants listed below:

1. Aldrin (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8 endo-exodimethanonaphthalene).
   Dieldrin (1,2,3,4,10,10-hexachloro 6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo,exo-5,8-dimethanonaphthalene).
2. Benzidine and its salts (para-para'-diaminobiphenyl).
3. Cadmium and all cadmium compounds.
4. Cyanide and all cyanide compounds.
5. DDD (TDE) (1,1-dichloro-2,2-bis(para-chlorophenyl)-ethane.
   DDE (dichlorodiphenyldichloroethylene) 1,1-dichloro-2,2-bis(para-chlorophenyl) ethylene.
   DDT (dichlorodiphenyltrichloroethane) 1,1,1-trichloro-2,2-bis(para-chlorophenyl) ethane.
6. Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo-endo-5,8-dimethanonaphthalene).
7. Mercury and all mercury compounds.
8. Polychlorinated biphenyls (PCB's).
9. Toxaphene (chlorinated camphene).

[FR Doc.73-19010 Filed 9-6-73;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Special Assistant to the Deputy Assistant Secretary, Employment Standards Administration, is excepted under Schedule C.

Effective on September 7, 1973, § 213.3315(a) (36) is added as set out below.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

* * * * *

(36) One Special Assistant to the Deputy Assistant Secretary, Employment Standards Administration.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-19078 Filed 9-6-73;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Ripe Olives

Addition of Segmented Style

Notice is hereby given that the U.S. Department of Agriculture is amending the United States Standards for Grades of Canned Ripe Olives. The amendment which adds a "Segmented Style" is in accordance with the Agricultural Marketing Act of 1946, as amended, and with 5 U.S.C. 553, which allows an agency to dispense with the Notice of Proposed Rule Making procedures under certain circumstances.

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

Statement of consideration leading to the amendment

There is an increasing market potential for segmented style ripe olives—a style not recognized in the current U.S. grade standards. To permit the marketing of this new style, the rules and regulations (7 CFR 932.100-932.161) of the Marketing Agreement and Order No. 932, as amended (7 CFR, Part 932) regulating the handling of olives grown in California were amended, effective December 12, 1972.

The Olive Administrative Committee, at its July 10, 1973 meeting, voted unanimously to request that the U.S. Standards be amended to provide for the segmented style.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because:

MCL003019

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Mo. 64108.

J. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, room 916, 1860 Lincoln Street, Denver, Colo. 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Wash. 98101.

[FR Doc.73-11992 Filed 6-15-73;8:45 am]

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

Agenda and Notice of Public Hearings

Notice is hereby given of a public hearing to be held by the Effluent Standards and Water Quality Information Advisory Committee ("the Committee") established pursuant to section 515 of the Federal Water Pollution Control Act, as amended, 33 U.S.C.A. section 1251 et seq. ("the Act"). On June 6, 1973, the Acting Administrator of the Environmental Protection Agency notified the Committee of his intention to propose effluent standards for toxic pollutants under section 307(a) of the Act. The statute authorizes the Chairman of the Committee to publish a notice of a public hearing within 10 days after receipt of such notice, and to hold a public hearing within 30 days. The hearing noticed hereby will be held on July 10, 1973, at 10 a.m. in the Old Angus Ballroom, Holiday Inn, Crystal City, Arlington, Va. The hearings will be open to the public. Although final determinations have not yet been made with respect to the pollutants which will constitute the list of toxic pollutants required to be published under section 307(a), the Committee is informed that the following pollutants, among others, are being considered at the staff level for inclusion in the list:

1. Aldrin (1,2,3,4,10,10-hexachloro - 1,4,4a, 5,8,8a-hexahydro-1,4,4,5 - endo - exodimethanonaphthalene).
2. Benzidine and its salts (para-diaminodiphenyl).
3. Cadmium ion.
4. Cyanide ion.
5. DDD (TDE) 1,1-dichloro-2,2-bis(parachlorophenyl)-ethane.
6. DDE (dichlorodiphenyldichloroethylene) 1,1 - trichloro - 2,2 - bis(chlorophenyl)-ethylene.
7. DDT (dichlorodiphenyltrichloroethane) 1,1,1 - trichloro - 2,2 - bis(chlorophenyl)-ethane.
8. Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro - 1,4 - endo, exo-5,8-dimethanonaphthalene.
9. Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a - octahydro - 1,4-endo-endo-5, 8-dimethanonaphthalene.
10. Mercury (including elemental, ionic, and organo mercury).
11. Polychlorinated biphenyls (PCB's).
12. Toxaphene (chlorinated camphene).

The purpose of the hearings noticed hereby will be to initiate consideration of such scientific and technical information as is pertinent to the determinations required to be made by the Administrator when proposing effluent standards for toxic pollutants. It is anticipated that the Administrator may publish a notice setting forth a proposed list of toxic pollutants in the FEDERAL REGISTER prior to July 16. If so, such list and notice will be considered at the hearing noticed herein. If the list has not been proposed by that time, the hearing will be held on the basis of this notice. The hearing may be adjourned to subsequent dates in order to obtain further information.

Additional information concerning the hearing may be obtained by writing Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, Environmental Protection Agency, room 821, Crystal Mall, Building 2, Washington, D.C. 20460. The hearing will be held pursuant to the direction of the Chairman and in accordance with hearing procedures published in the FEDERAL REGISTER on Wednesday, April 11, 1973, at pages 9179–80. Certain persons or organizations may be invited by the Committee to appear and give oral testimony. Others desiring to appear and give oral testimony should contact the Committee at 703–557–7390 or may request the opportunity to appear by telegraphic notice or letter to Dr. Sager at the address listed above. Due to limitations of time, it may be necessary to limit the number of witnesses who may appear and give oral testimony. Witnesses will ordinarily be limited to 15-minute presentations to be followed by 15-minute periods of questions from the Committee.

Although the opportunity to appear and give oral testimony must necessarily be limited due to the limitations of time available to the Committee to hold public hearings and obtain additional information pursuant to the provisions of section 515 of the Act, all persons desiring to submit written statements or testimony to the Committee are encouraged to do so. Such statements or testimony should clearly indicate the pollutant or pollutants concerned and should be addressed to the "Effluent Standards and Water Quality Information Advisory Committee" at the address listed above.

Statements presented at the hearing, or otherwise submitted to the Committee will be available to the public pursuant to section 10(b) of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), subject to the assessment of reasonable reproduction charges. Requests for such information should be directed to Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, Environmental Protection Agency, room 821, Crystal Mall, Building 2, Washington, D.C. 20460.

Dated June 12, 1973.

MARTHA SAGER,
Chairman, Effluent Standards and Water Quality Information Advisory Committee.

[FR Doc.73-12031 Filed 6-15-73;8:45 am]

ETHEPHON

Notice of Extension of Temporary Tolerance

In connection with Pesticide Petition No. 2G1195, Amchem Products, Inc., Ambler, Pa. 19002, was granted temporary tolerances for residues of the plant regulator ethephon ((2-chloroethyl) phosphonic acid) in or on the raw agricultural commodities pineapples and tomatoes at 2 parts per million on April 27, 1972 (notice was published in the FEDERAL REGISTER of Apr. 29, 1972 (37 FR 8706)). These temporary tolerances expired April 27, 1973.

A tolerance was established for residues of ethephon in or on tomatoes at 2 parts per million in connection with Pesticide Petition No. 3F1321, on April 16, 1973 (notice was published in the FEDERAL REGISTER of Apr. 20, 1973 (38 FR 9815)).

The firm has requested a 1-year extension of the temporary tolerance for residues of ethephon in or on pineapples to obtain additional experimental data. It is concluded that this extension of the temporary tolerance for residues of the plant regulator in or on pineapples will protect the public health. It is therefore extended as requested on condition that the plant regulator be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Amchem Products, Inc. name.

This temporary tolerance expires April 27, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated June 5, 1973.

HENRY J. KORP,
Deputy Administrator for Pesticide Programs.

[FR Doc.73-12032 Filed 6-15-73;8:45 am]

PENNWALT CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a(d) (1)), notice is given that a petition (PP 3F1361) has been filed by Pennwalt Corp., P.O. Box 1297, Tacoma, Wash. 98401, proposing establishment of an exemption (40 CFR pt. 180) from the requirement of a tolerance for residues of the cross linked nylon type polymer formed by the reaction of a mixture of sebacoyl chloride and polymethylene polyphenylisocyanate with a mixture of ethylenediamine and diethylenetriamine when used as an inert encapsulating material for formulations of methyl parathion applied to growing alfalfa; corn

MCL003020

federal register

THURSDAY, DECEMBER 27, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 247

PART II



ENVIRONMENTAL PROTECTION AGENCY

■

WATER PROGRAMS

Proposed Toxic Pollutant Effluent Standards

MCL003021

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 129]

WATER PROGRAM

Proposed Toxic Pollutant Effluent Standards

Notice is hereby given that the Environmental Protection Agency, pursuant to the authority contained in section 307(a) of the Federal Water Pollution Control Act (the Act) as amended by the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) proposes a new Part 129, setting forth proposed effluent standards for toxic pollutants included in the list of toxic pollutants required by section 307(a)(1).

