potential adverse noise impact from aircraft-based sightseeing overflights.

**EFFECTIVE DATE:** February 11, 1997.

**FOR FURTHER INFORMATION CONTACT:** Neil Saunders (202–267–8783).

Correction of Publication

In the rule document (FR Doc. 97–435) on page 1192 in the issue of Wednesday, January 8, 1997, Amendment numbers were inserted incorrectly in the docket line of the heading. Please make the following corrections: On page 1192, column 1, in the heading, the docket line in brackets is corrected to read as set forth above.

Issued in Washington, DC on February 11, 1997.

Donald P. Byrne,

*Assistant Chief Counsel.*

[FR Doc. 97–4210 Filed 2–19–97; 8:45 am]

**BILLING CODE 4910–13–M**

## COMMODITY FUTURES TRADING COMMISSION

## 17 CFR Part 1

## Alternative Method of Compliance With the Written Record Requirements

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Advisory; alternative method of compliance.

**SUMMARY:** The Commodity Futures Trading Commission (''Commission'') is issuing advice concerning compliance with the ''written'' record requirements of Commission Regulation 1.35 (17 CFR 1.35) for customer orders which are prepared and transmitted to and reported from exchange trading pits by electronic order-routing systems and for customer orders prepared by electronic off-floor order management systems (referred to collectively as ''electronic order-routing systems''). The ''written'' record requirements of Commission Regulation 1.35(a–1)(1), (a–1)(2)(i), (a–1)(4), and/or (d) will be deemed satisfied, subject to the terms and conditions set forth in this Advisory, to the extent that such a system generates electronic rather than ''written'' records. The electronic record of a customer order generated through an electronic order-routing system must include any modification made to the order, including any change or correction, as well as the time the modification is recorded in the system. The system also must maintain an accurate record of when and by whom records are accessed or modified. In addition, such a system must capture all order-related times required under these Commission Regulation 1.35 subsections to the highest level of precision achievable by the operating system. In this regard, such a captured time must be accurate at least to the second. The time captured must not use a clock that can be modified by the person entering the order. All electronic records of customer orders created by an electronic order-routing system must be maintained in accordance with the record retention requirements of Commission Regulation 1.31.

**FOR FURTHER INFORMATION CONTACT:** Kimberly A. Browning, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5490.

**SUPPLEMENTARY INFORMATION:**

I. Introduction

The Commission is hereby issuing guidance concerning alternative compliance with the ''written'' record requirements of certain Commission Regulation 1.35 subsections which call for the preparation of ''written'' records of customer orders. Specifically, Regulation 1.35(a–1)(1) requires that a futures commission merchant (''FCM'') and introducing broker (''IB''), immediately upon receiving a customer's or option customer's order, prepare a written record of such order, including the account identification, order number, and a timestamp indicating the date and time, to the nearest minute, the order is received.[1] Similarly, Regulation 1.35(a–1)(2)(i) provides that each member of a contract market who receives a customer order on an exchange floor that is not in the form of a written record immediately upon receipt of such order prepare and timestamp a written record of the order.[2] For all such orders, Regulation 1.35(a–1)(4) requires an exit timestamp indicating the date and time of the report of execution.[3] Regulation 1.35(d) provides that a contract market member who executes a trade must prepare a trading card or other record showing the fill information for the customer purchase or sale order.[4]

The Commission is issuing this Advisory to facilitate further the implementation and use of electronic order-routing systems, including both proprietary and exchange systems, in U.S. futures markets. This action constitutes the latest in a series of steps taken by the Commission to encourage the futures industry to realize the business and regulatory benefits of such systems. Recently, to advance the public dialogue on improving the efficiency of exchange and proprietary order-routing systems and to discuss potential practicability issues related to audit trail standards,[5] the Commission convened a public Roundtable in Chicago, Illinois on October 16, 1996. At that forum, market users, financial market experts,

[1] Commission Regulation 1.35(a–1)(1) states that:

Each futures commission merchant and each introducing broker receiving a customer's or option customer's order shall immediately upon receipt thereof prepare a written record of such order, including the account identification and order number, and shall record thereon, by time-stamp or other timing device, the date and time to the nearest minute, the order is received, and in addition, for [an] option customer's order, the time, to the nearest minute, the order is transmitted for execution.