Section 307(a)(2) provides as follows:

Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with Section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after the publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

These proposed regulations establish effluent standards for the toxic pollutants listed below:

1. Aldrin (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1,4-endo - exo - 5,8-dimethanonaphthalene).

Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a - octahydro - 1,4-endo-exo-5,8-dimethanonaphthalene).

2. Benzidine and its salts (4,4'-diaminobiphenyl).

3. Cadmium and all cadmium compounds.

4. Cyanide and all cyanide compounds.

5. DDD (TDE) (1,1-dichloro-2,2-bis-(p-chlorophenyl)ethane and some o,p'-isomer).

DDE (1,1-dichloro-2,2-bis(p - chlorophenyl)ethylene).

DDT (1,1,1-trichloro-2,2-bis(p-chlorophenyl)ethane and some o,p'-isomer).

6. Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro - 1,4-endo-endo-5,8-dimethanonaphthalene).

7. Mercury and all mercury compounds.

8. Polychlorinated biphenyls (PCB's) mixtures of chlorinated biphenyl compounds with various percentages of chlorination.

9. Toxaphene (chlorinated camphene).

The criteria and rationale employed to select these pollutants were summarized in the FEDERAL REGISTER Notice of September 7, 1973, vol. 38, No. 173, page 24342.

The following is a summary of the basis and purpose of the effluent standards proposed in this Part: The four basic factors considered in setting the standards were toxicological data, hydrodynamic data, ample margins of safety and calculations of the acute and chronic limitations for the standards. The primary basis for toxicological considerations came from the Water Quality Criteria which were proposed in October (38 FR 29646 et seq., Friday, October 26, 1973). These criteria were based in part on a report by the National Academy of Sciences and the National Academy of Engineering entitled "Water Quality Criteria", 1972 which is currently being published by the Environmental Protection Agency. The toxicity of the pollutants on the list, their persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms, were considered in the establishment of the Water Quality Criteria upon which these standards are based.

Water Quality Criteria published pursuant to section 304(a) of the Act are those concentrations which are acceptable in the receiving water body. The criteria were developed to protect a variety of water uses including industrial, agricultural, recreational, propagation of fish and wildlife, aesthetics and potable water supplies. The protection of fish and wildlife and potable water supplies was the most sensitive of the fresh water usages. In estuarine and marine waters, the protection of fish and wildlife generally yielded the more restrictive recommended limitations. The criteria, as proposed, were designed for both acute and chronic toxicological protection. Since protection against chronic effects requires more stringent criteria, the proposed Water Quality Criteria were devised from data or calculation designed to afford chronic protection.

Because proposed Water Quality Criteria utilize both acute and chronic toxicity data to derive a single acceptable ambient water concentration, it was necessary to utilize the data upon which the criteria were based to calculate proposed standards which provide for protection against both acute and chronic toxicological effects.

To avoid the effects of acute toxicity it was determined that organisms need not necessarily be protected at all times from concentrations exceeding the proposed Water Quality Criteria, since brief exposures to higher concentrations may be tolerated. It may be assumed that most mobile organisms will not remain in the immediate vicinity of the outfall for as long as the usual 96-hour test period. Thus, for protection in the immediate vicinity of the outfall, a concentration of one tenth the 96-hour LC_{50} was determined to provide an ample margin of safety. (The 96-hour LC_{50} is that concentration derived from laboratory tests in which 50% of a group of test organisms survive after 96 hours of continuous-exposure to a pollutant.) In order to achieve a concentration in the vicinity of the outfall which does not exceed the acute threshold, the discharger may either discharge the acute toxicity concentration and provide immediate diffusion through appropriate flow devices or reduce the concentration below the acute threshold.

To avoid the effects of chronic toxicity, an effluent standard is provided which is designed to ensure that, in most cases, the proposed Water Quality Criteria, which are intended to provide protection from chronic effects, are not exceeded over the long term in the receiving waters. This is achieved by limitation of the total weight of the pollutant which can be discharged into receiving waters of given size. To provide an additional margin of safety, the allowable weight discharged per unit of flow was reduced by safety factors designed to compensate, in part, for non-point sources of the pollutant, multiple discharges in a small area, industrial growth, and the difference in water storage times among lakes, estuaries, streams, and coastal waters. The standard for each type of receiving water is expressed as a number which, when multiplied by the rate of receiving water flow, yields the allowable weight of discharge of the pollutant per day from any facility.

These standards are not intended, however, to assure that Water Quality Criteria would be achieved in all receiving waters, since standards sufficiently restrictive to attain water quality criteria in (for example) small streams with extraordinarily large clusters of dischargers, would be overly restrictive for the usual case. These special "worst-case" situations are to be handled by the application of water quality standards through waste load allocations under section 303 of the Act. The resulting allocations may then be used to establish effluent limitations, if necessary, more stringent than the effluent standards set forth herein. Those limitations would then be incorporated into permits issued under section 402 of the Act.

Since there are no proposed Water Quality Criteria for benzidine, a different methodology was required for the derivation of an effluent standard. The methodology employed was designed to determine a level of discharge which would result in an acceptable level of risk exposure to man, the primary affected organism. Effluent standards for benzidine were derived by the extrapolation of laboratory test animal data using conservative statistical methods, and are based upon a calculated level of risk of less than one case of tumor induction per million people exposed over an entire generation to drinking water from supplies derived from waters contaminated with the maximum permitted concentration of benzidine. It is recognized that certain inadequacies exist in the available data on which the benzidine standard is based. Therefore, it is reasonable to assume that these standards could be revised in the future. The Environmental

MCL003022

Protection Agency is initiating research to gather appropriate oral dose-response data, improve analytical sensitivity, and establish monitoring procedures.

Pursuant to paragraph 3 of Section 307 (a), any effluent standard promulgated under this section will be reviewed and, if appropriate, revised at least every three (3) years.

The standards for protection from chronic effects are applicable to the total of all discharges from any given facility. Thus, multiple outfalls from a single facility will not affect the total weight of any pollutant permitted to be discharged.

As required by section 307(a) of the Act, the proposed standards set forth herein designate specifically the categories of sources to which they will be applicable. Based on available data from permit applications and other information submitted under the National Pollutant Discharge Elimination System, the categories initially selected to be subject to these standards appear to represent the major dischargers of the listed pollutants. In addition to such data, total environmental damage potential was considered in evaluating sources of discharge.

The attached standards are not based upon economic considerations or upon the availability of treatment technology. However, the impact of the standards upon the economy has been examined and does not appear to be great.

Time limitations established by court order, [*NRDC* vs *Fri*, Civ. Action #843-73 (D.D.C.)], have required publication of these standards at this time, even though it is acknowledged that there may in some cases be inadequacies in the underlying data base. Public comment and technical data are solicited to assist in strengthening the standards. Changes made in these standards will be reflected in the final Water Quality Criteria under section 304(a) of the Act.

The effluent standards set forth in proposed form herein, will, if promulgated, apply to all the designated categories of point sources after their effective date. The applicability of these standards is not affected by the issuance of, or submission of an application for a discharge permit under the National Pollutant Discharge Elimination System (NPDES) established by section 402 of the Act. EPA's NPDES regulations (40 CFR Part 125, 38 FR 13528 et seq., Tuesday, May 22, 1973), provide at § 125.22(a)(6) that if a toxic effluent standard or prohibition is established under section 307(a) of the Act for a toxic pollutant which is present in a permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the permit must be modified in accordance with the toxic pollutant standards or prohibitions and the discharger so notified. Although this provision requires that notice be given to permittees of the new toxic pollutant effluent standard and will eliminate inconsistencies between permit conditions and toxic effluent standards, the applicability of the toxic pollutant standard does not depend upon its incorporation into permit conditions.

Section 402(k) of the Act provides that compliance with the terms of an NPDES permit constitutes compliance generally with the requirements of Title III of the Act, except for a standard under section 307 for a toxic pollutant injurious to human health. Thus, such standards will be enforceable against all dischargers designated as subject to such standards. Such standards will be applicable against dischargers holding valid permits and in compliance with such permits, and against dischargers who have applied for permits, but whose applications have not been acted upon. At present, publicly owned treatment works are not designated as a source category for toxic pollutant effluent standards. Review of data which are pertinent to the appropriateness of designating these facilities for control under section 307(a) has not been completed. In the interim, it is noted that controls through programs such as water quality standards, industrial pretreatment and non-point source controls provide the necessary protection.

Prior to adoption of the proposed standards, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing within 90 days after publication to Dr. C. Hugh Thompson, Chairman, Hazardous and Toxic Substance Regulation Task Force, Office of Water Program Operations, Environmental Protection Agency, Washington, D.C. 20460.

A public hearing to consider the proposed effluent standards will be held commencing January 25, 1974, at 9 a.m., at Jefferson Hall, U.S. Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D.C. Persons adversely affected by the proposed standards may file, not later than January 18, 1974 unless justifiable cause for delay can be shown, objections to the proposed standards. Such objections shall be filed in accordance with 40 CFR Part 104, which is being published contemporaneously with these proposed standards.

The Agency also expects to hold technical symposia on the proposed standards in several locations throughout the country. At these symposia EPA personnel will exchange views with interested members of the public on standards-setting methodology for toxic pollutants, and will discuss data needs for setting such standards. It should be emphasized that these symposia are not intended to duplicate the public hearing described above. Section 307(a) requires that any modifications in the proposed standards must be justified on the record of the public hearing. Thus, the hearing will serve as the exclusive forum for consideration of modifications in the proposed standards.

Dated: December 14, 1973.

JOHN QUARLES,
Acting Administrator.

Chapter I of Title 40, Code of Federal Regulations, is amended by adding a new Part 129, as follows:

Subpart A—General

Sec.
129.01 Applicability.
129.01a Definitions.
129.01b Abbreviations.
129.01c Compliance.
129.01d Effective Date.

Subpart B—Effluent Standard for Aldrin-Dieldrin
129.02 Applicability.
129.02a Definitions.
129.02b Determination of weights and concentrations.
129.02c Effluent standard for Aldrin-Dieldrin.

Subpart C—Effluent Standard for Benzidine
129.03 Applicability.
129.03a Definitions.
129.03b Determination of weights and concentrations.
129.03c Effluent standard for Benzidine.

Subpart D—Effluent Standard for Cadmium
129.04 Applicability.
129.04a Definitions.
129.04b Determination of weights and concentrations.
129.04c Effluent standard for Cadmium.

Subpart E—Effluent Standard for Cyanide
129.05 Applicability.
129.05a Definitions.
129.05b Determination of weights and concentrations.
129.05c Effluent standard for Cyanide.

Subpart F—Effluent Standard for DDT
129.06 Applicability.
129.06a Definitions.
129.06b Determination of weights and concentrations.
129.06c Effluent standard for DDT.

Subpart G—Effluent Standard for Endrin
129.07 Applicability.
129.07a Definitions.
129.07b Determination of weights and concentrations.
129.07c Effluent standard for Endrin.

Subpart H—Effluent Standard for Mercury
129.08 Applicability.
129.08a Definitions.
129.08b Determination of weights and concentrations.
129.08c Effluent standard for Mercury.

Subpart I—Effluent Standard for Polychlorinated Biphenyls (PCB's)
129.09 Applicability.
129.09a Definitions.
129.09b Determination of weights and concentrations.
129.09c Effluent standard for PCB's.

Subpart J—Effluent Standard for Toxaphene
129.10 Applicability.
129.10a Definitions.
129.10b Determination of weights and concentrations.
129.10c Effluent standard for Toxaphene.

AUTHORITY: Sec. 2, 86 Stat. 816.

Subpart A—General

§ 129.01 Applicability.

The provisions of the following subparts apply to owners or operators of specified facilities constituting point sources discharging into navigable waters.

MCL003023

§ 129.01a Definitions.

All terms not derived herein shall have the meaning given them in the Act. As used in this part, the term:

(a) "Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C.A. section 1317 Supp. 1972, Pub. L. 92-500).

(b) "Administrator" shall mean the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under section 307(a) of the Act, or any person who shall by operation of law be authorized to carry out such functions.

(c) "Effluent standard" means any effluent standard, which may include a prohibition of any discharge, established or proposed to be established for any toxic pollutant under section 307(a) of the Act.

(d) "No discharge" means no detectable discharge as determined by analytical methods as set forth in 40 CFR Part 136.

(e) "NPDES permit" means a permit for the discharge of pollutants into navigable waters under the National Pollutant Discharge Elimination System established by section 402 of the Act and 40 CFR Parts 124 and 125.

(f) "Working day" means the hours during a calendar day in which a facility discharges effluents subject to this part.

(g) The term "navigable waters" includes:

(1) All navigable waters of the United States;

(2) Tributaries of navigable waters of the United States;

(3) Interstate waters;

(4) Intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes;

(5) Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce;

(6) Intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce.

(h) "Low flow" means the probable low rate of flow occurring during a period of seven consecutive days, once in ten years.

(i) "Stream" means any water body having a flow gradient from an upper elevation to a lower elevation, or any body of water except an estuary, including still or impounded water, in which water is retained for less than 60 days.

(j) "Lakes and impoundments" means all bodies of water in which the flow velocity is impeded by a natural or man-made barrier in such a way that water is stored for 60 days or more. Provided that this term shall not include impoundments, sumps, retention ponds or similar structures constructed for the storage, retention or disposal of toxic effluents.

(k) "Coastal waters" means those waters of the open sea lying seaward of the baseline from which the territorial sea is measured under the Convention of the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(l) "Estuary" means any water body between the baseline from which the territorial sea is measured and the landward limit of tidal influence.

(m) "Tidal range" means the measured difference between high and low tide during a normal tidal cycle.

(n) "Daily composite sample" means a combination of at least five individual samples obtained at approximately equal time intervals during the working day.

(o) "Agricultural fertilizer manufacturing" means the manufacture of nitrogenous and phosphatic basic fertilizers, mixed fertilizers and other agricultural chemicals including:

Ammonia liquor.
Ammonium nitrate and sulfate.
Ammonium phosphate.
Anhydrous ammonia.
Aqua ammonia, made in ammonia plants.
Calcium meta-phosphate.
Compost.
Defluorinated phosphate.
Diammonium phosphate.
Fertilizer, mixed; made in plants not manufacturing fertilizer materials.
Fertilizers, mixed; made in plants producing phosphatic fertilizer materials.
Fertilizers, natural (organic), except compost.
Nitric acid.
Nitrogen solutions (fertilizer).
Phosphoric acid.
Plant foods, mixed; made in plants producing nitrogenous fertilizer.
Plant foods, mixed; made in plants producing phosphatic fertilizer.
Potting soil, mixed.
Superphosphates, ammoniated and not ammoniated.
Urea.

(p) "Alkalies and chlorine manufacturing" means the manufacturing of:

Alkalies.
Chlorine, compressed or liquified.
Potassium carbonate.
Potassium hydroxide (caustic potash).
Sodium bicarbonate.
Sodium carbonate (soda ash) (sal soda).
Sodium hydroxide (caustic soda).

(q) "Bituminous coal and lignite mining" means bituminous coal and lignite production or developing bituminous coal or lignite mines, including underground mining, auger mining, strip mining, or culm bank mining. Both mining operations and preparation at cleaning plants and washeries are included, whether or not such operations are performed in conjunction with the mines served.

(r) "Capacitor manufacturing" means the manufacture of industrial or commercial capacitors (fixed and variable) or electronic capacitors.

(s) "Cyclic organic chemical manufacturing" means the manufacturing of coal tar crudes and cyclic organic intermediate dyes, color lakes and toners.

(t) "Electroplating" means the electroplating of metals and formed products.

(u) "Facility employing polychlorinated biphenyls in process or products" means any facility using PCB's in plasticizers for paints, inks, copying paper, adhesives or sealants, in pattern waxes for investment casting, or in industrial fluids for heat transfer, hydraulic fluid, vacuum pump oils or cutting oils.

(v) "Ferrous metal production" means the smelting and refining of ferrous metals from ore, pig, or scrap; in the rolling, drawing, and alloying of ferrous metals; the manufacture of castings and other basic products of ferrous metals; the manufacture of nails, spikes, and insulated wire and cable; and the production of coke.

(w) "Hospitals" means establishments which are primarily engaged in providing diagnostic services and extensive medical treatment including surgical services and other hospital services, as well as continuous nursing services.