[2] Commission Regulation 1.35(a–1)(2)(i) states that:

Each member of a contract market who on the floor of such contract market receives a customer's or option customer's order which in not in the form of a written record including the account identification, order number, and the date and time, to the nearest minute, such order was transmitted or received on the floor of such contract market, shall immediately upon receipt thereof prepare a written record of such order in non-erasable ink, including the account identification and order number and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received.

[3] Commission Regulation 1.35(a–1)(4) states that:

Each member of a contract market reporting the execution from the floor of the contract market of a customer's or option customer's order or the order of another member of such contract market received in accordance with paragraphs (a–1)(2)(i) * * * of this section, shall record on a written record of such order, including the account identification and order number, by time-stamp or other timing device, the date and time to the nearest minute such report of execution is made. Each member of a contract market shall submit the written records of customer orders or orders from other contract market members to contract market personnel or to the clearing member responsible for the collection of orders prepared pursuant to this paragraph as required by contract market rules adopted in accordance with paragraph (j)(1) of this section. The execution price and other information reported on such order tickets must be written in non-erasable ink.

[4] Commission Regulation 1.35(d) states, among other things, that:

Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery or commodity option on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or other record showing such purchases and sales. Such trading card or record shall show the member's name, name of the clearing member, transaction date, time, quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call and strike price. Such trading cards or other record shall also clearly identify the opposite floor broker or floor trader with whom the transaction was executed, and the opposite clearing member.

[5] Section 5a(b)(3) of the Futures Trading Practices Act of 1992 (''FTPA'') sets forth various heightened audit trail requirements which are subject to a ''practicability'' standard.

exchange officials and academics met to discuss the trade automation issues currently before the futures industry. Discussion at the Roundtable demonstrated the significance of the development and implementation of exchange and proprietary electronic order-routing systems to the continuing competitiveness of the U.S. exchanges and their member firms.[6] Previously, in February and March 1996, the Commission received automation briefings by the Chicago Mercantile Exchange (''CME''), New York Mercantile Exchange, Coffee, Sugar & Cocoa Exchange, Inc., Chicago Board of Trade, and the Futures Industry Association. The Commission issued a public summary of these proceedings on May 10, 1996, entitled the ''Market Automation Briefings-Commission Summary.''

The Commission has recognized the important business benefits that can result from electronic order routing systems.[7] The Commission also has emphasized that the FTPA ''does not mandate that its enhanced audit trail requirements be met through electronic means.''[8] Nevertheless, the Commission believes that ''the effective use of technology [will ultimately] * * * provide safer, more efficient, well-supervised markets.''[9]

## II. Staff No-Action Positions Previously Taken Regarding Electronic Order-Routing Systems

To date, the Commission's Division of Trading and Markets (''Division''), in consultation with the Commission's Office of Information Resources Management (''OIRM''), has issued four no-action letters relating to electronic order-routing systems. Each of the no-action letters provided that the use of a specified electronic order-routing system was not inconsistent with the ''written'' record preparation requirements of Commission Regulation 1.35. Two letters addressed systems which involved transmission of orders to and from a trading pit. One of those letters dealt with a firm proprietary system[10] and the other an exchange system.[11] The two other letters involved firm proprietary electronic off-floor order management systems.[12] Essentially, those systems provide for the electronic generation, modification, and maintenance of a firm's ''office'' orders, that is, both discretionary and non-discretionary orders required to be prepared pursuant to Commission Regulation 1.35(a–1)(1).

In assessing both the Timber Hill System[13] and the TOPS–CUBS Program,[14] Division and OIRM staff found both systems are used to generate, in electronic form, all of the customer order information required by Commission Regulation 1.35. In this regard, both the Timber Hill System and the TOPS–CUBS Program capture all modifications made to a customer order, including changes and/or cancellations, as well as the times of such modifications to the nearest second. Moreover, in those cases where an order is filled partially, both the Timber Hill System and the TOPS–CUBS Program reflect the actual quantity that has been executed and timestamp the report of the partial execution to the nearest second. Commission staff also found that both the Timber Hill System and the TOPS–CUBS Program record the necessary Regulation 1.35 times for receipt of customer orders and report of execution times from the trading pit and do so more precisely than is required under the one minute standard in Regulation 1.35.