(x) "Industrial inorganic chemicals manufacturing" means the manufacture of basic industrial inorganic chemicals, excluding manufacture of alkalies and chlorine, industrial gases, inorganic pigments, agricultural pesticides, medicinal chemicals, drugs and medicines, and soaps and cosmetics. This definition includes the manufacture of any of the following chemicals:

Aluminum compounds.
Ammonium compounds, except for fertilizer.
Barium compounds.
Bauxite, refined.
Beryllium oxide.
Boron compounds.
Bromine, elemental.
Caesium metal.
Calcium compounds.
Calcium metal.
Carbon, activated.
Cerium salts.
Chlorosulfonic acid.
Chromium compounds, inorganic.
Cobalt chloride.
Cobalt sulfate.
Copper chloride.
Copper iodide.
Copper oxide.
Copper sulfate.
Cyanides
Ferric chloride.
Fluorine, elemental.
Hydrochloric acid.
Hydrocyanic acid.
Hydrofluoric acid.
Hydrogen peroxide.
Hydrogen sulfide.
Indium chloride.
Iodine.
Iron sulfate.
Lead oxide.
Lead silicate.
Lithium compounds.
Lithium metals.
Magnesium compound, inorganic.
Manganese dioxide.
Mercury.
Mercury compounds.
Nickel compounds, inorganic.
Perchloric acid.
Phosphorus.
Phosphorus oxychloride.
Potassium compounds.
Rubidium.
Scandium.
Silica gel.
Silicofluorides.
Silver compounds, inorganic.
Sodium compounds, inorganic.
Strontium carbonate.
Strontium nitrate.
Strontium oxide.
Sulfur.
Sulfur chloride.
Sulfur dioxide.

MCL003024

Sulfur hexafluoride.
Sulfuric acid.
Thiocyanates, inorganic.
Tin compounds, inorganic.
Zinc chloride.

(y) "Industrial organic chemicals manufacturing" means the manufacture of:

(1) Non-cyclic organic chemicals such as acetic, chloroacetic, adipic, formic, oxalic and tartaric acids and their metallic salts;

(2) Solvents such as amyl, butyl, and ethyl alcohols; methanol; amyl, butyl and ethyl acetates; ethyl ether, ethylene glycol ether and diethylene glycol ether; acetone, carbon disulfide and chlorinated solvents such as carbon tetrachloride, perchloroethylene and trichloroethylene;

(3) Polyhydric alcohols such as ethylene-glycol, sorbitol, pentaerythritol, synthetic glycerin;

(4) Synthetic perfume and flavoring materials such as coumarin, methyl salicylate, saccharin, citral, citronellal, synthetic vanillin;

(5) Rubber processing chemicals such as accelerators and anti-oxidants, both cyclic and acyclic;

(6) Plasticizers, both cyclic and acyclic, such as esters of phosphoric acid, phthalic anhydride, adipic acid, oleic acid, lauric acid, sebacic acid, and stearic acid;

(7) Synthetic tanning agents such as naphthalene sulfonic acid condensates;

(8) Chemical warfare gases; and

(9) Esters and amines of polyhydric alcohols and fatty and other acids.

(z) "Laboratories" means any of the following:

(1) Medical laboratories primarily engaged in providing professional analytic or diagnostic services to the medical profession or to the patient on prescription of a physician.

(2) Dental laboratories primarily engaged in making dentures and artificial teeth or order for the dental profession.

(3) Commercial testing laboratories primarily engaged in product testing.

(4) Research and development laboratories engaged in laboratory or other physical research and development.

(aa) "Lumber and wood products manufacturing" includes any of the following, but does not include the manufacture of furniture:

(1) Logging camps engaged in cutting timber and pulpwood; merchant sawmills, lath mills, shingle mills, cooperage stock mills, planing mills, and plywood mills and veneer mills engaged in producing lumber and wood basic materials;

(2) Manufacturing of finished articles made entirely or mainly of wood or wood substitutes.

(bb) "Metal mining" means mining, developing mines, or exploring for metallic minerals (ores). This classification includes all ore dressing and beneficiating operations, although performed at mills, operated in conjunction with the mines served or at mills such as custom mills, operated separately.

(cc) "Non-ferrous metal smelting and refining" means the smelting and refining of non-ferrous metals from ore, pig, or scrap; the rolling, drawing and alloying of non-ferrous metals; and the manufacture of nails, spikes, and insulated wire and cable.

(dd) "Oil and gas extraction" means:

(1) Production of crude petroleum and natural gas, including operating oil and gas fields; exploration for crude petroleum and natural gas, drilling, completing, and equipping wells; operation of separators, emulsion breakers, desilting equipment; and all other activities in the preparation of oil and gas up to the point of shipment from the producing property.

(2) Production of natural gasoline and cyclic condensate, including production of liquid hydrocarbons from oil and gas field gases.

(ee) "Paper and allied products production" means the manufacture of pulps from wood and other cellulose fibers, and from rags; the manufacture of paper and paperboard; and the manufacture of paper and paperboard into converted products such as paper coated off the paper machine, paper bags, paper boxes, and envelopes.

(ff) "Pesticide formulating" means the formulation or preparation of insecticides, fungicides, and herbicides, from technical chemicals or from concentrates. Activities involving the production of the concentrates which require further processing before use are not included in this definition.

(gg) "Pesticide manufacturing" means the manufacture of insecticides, fungicides, and herbicides from technical chemicals including the production of concentrates which require further processing before use.

(hh) "Petroleum refining" means the production of gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants and other products from crude petroleum and its fractionation products, through straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes.

(ii) "Photo finishing laboratory" means an establishment engaged in developing films or motion picture films and in making photographic prints and enlargements for the trade or for the general public.

(jj) "Storage or primary battery manufacturing" means the manufacture of storage batteries or primary batteries, dry or wet.

(kk) "Textile manufacturing" means the manufacture or processing of natural or synthetic fibers by any of the following operations, singly or in combination:

(1) Preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage;

(2) Manufacture of broad woven fabric, narrow woven fabric, knit fabric, and carpets and rugs from yarn;

(3) Dyeing and finishing fiber, yarn, fabric and knit apparel;

(4) Coating, waterproofing, or otherwise treating fabric;

(5) Integrated manufacture of knit apparel and other finished articles from yarn; and

(6) Manufacture of felt goods, lace goods, nonwoven fabrics, and miscellaneous textiles.

(ll) "Transformer manufacturing" means the manufacture of power, distribution, instrument and specialty transformers or radio frequency or voice transformers.

§ 129.01b Abbreviations.

The abbreviations used in this part have the following meanings:

lb—pound (or pounds).
cfs—cubic feet per second.
m^3/s—cubic meters per second.
ft^3—cubic feet.
m^3—cubic meters.
ug/l—micrograms per liter.

§ 129.01c Compliance.

(a) Compliance with effluent standards set forth herein shall be determined using the test methods identified in 40 CFR Part 136 (38 FR 28758 et seq., October 16, 1973). The sample volume requirements for the determination of organochlorine pesticides are increased to the range of 500–1000 ml in order to achieve a level of sensitivity below the lowest critical acute limit. This is feasible for samples where the interference from undesirable co-extractives can be tolerated. Where a discharger subject to any effluent standard under this Part is required to obtain an NPDES permit, such permit shall contain conditions requiring such sampling, monitoring, and reporting as are necessary to assure compliance with this part.

(b) For the purpose of determining compliance with these standards, background amounts or concentrations of any pollutant subject to these standards in intake waters for a discharger shall not be included in measurement of the amount or concentration of such pollutant discharged.

(c) Computation of flow: For the purposes of this subpart, receiving water flow rates shall be determined as follows:

(1) *Streams.* The low flow of the stream shall be measured at the outfall or at the nearest upstream monitoring point.

(2) *Lakes and impoundments.* The low flow of lakes and impoundments shall be measured at the outlet. When more than one outlet exists, the low flow shall be the cumulative low flows for all outlets.

(3) *Estuaries.* The low flow of an estuary shall be the low flow of the tributary entering the estuary. When more than one tributary exists, the low flow shall be the cumulative low flows of all tributaries entering the estuary above the point of discharge.

(4) *Coastal waters.* The low flow of coastal waters shall be that volume of water in the immediate vicinity of the outfall which is influenced by the tidal range during the normal tidal cycle.

§ 129.01d Effective date.

The effluent standards set forth herein shall be effective one year after promulgation.

Subpart B—Effluent Standard for Aldrin-Dieldrin

§ 129.02 Applicability.

The provisions of this subpart apply to aldrin or dieldrin pesticides manufacturing and formulating facilities constituting a point source discharging into navigable waters.

MCL003025

§ 129.02a Definitions.

As used in this subpart, the term:

(a) "Aldrin" means the compound aldrin as identified by the chemical name, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1,4-endo-oxo-5,8-dimethanonaphthalene.

(b) "Dieldrin" means the compound dieldrin as identified by the chemical name 1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo-exo-5,8-dimethanonaphthalene.

§ 129.02b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight or concentration of both aldrin and dieldrin, excluding any associated element or compound.

§ 129.02c Effluent standard for Aldrin-Dieldrin.

The effluent discharge of any facility subject to the provisions of this part shall meet the following conditions:

(a) Into streams, lakes, or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes, or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average aldrin-dieldrin concentration shall not exceed:

(i) 0.5 $\mu g/l$ for discharges into fresh water bodies (5.5 $\mu g/l$ for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 diffusion is assured; or

(ii) One-tenth the concentration set forth in paragraph (b)(1)(i) of this section for discharges into fresh water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentration permitted to be discharged under paragraph (b)(1)(ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b)(1)(ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b)(1)(i) of this section.

(3) The total daily weight of aldrin-dieldrin discharged into a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.000259 times the receiving water body flow in m^3/sec give kg/day or 0.0000162 times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 0.0735 kg/day or 0.162 pounds/day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.000216 times the receiving water body flow in m^3/sec to give kg/day or 0.0000135 times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 0.061 kg/day or 0.135 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.00242 times the receiving water body flow in m^3/sec to give kg/day or 0.000151 times the receiving water body flow in cfs to give pounds/day, provoded that no facility shall discharge in excess of 0.686 kg/day or 1.512 pounds/day regardless of receiving water flow.

(iv) Coastal water from any facility subject to this subpart shall not exceed 0.00286 times the receiving water body flow in m^3/sec to give kg/day or 0.000178 times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 0.808 kg/day or 1.782 pounds/day regardless of receiving water flow.

Subpart C—Effluent Standard for Benzidine

§ 129.03 Applicability.

The provisions of this subpart applies to any benzidine manufacturing plants, cyclic organic chemical manufacturing plants, textile mills, hospitals, or laboratories constituting a point source discharging into navigable waters.

§ 129.03a Definitions.

As used in this subpart, the term Benzidine means the compound benzidine and its salts as identified by the chemical name 4,4'-diaminobiphenyl.

§ 129.03b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight or concentration of benzidine and its salts, excluding any associated element or compound.

§ 120.03c Effluent standard for Benzidine.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes, or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no opportunity provided for the discharge of the pollutants covered by this part.

(b) Into streams, lakes, or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average benzidine concentration shall not exceed

(i) 1.8 $\mu g/l$ for discharges into fresh water bodies (1.8 $\mu g/l$ for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 diffusion is assured; or

(ii) One-tenth the concentration given in (b)(1)(i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) The total daily weight of benzidine discharged into a stream, lake, estuary, or coastal water from any facility subject to this subpart shall not exceed 0.0018 times the receiving water body flow in m^3/sec to give kg/day or 0.0001 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.44 kg/day or 0.97 pounds/day regardless of receiving water flow.

(3) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b)(1)(ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b)(1)(ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration required by paragraph (b)(1)(i) of this section.

Subpart D—Effluent Standard for Cadmium

§ 129.04 Applicability.

The provisions of this subpart apply to any ferrous metal production, nonferrous metal smelting and refining, petroleum refining, oil and gas extraction, industrial inorganic chemicals, industrial organic chemicals, bituminous coal and lignite mining, alkalies and chlorine, storage or primary battery, electroplating, metal mining, or agricultural fertilizer manufacturing facility constituting a point source discharging into navigable waters.

§ 129.04a Definitions.

As used in this subpart, the term:

(a) Cadmium means the element cadmium and all compounds of cadmium. Where weights are specified, such weights apply only to total cadmium excluding the weight of any associated elements or compounds.

(b) Cadmium means the element cadmium and all compounds of cadmium Where concentrations are specified; such concentrations apply only to total dissolved cadmium.

§ 129.04b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight of cadmium and to the total dissolved concentration of cadmium, excluding any associated element or compound.

§ 129.04c Effluent standard for Cadmium.

The effluent discharge of any facility subject to provision of this part shall meet the following conditions:

(a) Into streams, lakes, or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes, or estuaries with a low flow greater than 0.283 cubic

MCL003026

meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters

(i) The daily average cadmium concentration shall not exceed

(i) 40 μg/l for discharges into fresh water bodies (320 μg/l for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 dilution is assured; or

(ii) One-tenth the concentration set forth in paragraph (b)(1)(i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b)(1)(ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b)(1)(ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b)(1)(i) of this section.

(3) The total daily weight of cadmium discharged into a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.0206 times the receiving water body flow in m³/sec to give kg/day or 0.00130 times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 5.88 kg/day or 12.98 pounds/day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.0173 times the receiving water body flow in m³/sec to give kg/day or 0.00108 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 4.90 kg/day or 10.8 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.139 times the receiving water body flow in m³/sec to give kg/day or 0.00804 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 39.2 kg/day or 86.4 pounds/day regardless of receiving water flow.

(iv) Coastal water from any facility subject to this subpart shall not exceed 0.164 times the receiving water body flow in m³/sec to give kg/day or 0.01026 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 46.5 kg/day or 102.6 pounds/day regardless of receiving water flow.

Subpart E—Effluent Standard for Cyanide

§ 129.05 Applicability.

The provisions of this subpart apply to any petroleum refining, ferrous metal production, industrial organic chemicals, electroplating, non-ferrous metal smelting and refining, metal mining or photo finishing laboratory facility constituting a point source discharging into navigable waters.

§ 129.05a Definitions.

Cyanide means any cyanide compound that will produce free cyanide ion or molecular hydrogen cyanide (HCN) in the effluent. The recommended analytical method should detect only simple cyanides after all interferences have been eliminated or their effects minimized by appropriate removal techniques.

§ 129.05b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight or concentration of cyanide, excluding any associated element or compound.

§ 129.05c Effluent standard for cyanide.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes, or estuaries with a flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes, or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average cyanide concentration shall not exceed:

(i) 100 μg/l for discharges into fresh water bodies (100 μg/l for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 dilution is assured; or

(ii) One-tenth the concentration set forth in paragraph (b)(1)(i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b)(1)(ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b)(1)(ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b)(1)(i) of this section.

Subpart F—Effluent Standard for DDT

§ 129.06 Applicability.

The provisions of this subpart apply to any DDT manufacturing or formulating facility constituting a point source discharging into navigable waters.

§ 129.06a Definitions.

As used in this subpart, the term: DDT means the compounds of DDT, DDD, and DDE as identified by the chemical names (DDT) 1,1,1-trichloro-2,2-bis(p-chlorophenyl) ethane and o,p'-isomer, (DDD) (TDE) 1,1 - dichloro - 2,2 - bis(p-chlorophenyl) ethane and o,p'-isomer, (DDE) 1,1 - dichloro - 2,2 - bis(p-chlorophenyl) ethylene.

§ 129.06b Determination of weight and concentrations.

The standards set forth in this subpart shall apply to the total combined weight or concentration of DDT, DDD, and DDE, excluding any associated element or compound.

§ 129.06c Effluent standard for DDT.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes, or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes, or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average DDT concentration shall not exceed:

(i) 0.2 μg/l for discharges into fresh water bodies (0.8 μg/l for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 diffusion is assured; or

(ii) One-tenth the concentration set forth in paragraph (b)(1)(i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b)(1)(ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b)(1)(ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b)(1)(i) of this section.

(3) The total daily weight of DDT discharged into a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.000102 times the receiving water body flow in m³/sec. to give kg/day or 0.00000648 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0294 kg/day or 0.0648 pounds day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.0000866 times the receiving water body flow in m³/sec. to give kg/day or 0.00000540 times the receiving body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0245 kg/day or 0.054 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.000260 times the receiving water body flow in

MCL003027

m^3/sec. to give kg/day or 0.0000162 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0734 kg/day or 0.162 pounds/day regardless of receiving water flow.

(D) Coastal water from any facility subject to this subpart shall not exceed 0.000311 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000194 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.088 kg/day or 0.194 pounds/day regardless of receiving water flow.

Subpart G—Effluent Standard for Endrin

§ 129.07 Applicability.

The provisions of this subpart apply to any endrin manufacturing or formulating facility constituting a point source discharging into navigable waters.

§ 129.07a Definitions.

As used in this subpart:

(a) Endrin means the compound endrin as identified by the chemical name 1,2,3,4,10,10 - hexachloro - 6,7 - epoxy - 1,4,4a,5,6,7,8a - octahydro - 1,4 - endo - endo-5,8-dimethanonaphthalene.

(b) In amendment of 40 CFR Part 136; the limit of detection for endrine is 0.1 µg/l if based on a 1000 ml sample.

§ 129.07b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight or concentrations of endrin, excluding any associated element or compound.

§ 129.07c Effluent standard for endrin.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into costal waters.