With respect to the storage of customer order data, both the Timber Hill System[15] and the TOPS–CUBS Program[16] maintain Commission Regulation 1.35 order information[17] for the statutorily required five-year time period, as provided under Regulation 1.31.[18] The staff found that both systems

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[6] The Commission shortly will be issuing a public summary of the Roundtable proceedings.

[7] *See* the Commission's ''Report on Audit Trail Status and Re-Test'' dated August 12, 1996 at p. 42.

[8] *See* the Commission's November 1994 ''Report to Congress on Futures Exchange Audit Trails'' at p. 62.

[9] *See* the Commission's May 10, 1996 ''Market Automation Briefings-Commission Summary'' at p. 3.

[10] On July 8, 1996, the Division issued a letter to CME that permitted the CME to allow one of its clearing member firms, Timber Hill, LLC (''Timber Hill'') to use, on a permanent basis, a handheld trading device and system (''Timber Hill System'') to receive customer orders in and report executions from the equity quadrant of the CME, described *infra*. By letter dated August 25, 1995, the Division originally permitted the CME to use the Timber Hill System for a 90-day pilot program. Extensions of that pilot program were subsequently granted by the Division.

[11] On June 14, 1996, the Division issued a letter that allowed a six-month pilot program to be implemented at CME under which certain CME member firms and floor broker groups are allowed to route customer orders for the front month of the CME's Eurodollar futures contract through the CME's electronic order-routing system, the ''Trade Order Processing System'' (''TOPS''), to the CME's order receipt system, the ''Universal Broker Station'' (''CUBS'') (''TOPS–CUBS Program''), described *infra*. By letter dated December 13, 1996, Division staff permitted CME to extend the TOPS–CUBS Program to June 13, 1997.

[12] On July 21, 1994, the Division issued a letter to Goldman, Sachs & Co. (''Goldman Sachs'') permitting it to implement its automated order preparation and record keeping system, Automated Order Routing and Trade Accounting (''AORTA''). The AORTA system is described *infra*.

On September 12, 1996, the Division issued a similar letter to Morgan Stanley & Co. (''Morgan Stanley'') permitting it to implement its automated Order Management System (''OMS''), described *infra*.

[13] In summary, under the Timber Hill System, a customer enters his order(s) electronically through a customer workstation(s) located on his premises. That order then is transmitted via the Timber Hill Network to a basestation located on the CME trading floor in a booth in proximity to the CME's Standard & Poors 500 and NASDAQ 100 futures and options pits. Upon receipt of the order by the floor basestation, the basestation broadcasts it to a wireless handheld device held by a Timber Hill floor broker located in the trading pit for execution. Upon execution (partial or complete), the order's fill information, as input into the handheld device by the floor broker, is transmitted from the handheld unit back to the basestation. The basestation then transmits the fill confirmation information back to the customer at his workstation via the Timber Hill System.

[14] In summary, TOPS is an electronic order entry, routing and fill reporting system. Under the TOPS–CUBS Program, orders for the Eurodollar futures contract are transmitted through TOPS, which includes terminals located off the trading floor, to CUBS computer terminals and associated software designed for use by a broker and/or a broker's clerk while at or in the trading pit. The CUBS system is a wired broker workstation that sits on a pedestal in the pit. It receives orders routed by TOPS and performs electronic order deck management.

[15] The Timber Hill System basestation maintains an on-line file of all customer orders transmitted through it, including order-related timestamps. CME receives this file from the basestation via a serial port feed (cable) on a real-time basis. Upon receipt of the basestation data, CME maintains it in machine-readable form and will keep it for the required five-year time period as provided under Commission Regulation 1.31, described *infra*.