(1) The daily average endrin concentration shall not exceed:

(i) 0.2 µg/l for discharges into fresh water bodies (0.6 µg/l for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 diffusion is assured; or

(ii) One-tenth the concentration set forth in paragraph (b) (1) (i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b) (1) (ii) of this section, *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b) (1) (ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b) (1) (i) of this section.

(3) The total daily weight of endrin discharged in a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.000102 times the receiving water body flow in m^3/sec. to give kg/day or 0.00000648 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0294 kg/day or 0.0648 pounds/day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.0000866 times the receiving water body flow in m^3/sec. to give kg/day or 0.00000549 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0245 kg/day or .054 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.000280 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000162 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0734 kg/day or 0.162 pounds/day regardless of receiving water flow.

(iv) Coastal water from any facility subject to this subpart shall not exceed 0.000311 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000194 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.088 kg/day or 0.194 pounds/day regardless of receiving water flow.

Subpart H—Effluent Standard for Mercury

§ 129.08 Applicability.

The provisions of this subpart apply to any paper and allied product, oil and gas extraction, industrial organic chemical, industrial inorganic chemical, alkalies and chlorine, ferrous metal production, non-ferrous metal smelting and refining, lumber and wood products except furniture, bituminous coal and lignite mining, storage or primary battery manufacturing, or metal mining facility constituting a point source discharging into navigable water.

§ 129.08a Definitions.

As used in this subpart, the term:

(a) Mercury means the element mercury and all compounds of mercury. Where weights are specified, such weights apply only to total mercury excluding the weight of any associated elements or compounds.

(b) Mercury means the element mercury and all compounds of mercury. Where concentrations are specified, such concentrations apply only to total dissolved mercury.

§ 129.08b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight of mercury and to the total dissolved concentration of mercury, excluding any associated element or compound.

§ 129.08c Effluent standard for mercury.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average mercury concentration shall not exceed

(i) 20 µg/l for discharges into fresh water bodies (100 µg/l for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 diffusion is assured; or

(ii) one-tenth the concentration set forth in paragraph (b) (1) (i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b) (1) (ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b) (1) (ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b) (1) (i) of this section.

(3) The total daily weight of mercury discharged into a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.00260 times the receiving water body flow in m^3/sec. to give kg/day or 0.000162 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.735 kg/day or 1.62 pounds/day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.00216 times the receiving water body flow in m^3/sec. to give kg/day or 0.000135 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.612 kg/day or 1.35 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.0431 times the receiving water body flow in m^3/sec. to give kg/day or 0.0027 times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 12.2 kg/day or 27.0 pounds/day regardless of receiving water flow.

(iv) Coastal water from any facility subject to this subpart shall not exceed 0.0519 times the receiving water body flow in m^3/sec. to give kg/day or 0.0032

MCL003028

times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 14.7 kg/day or 32.4 pounds/day regardless of receiving water flow.

Subpart I—Effluent Standards for Polychlorinated Biphenyls (PCB's)

§ 129.09 Applicability.

The provisions of this subpart apply to any polychlorinated biphenyl manufacturing, recovering and regenerating facility; pesticide manufacturing and capacitor manufacturing facility; any manufacturing facility, formulating facility, or facilities which use polychlorinated biphenyls in processes or products, constituting a point source discharging into navigable waters.

§ 129.09a Definitions.

As used in this subpart, the term: Polychlorinated biphenyls (PCB's) means materials containing the biphenyl group which have been chlorinated to varying degrees. There are 210 possible different PCB compounds.

§ 129.09b Determination of weights and concentrations.

The standards set forth in this subpart shall apply to the total combined weight or concentration of PCB's, excluding any associated element or compound.

§ 129.09c Effluent standard for PCB's.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average PCB concentration shall not exceed:

(i) 280 $\mu g/l$ for discharges into fresh water bodies (10 $\mu g/l$ for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 dilution is assured; or

(ii) One-tenth the concentration set forth in paragraph (b) (1) (i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under (b) (1) (ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b) (1) (ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b) (1) (i) of this section.

(3) The total daily weight of PCB's discharged into a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.000104 times the receiving water body flow in m^3/sec. to give kg/day or 0.00000648 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0294 kg/day or 0.0648 pounds/day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.0000865 times the receiving water body flow in m^3/sec. to give kg/day or 0.00000540 times the receiving body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.0245 kg/day or 0.0540 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.000735 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000459 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.208 kg/day or 0.459 pounds/day regardless of receiving water flow.

(iv) Coastal water from any facility subject to this subpart shall not exceed 0.000883 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000551 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.250 kg/day or 0.551 pounds/day regardless of receiving water flow.

Subpart J—Effluent Standard for Toxaphene

§ 129.10 Applicability.

The provisions of this subpart apply to any toxaphene manufacturing or formulating facility constituting a point source discharging into navigable waters.

§ 129.10a Definitions.

As used in this subpart, the term: Toxaphene means a material consisting of technical grade chlorinated camphene with the approximate formula of $C_{10}H_{10}Cl_8$ containing 67–69% chlorine and which is normally a mixture.

§ 129.10b Determination of weights and concentrations.

The standards set forth in the subpart shall apply to the total combined weight or concentration of toxaphene, excluding any associated element or compound.

§ 129.10c Effluent standard for toxaphene.

The effluent discharge of any facility subject to provisions of this part shall meet the following conditions:

(a) Into streams, lakes or estuaries with a low flow of less than or equal to 0.283 cubic meters per second (10 cfs) or into lakes with an area of less than or equal to 202 hectares (500 acres), there shall be no discharge of the listed pollutants.

(b) Into streams, lakes or estuaries with a low flow greater than 0.283 cubic meters per second (10 cfs) or into lakes with an area of greater than 202 hectares (500 acres) or into coastal waters.

(1) The daily average toxaphene concentration shall not exceed:

(i) 1.0 $\mu g/l$ for discharges into fresh water bodies (1.0 $\mu g/l$ for discharges into salt water bodies) which have a low flow greater than or equal to 10 times the waste stream flow with the provision that an immediate 1:10 diffusion is assured; or

(ii) One-tenth the concentration set forth in paragraph (b) (1) (i) of this section for discharges into water bodies which have a low flow less than 10 times the waste stream flow.

(2) An NPDES permit may authorize an increase in the concentrations permitted to be discharged under paragraph (b) (1) (ii) of this section: *Provided*, That the discharger demonstrates that immediate diffusion of the discharge to concentrations specified in paragraph (b) (1) (ii) of this section will occur: *And provided further*, That no such permit shall authorize any discharge in a concentration exceeding the concentration set forth in paragraph (b) (1) (i) of this section.

(3) The total daily weight of toxaphene discharged into a/an:

(i) Stream from any facility subject to this subpart shall not exceed 0.000519 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000324 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.147 kg/day or 0.324 pounds/day regardless of receiving water flow.

(ii) Lake from any facility subject to this subpart shall not exceed 0.000431 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000270 times the receiving water body flow in cfs to give pounds/day, provided that no facility shall discharge in excess of 0.122 kg/day or 0.270 pounds/day regardless of receiving water flow.

(iii) Estuary from any facility subject to this subpart shall not exceed 0.000431 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000270 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.122 kg/day or 0.270 pounds/day regardless of receiving water flow.

(iv) Coastal water from any facility subject to this subpart shall not exceed 0.000519 times the receiving water body flow in m^3/sec. to give kg/day or 0.0000324 times the receiving water body flow in cfs to give pounds/day: *Provided*, That no facility shall discharge in excess of 0.147 kg/day or 0.324 pounds/day regardless of receiving water flow.

[FR Doc.73-26018 Filed 12-26-73;8:45 am]

MCL003029

the requirements of § 51.4 of this chapter.

(m) In any area covered by a parking management plan approved under paragraph (1) of this section, no action to expand the number of spaces at parking facilities may be taken that is not explicitly provided for in the plan without a permit issued in accordance with the requirements of paragraphs (d) through (k) of this section.

[FR Doc.74-199 Filed 1-3-74;8:45 am]

SUBCHAPTER D—WATER PROGRAMS

PART 104—PUBLIC HEARINGS ON EFFLUENT STANDARDS FOR TOXIC POLLUTANTS

Pursuant to the authority of section 307(a) of the Federal Water Pollution Control Act, as amended (the Act) (Pub. L. 92-500, 86 Stat. 816), notice is hereby given that the Environmental Protection Agency has adopted a new Part 104, Title 40, Code of Federal Regulations, establishing rules of practice applicable to public hearings in connection with the establishment of effluent standards for toxic pollutants.

Section 307(a)(3) of the Act requires that, whenever the Administrator publishes a proposed effluent standard for a toxic pollutant, "he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated."

These rules set forth procedures for the required formal rulemaking hearings. Under the statute, modifications in proposed standards must be justified by a preponderance of evidence on the record. Thus, the procedures set forth below are intended to assure the production of a full and complete record.

Because these requirements constitute "rules of agency procedure or practice", notice and public procedure hereon are not required by 5 U.S.C. section 553. The regulations set forth below are hereby adopted, effective January 4, 1974.

Dated: December 27, 1973.

JOHN R. QUARLES, Jr.
Deputy Administrator.

Chapter I of Title 40, Code of Federal Regulations, is amended by adding a new Part 104, as follows:

Sec.
104.1 Applicability.
104.2 Definitions.
104.3 Notice of Hearing.
104.4 Statement of Basis and Purpose.
104.5 Docket.
104.6 Objections to Proposed Effluent Standard.
104.7 Designation of Presiding Officer.
104.8 Powers of Presiding Officer.
104.9 Preliminary Conferences.
104.10 Admission of Evidence.
104.11 Hearing Procedures.
104.12 Written Arguments.
104.13 Certification of Record.
104.14 Tentative or Recommended Decision.
104.15 Decision of Administrator.
104.16 Ex Parte Discussions.
104.17 Filing and Time.

AUTHORITY: Sections 501 and 307(a) of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816).

§ 104.1 Applicability.

This Part shall be applicable to hearings held in connection with the establishment of toxic pollutant effluent standards under section 307(a) of the Act.

§ 104.2 Definitions.

As used in this part, the term:

(a) "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. section 1251 *et seq.*, Pub. L. 92-500, 86 Stat. 816.

(b) "Administrator" means the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may by order delegate his authority to carry out his functions under section 307(a) of the Act, or any person who shall by operation of law be authorized to carry out such functions.

(c) "Hearing clerk" means the Hearing Clerk, U.S. Environmental Protection Agency, Washington, D.C. 20460.

(d) "Party" means the staff of the Environmental Protection Agency, and any person who files an objection pursuant to § 104.6 hereof, or the authorized representative of any such person.

(e) "Person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(f) "Effluent standard" means any effluent standard, which may include a prohibition of any discharge, established or proposed to be established for any toxic pollutant under section 307(a) of the Act.

(g) "Presiding officer" means the person designated by the Administrator to preside at a hearing under this part.

§ 104.3 Notice of hearing.

Whenever the Administrator publishes any proposed effluent standard, he shall simultaneously publish a notice of a public hearing to be held within thirty days following the date of publication of such proposed standard. The notice shall set forth a date prior to which any party may file objections to the proposed effluent standard in accordance with § 104.6 hereof.

§ 104.4 Statement of basis and purpose.

Whenever the Administrator publishes a proposed effluent standard, he shall make available to any interested person a statement of the basis and purpose of such standard. Such statement shall be set forth in its entirety or summarized in the preamble to the notice of proposed rulemaking for the effluent standard, and shall include:

(a) An explanation of how the proposed standard was derived, including any assumptions or calculations necessary for its derivation;

(b) Scientific and technical data and studies supporting the proposed standard; and

(c) Such other information as is necessary to fully set forth the basis and purpose of the standard.

§ 104.5 Docket.

Whenever the Administrator publishes a notice of hearing under this Part, the hearing clerk shall promptly establish a docket for the hearing, which shall contain the complete record of the hearing. The docket shall include all objections filed by any party, a verbatim transcript of the hearing, the statement of basis and purpose required by § 104.4 hereof, any public comments received pursuant to the notice setting forth the proposed effluent standards, and such other documents or exhibits as may be received in evidence by the presiding officer. Any documents in the docket shall be available to any person at actual cost of duplication.

§ 104.6 Objections to Proposed Effluent Standard.

Objections will be received for filing only if they comply with all the following provisions:

(a) Objections shall be received by the Hearing Clerk only if postmarked on or before the date set forth in the notice of hearing under § 104.3 hereof: *Provided*, That if the presiding officer finds that reasonable cause existed for the failure of an objector to file an objection prior to such date, he may authorize the objection to be filed subsequently thereto;

(b) Each objection to a proposed effluent standard shall be separately numbered;

(c) Objections must state with particularity the provisions of the proposed standard to which objection is taken, and must identify the specific modifications sought;

(d) Objections must be supported by reasonable grounds which, if true, are adequate to justify the specific modifications sought. If the objection alleges that the Administrator should not have relied on certain information, data, or expert opinion in setting an effluent standard, the objection shall specify precisely what information, data, or opinion should not have been relied upon, and the reasons therefor. If an objection alleges that a standard should be modified because of economic impact or considerations relating to feasibility or cost of treatment, such objection shall specify the relevance of such factors to determinations required to be made under section 307(a) of the Act.

The presiding officer shall promptly notify any person whose objection is not accepted for filing for any of the reasons set forth in this section, stating the reasons for such refusal. The objector may within seven days after receipt of such notification make a written reply.

MCL003030

§ 101.7 Designation of presiding officer.

The Administrator may preside personally at any hearing under this Part, or he may designate a presiding officer for the hearing. No person who has any personal pecuniary interest in the outcome of a proceeding under this Part shall serve as presiding officer in such proceeding.

§ 101.8 Powers of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing within the time constraints imposed by section 307 (a) of the Act. He shall take all necessary action to avoid delay and to maintain order. He shall have all powers necessary to these ends, including but not limited to the power to:

(a) Rule upon motions and requests;

(b) Change the time and place of the hearing, and adjourn the hearing from time to time or from place to place;

(c) Examine and cross-examine witnesses and receive evidence;

(d) Admit or exclude evidence;

(e) Hear oral argument on the facts or the law;

(f) Require any part or all of the evidence to be submitted in writing.

§ 101.9 Prehearing conferences.

The presiding officer on his own motion, or on the motion of any party or his representative, may direct all parties or their representatives to appear at a specified time and place for a conference for:

(a) The simplification of the issues;

(b) The possibility of obtaining stipulations, admission of facts, and documents;

(c) The possibility of limitation of the number of witnesses;

(d) The identification, and if practicable, the scheduling of witnesses to be called;

(e) If appropriate, the advance submission at the prehearing conference by any party of all documentary evidence to be marked for identification. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts thereof, adequately identified, and shall supply copies of such excerpts together with the original document to the presiding officer for examination and study by all other parties and for use by opposing counsel.

(f) Such other matters as may aid in the expeditious disposition of the proceeding.

§ 101.10 Admission of evidence.

(a) Where a prehearing conference has been held, and the presiding officer has directed identification of witnesses and production of documentary evidence at such conference, the presiding officer may exclude any such evidence, or refuse to allow any witnesses to testify, where such witnesses were not identified or such documents submitted at the prehearing conference. Such evidence or testimony may be permitted, however, upon a showing satisfactory to the presiding officer that good cause existed for failure to produce them at the prehearing conference. The presiding officer may, following a prehearing conference, issue an order setting forth the agreements reached by the parties or representatives, the schedule of witnesses, and a statement of issues for the hearing. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(b) The authenticity of all published or official documents included in the statement of basis and purpose or submitted at the prehearing conference shall be deemed admitted unless written objection thereto is filed with the presiding officer upon notice to the other parties within a time period which shall be specified by the presiding officer.

(c) The presiding officer shall, insofar as practicable, exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(d) If relevant and material evidence is contained in a report or document containing immaterial or irrelevant matter, such immaterial or irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the presiding officer.

(e) Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief statement or affidavit, or an exhibit, it shall be inserted into the transcript *in toto*. In such event, it shall be considered a part of the transcript if the Administrator decides that the presiding officer's ruling in excluding the evidence was erroneous. The presiding officer shall not allow the insertion of such evidence *in toto* if the taking of such evidence will consume a considerable length of time at the hearing. But if the Administrator rules that such evidence should have been admitted, the hearing shall be reopened for that purpose.

(f) Affidavits may be admitted as evidence upon a showing of their relevancy, materiality, and competency. All parties may be permitted to examine all affidavits that are filed and to file counter affidavits within a period of time set by the presiding officer.

(g) Where affidavits or other documents are admitted without cross-examination of the affiant or maker, or where cross-examination is limited for any purpose by the presiding officer, the Administrator shall consider the extent to which an opportunity for cross-examination was provided in determining the weight to be accorded to evidence appearing in the record.

§ 101.11 Hearing procedures.

(a) *Burden of proof.* The burden of proof, and of going forward to present an affirmative case, shall be upon any party seeking to show that a modification of the proposed standard is justified. The presiding officer shall establish the order in which such parties shall be heard.

(b) *Limitation on oral testimony.* Where necessary in order to prevent undue prolongation of the hearing, or to comply with time limitations set forth in the Act, the presiding officer may limit the number of witnesses who may testify, and the scope and extent of cross-examination. Where necessary, corroborative or cumulative evidence may also be so limited.