Timber Hill also provides data for all customer orders executed through the Timber Hill system to the CME's clearing system via the on-line system which all CME member firms use to submit trade data to the CME's clearing system, the TREX Record. In addition, customer trade data are stored on the hard drives of customer workstations. On a daily basis, Timber Hill backs up to magnetic tape all customer trade data generated through the basestation, the main/''host'' computer and the customer workstations. Within one week of being generated, such data are placed on an optical disc(s). Twice a month, duplicate optical disks are deposited in a vault located off-site.

[16] Customer order data generated by trading activity occurring under the TOPS–CUBS Program are stored in two separate databases, a TOPS database and a CUBS database. This storage is conducted in accordance with the CME's routine security and disaster prevention procedures. As a preliminary matter, data in both databases is ''backed-up'' every evening onto a series of disk drives on the CME's mainframe computer, where it is stored for 30 days. Subsequently, CME stores the data from both databases in its archives on cartridge tape in a secure location.

[17] Commission Regulation 1.35(a) requires, among other things that each FCM, IB and member of a contract market must ''keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to its business dealing in commodity futures, commodity options, and cash commodities.'' Regulation 1.35(a) further provides that such records, which include all orders (filled, unfilled, or cancelled) and trading cards are to be maintained in accordance with the requirements of Regulation 1.31.

[18] Commission Regulation 1.31 requires, among other things, that:

All books and records required to be kept by the [Commodity Exchange] Act or [Commission]

were not inconsistent with that regulation, which permits data generated in electronic form to be maintained in optical media and in other forms. In addition, all Regulation 1.35 order information stored in connection with the Timber Hill System and the TOPS–CUBS Program, as described above, is made available, in a timely manner, for access by the Commission upon request in hard copy or machine readable form.

With respect to the TOPS–CUBS Program, Commission staff noted that the Program's ability to record electronically and automatically required Regulation 1.35 customer order information, including order-related times, enhances the preparation of customer data in terms of accuracy and detection of changes and should provide regulatory benefits.[19] The Timber Hill System provides similar benefits.

As previously noted, the two other staff no-action letters relate to electronic office order management systems. Those systems involve the electronic generation, maintenance and retention of office orders related to exchange trading. In general, the systems are intended to increase the efficiency with which these firms manage their order books, including through increased integration with other firm and customer activities. To date, both the Goldman Sachs AORTA system and the Morgan Stanley OMS system do not involve electronic transmission of orders to and from the exchange floor.[20] Nonetheless, these systems involve issues similar to those relating to the Timber Hill System and the TOPS–CUBS Program, but within the confines of their more limited operational scope.

In assessing the AORTA and OMS systems, Division and OIRM staff found that both systems record, in electronic form, all of the customer order information required by Commission Regulation 1.35 for office orders.[21] In addition, both systems were found to capture the time of order entry, the time of the transmission of a customer order to the floor, and the time that a sales person enters order fill (partial or complete) information into his system.[22] Both AORTA and OMS record any change to the customer order information, including the identity of the sales person making any change and the time of such change.

With respect to data storage, both AORTA and OMS were found to satisfy the record retention requirements of Commission Regulation 1.31.[23] Moreover, both of those systems were found to provide regulatory benefits in that they enhance the standards for office order preparation as provided under Commission regulation 1.35.

## III. Discussion

The Commission believes that it is appropriate to take into account and to facilitate automation developments that are occurring with respect to exchange-related trading. The Commission also believes that it is preferable to do so through the issuance of this Advisory rather than through the case-by case approach taken by staff in response to the aforementioned proposals for electronic order-routing systems. This Advisory will enable new order routing systems to come on line without the necessity of first seeking a no-action position regarding the ''written'' record requirements of Commission Regulation 1.35. As a result, the important business and regulatory benefits these systems can provide will be fostered.

For an electronic order-routing system to be covered by this Advisory, it must satisfy the standards discussed below.[24] Those standards are consistent with the terms of the staff no-action positions previously taken regarding such systems and take cognizance of such systems' enhanced operational capabilities.

To the extent that an electronic order-routing system captures information required under Commission Regulation 1.35(a–1)(1), (2)(i), (4), and/or (d), and provided such system satisfies the standards set forth below, a ''written'' record need not be prepared. To the extent that a system is intended to satisfy one or more of those provisions, then the system must include all information that otherwise would be required to be in written form. Moreover, insofar as a system is used to comply with any one or more of the foregoing sections, it must include all information required by that section(s).[25]

The electronic record of a customer order generated by an electronic order-routing system must include any and all modifications made thereto. The record must include any changes and/or cancellations. All order-related times required under Commission Regulation 1.35, as well as the times for all modifications, are to be captured to the highest level of precision achievable by the operating system. In this regard, the Commission's experience is that these systems have the capability, at a minimum, to capture times to the second. Therefore, the Commission is requiring that such times must be accurate at least to the second. In addition, the times captured must not use a clock that can be modified by the person entering the order.

These systems also need to conform to the Commission's record keeping requirements as provided in Commission Regulation 1.31 for computer-generated records. Pursuant to that rule, computer-generated records can be substituted for a hard copy report when produced and maintained on optical disk in conformity with 1.31(d), microfilm, or microfiche. A computer-generated record used in lieu of a hard copy must be transferred to one of these three permitted non-erasable media ''as soon as is feasible.''[26] In addition, ''appropriate safeguards'' must be in place to protect any such records temporarily stored in erasable form so as

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regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first [two] years of the [five] year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice [(''DOJ'')].

[19] *See* the Division's June 14, 1996 letter to Stephen Szarmack of the CME regarding the CME's request for no-action relief for the six-month pilot TOPS–CUBS Program at p. 13.

[20] For reasons unrelated to applicable regulatory requirements, the implementation of both of these systems has been delayed.

[21] In summary, the AORTA and OMS systems operate as follows: sales personnel prepare a computerized office order ''ticket,'' instead of a paper ticket, immediately upon receipt of a customer order and enter all of the customer order information currently required under Regulation 1.35. Both systems record, automatically, the precise time to the nearest second at which an order was entered. Upon order entry, sales personnel then send orders to the floors by telephone and indicate by keystroke that the order has been transmitted. Both systems automatically record a second time indicating when the order was transmitted to the floor. Fill information, including the report of execution time, is transmitted back from the floor to sales personnel, who enter that information into their system.

[22] This exceeds the requirements of Commission Regulation 1.35(a)(a–1)(i), which calls for the time a customer order was received and, for options, also the time the order is transmitted for execution.

[23] AORTA stores all records of customer orders on optical disk. Records produced and retained by AORTA are available for production to the Commission or the DOJ in hard copy, on diskette, or on CD–ROM.

All records of customer orders generated on OMS are stored on Morgan Stanley's Sybase Relational Database Management System (''Sybase''). Morgan Stanley supplements storage of data on Sybase with a hard copy/microfiche regime under which all transaction-related information is reproduced from Sybase on a daily basis and kept either in hard copy or microfiche for five years.

[24] If an order-routing system did not satisfy any of the standards set forth herein, then the operator of the system would still be able to request an individual no-action position as appropriate.

[25] In particular, the Commission notes that it is critical for such systems to satisfy the account identification requirements of Regulation 1.35.

[26] *See* the Commission's Regulation 1.31 final rulemaking, which allows production of computer-generated records on optical disk to be immediately substituted for hard copy reports for purposes of record storage. 58 FR 27458 (May 10, 1993) at 27460. The Commission also notes that it may be necessary to amend Regulation 1.31 to account for further technological developments.

to prohibit unauthorized access to the records and to provide for a record of the identity of the persons who access such records and of any modifications made.[27] In addition, assurance must be provided that a computer-generated record will be made readily available in machine-readable media or hard copy to the Commission or DOJ upon request. Moreover, records stored on ''machine readable media must use a format and coding structure'' specified in such a request by the Commission or DOJ.[28]

The Commission recognizes that the development of electronic order-routing systems continues to be in flux. The Commission intends to continue to monitor that process with a view toward providing further guidance by advisory or rule in the future. Among other things, the Commission will evaluate the manner in which electronic order-routing systems may interface with other audit trail recordkeeping practices in place at an exchange.