(c) *Transcript.* A verbatim transcript of the hearing procedure shall be maintained, and shall constitute a part of the record.

(d) *Objections to admission of evidence.* If a party objects to the admission or rejection of any evidence or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection. If the objection is overruled by the presiding officer, an automatic exception will follow. The transcript shall not include argument or debate on an objection except as ordered by the presiding officer. The ruling of the presiding officer on any objection shall be a part of the record. No interlocutory appeal may be taken from any ruling of the presiding officer.

(e) *Waiver of objections to effluent standard.* Any party may at any time withdraw his objections to a proposed effluent standard. Any party who, after timely notice thereof, fails to appear at a hearing under this Part shall be deemed to have waived his objections.

§ 101.12 Written arguments.

The presiding officer shall announce at the hearing a reasonable period of time within which any party may file with the hearing clerk proposed findings and conclusions, and written arguments or briefs, based upon the record, citing, where applicable, the page or pages of the transcript or otherwise identifying the specific evidence in the record which is relied upon. If the party filing a brief seeks consideration by the Administrator of objections made by such party to any ruling of the presiding officer, he shall include in the brief a concise statement concerning each such objection, referring, where practicable, to the pertinent pages of the transcript.

§ 101.13 Certification of record.

The presiding officer shall notify the hearing clerk of the close of a hearing as soon as possible thereafter and of the time for filing written arguments, briefs, and proposed findings of fact and concomitant modifications in the proposed effluent standard. As soon as possible after the hearing, the presiding officer shall transmit to the hearing clerk the transcript of the testimony and any exhibits not already included in the docket. The presiding officer shall attach to the original transcript of testimony his certificate stating that, to the best of his knowledge and belief, the transcript is a true transcript of the testimony given at the hearing except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits so introduced at the hearing with such exceptions as he shall specify. At the end of the time period announced by the pre-

MCL003031

siding officer under § 104.13, the record shall promptly be transmitted to the Administrator for decision, including all documents filed in the docket, all motions and requests filed with the hearing clerk and rulings thereon; the certified transcript; and any proposed findings and conclusion of, written arguments or briefs which have been filed.

§ 104.14 Tentative or recommended decision.

(a) As soon as practicable following the termination of the period allowed for the filing of written arguments or briefs and proposed findings and conclusions, the Administrator shall file a tentative decision with the hearing clerk, or he shall designate a responsible employee of the Environmental Protection Agency to prepare a recommended decision.

(b) The tentative or recommended decision shall include a brief explanation of the material issues of fact, law, or discretion presented on the record, and proposed findings and conclusions with respect to such issues and the reasons or basis therefor. The tentative or recommended decision shall also include a ruling on each proposed finding or conclusion submitted by an objector, but need not include a ruling on any objection to a ruling of the presiding officer, except for any such ruling which is reversed by the Administrator.

(c) Upon the filing of the tentative or recommended decision, the Administrator shall give notice thereof, and opportunity to file exceptions thereto by publication in the FEDERAL REGISTER. Within a period of time specified in such notice any interested person may file with the hearing clerk exceptions to the tentative or recommended decision, and a brief in support of such exceptions, setting forth references to the basis in the record for the exceptions, and any proposed changes in the tentative or recommended decision.

(d) Submission to Administrator: Upon the expiration of the period allowed for filing exceptions, the hearing clerk shall transmit to the Administrator any exceptions to the tentative or recommended decision which have been filed, with any briefs filed in support thereof.

(e) The procedures set forth in paragraphs (a) through (d) of this section may be omitted where the Administrator finds that due and timely execution of his functions, including compliance with time limitations established by law, imperatively and unavoidably so requires.

§ 104.15 Decision of Administrator.

After due consideration of the record, including exceptions and briefs filed under § 104.14, if any, the Administrator shall determine whether a modification of the proposed effluent standard is justified based upon a preponderance of evidence adduced at the hearing. If he determines that a modification is justified, he shall immediately promulgate a revised effluent standard.

§ 104.16 Ex parte discussions.

At no stage of a hearing under this Part shall the Administrator or the presiding officer consult with any person or party on a fact at issue: *Provided*, That the Administrator or the presiding officer may discuss facts at issue with any such person or party if all parties have been given reasonable notice and an opportunity to be present.

§ 104.17 Filing and time.

(a) All documents or papers required or authorized by the foregoing provisions of this Part shall be filed in quadruplicate. Any document or paper so required or authorized to be filed with the hearing clerk shall, during the course of the hearing, be filed with the presiding officer. A copy of each document or paper filed by any party with the presiding officer shall be provided to all other parties.

(b) Any document or paper required or authorized to be filed by this Part shall be deemed to be filed when postmarked, or in the case of papers delivered other than by mail, when received by the hearing clerk.

(c) Sundays and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That when such time expires on a Sunday or legal holiday, such period shall be extended to include the next following business day.

[FR Doc.74-198 Filed 1-3-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE

PART 5A-12—LABOR

PART 5A-16—PROCUREMENT FORMS

General Services Administration; Labor Practices

This amendment of the General Services Administration Procurement Regulations (1) adds procedures applicable to the award and reporting of contracts subject to the Walsh-Healey Public Contracts Act and (2) adds procedures for carrying out the General Services Administration Equal Employment Opportunity Program. The amendment provides that the GSA Office of Civil Rights is responsible for the GSA Equal Employment Opportunity Program and indicates the duties and responsibilities of various officials and organizational units associated with the program. In addition, the amendment implements the requirements of the Secretary of Labor (41 CFR 60-3) pertaining to employee testing and other selection procedures.

Chapter 5A is amended to add new Part 5A-12, as follows:

Subpart 5A-12.6—Walsh-Healey Public Contracts Act

Sec. 5A-12.604 Responsibilities of contracting officers.

Subpart 5A-12.8—Equal Opportunity in Employment

5A-12.800 Scope of subpart.
5A-12.803 Basic requirements.
5A-12.803-2 Equal Opportunity clause.
5A-12.803-9 Notice to bidders regarding preaward equal opportunity compliance reviews.
5A-12.803-50 Equal opportunity representation.
5A-12.804 Exemptions.
5A-12.804-1 General.
5A-12.804-2 Specific contracts.
5A-12.804-3 Facilities not connected with contracts.
5A-12.805 Administration.
5A-12.805-1 Duties of agencies.
5A-12.805-4 Reports and other required information.
5A-12.805-5 Compliance reviews.
5A-12.805-6 Complaints.
5A-12.805-9 Sanctions and penalties.
5A-12.805-50 Ability to comply with the Equal Opportunity clause.
5A-12.805-51 Equal opportunity considerations.
5A-12.805-52 [Reserved].
5A-12.805-53 Compliance agency.
5A-12.805-54 Furnishing information to contractors.
5A-12.807 Hearings.
5A-12.807-1 General.
5A-12.807-2 Informal hearings.
5A-12.807-3 Formal hearings.
5A-12.810 Affirmative action compliance programs.
5A-12.812 Rulings and interpretations.
5A-12.850 Validation of employment tests.
5A-12-850-1 General.
5A-12.850-2 Evidence of validity.
5A-12.850-3 Minimum standards for validation.
5A-12.850-4 Employment agencies and State employment services.
5A-12.850-5 Use of validity studies.
5A-12.850-6 Assumptions of validity.
5A-12.850-7 Continued use of tests.
5A-12.850-8 Other selection techniques.
5A-12.850-9 Compliance reviews.

Subpart 5A-12.6—Walsh-Healey Public Contracts Act

§ 5A-12.604 Responsibilities of contracting officers.

(a) *Notification to contractors.* Contracting officers shall furnish contractors with copies of Department of Labor W H Publication 1313, Notice to Employees Working on Government Contracts (illustrated at § 5A-16.954-1313) when awarding a contract subject to the Walsh-Healey Public Contracts Act. In addition, Form PC-16, Minimum Wage Determinations under the Walsh-Healey Public Contracts Act (copies available from Department of Labor) has been prepared by the Department of Labor to enable a contractor to ascertain the minimum wage determinations applicable to a particular contract. The Department of Labor will issue amendments to Form PC-16 as new determinations become effective. Copies of both W H Publication 1313 and PC-16 should be supplied for each of the contractor's establishments performing on contracts subject to the Walsh-Healey Public Contracts Act.

(b) *Reporting contract awards to Department of Labor.* The original and 1 copy of Standard Form 99, Notice of Award of Contract (illustrated at § 5A-16.901-99), shall be forwarded to the Department of Labor, Employment Standards Administration, Wage and Hour Division, Washington, DC 20210. A copy shall be retained in the procurement file. Detailed instructions for preparing

MCL003032