IV. Conclusion

To the extent that a customer order is prepared and transmitted to and reported from an exchange trading pit by an electronic order-routing system, or a customer order is prepared by an electronic off-floor order management system, and the standards set forth below are satisfied, then the ''written'' record requirements of Commission Regulation 1.35(a–1)(1), (a–1)(2)(i), (a–1)(4), and/or (d) will be deemed satisfied by the electronic record generated by the system. Specifically, such electronic records must:

(1) Include the customer order information required under Commission Regulation 1.35.(a–1)(1), (2)(i), (a–1)(4) and/or 1.35(d);

(2) Include any modification, including any change and/or cancellation, that is made to an order and indicate the time the modification is recorded in the system;

(3) Record all Commission-required and other order-related times, including order entry and exit times, and the time of any modification made to a customer order, including any change and/or cancellation, to the highest level of precision achievable by the operating system, but at least to the second. The times captured must not use a clock that can be modified by the person entering the order;

(4) Be kept in hard copy and/or allowable hard copy substitution media, as provided under Commission Regulation 1.31. The stored records shall be open to inspection by the Commission or DOJ as required under Commission Regulation 1.31 and be made readily available to the Commission or DOJ in machine-readable media or hard copy upon request. Records stored on machine-readable media must use a format and coding structure specified in the Commission request. To the extent that records temporarily are stored in erasable form, appropriate security measures must be implemented by the system operator to prohibit any unauthorized access to the records and to maintain an accurate record of when and by whom records are accessed or modified.

Issued in Washington, DC on February 12, 1997.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 97–4004 Filed 2–19–97; 8:45 am]

BILLING CODE 6351–01–P

[27] Id.

[28] Id. at 27465.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 173

**[Docket No. 96F–0184]**

### Secondary Direct Food Additives Permitted in Food for Human Consumption; Sulphopropyl Cellulose

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for a change in the level of reactants for sulphopropyl cellulose ion-exchange resin for the recovery and purification of proteins for food use. This action is in response to a petition filed by Life Technologies, Inc.

**DATES:** Effective February 19, 1997; written objections and requests for a hearing by March 21, 1997.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3071.

**SUPPLEMENTARY INFORMATION:** In a notice published in the Federal Register of July 3, 1996 (61 FR 34852), FDA announced that a food additive petition (FAP 6A4500) had been filed by Life Technologies, Inc., 8400 Helgerman Ct., Gaithersburg MD 20874. The petition proposed to amend the food additive regulations in § 173.25 (21 CFR 173.25) to provide for a change in the level of the reactants for sulphopropyl cellulose ion-exchange resin for the recovery and purification of proteins for food use. The amendment proposed that the amount of epichlorohydrin plus propylene oxide employed does not exceed 250 percent by weight of the starting quantity of cellulose. The current regulation provides that the amount of epichlorohydrin plus propylene oxide employed does not exceed 61 percent by weight of the starting quantity of cellulose.

In the Federal Register of April 22, 1991 (56 FR 16266), FDA published a final rule that amended the regulation under § 173.25 to provide for the use of the ion-exchange resin and the starting materials used to manufacture the additive. The amendment to the regulation was based upon the information provided in FAP 6A3905. In the final rule of April 22, 1991, the agency stated that while the ion-exchange resin has not been shown to cause cancer, it may contain small amounts of the starting materials epichlorohydrin (ECH) and propylene oxide (PO) as byproducts of its production. Because the chemicals ECH and PO have been shown to cause cancer in test animals, the agency conducted a quantitative risk assessment procedure to calculate the risk from the use of ECH and PO. Based on the results of the risk assessment, the agency concluded in the final rule of April 22, 1991, that there was a reasonable certainty of no harm from exposure to ECH and PO that might result from the proposed use of the additive.

Recently, the agency was advised that the levels of the starting materials for the resin, ECH and PO, that are listed under § 173.25(a)(20) need to be amended. The petitioner discovered that the information in FAP 6A3905 that was used to calculate the levels of ECH and PO in the listings for the regulation contained errors that led to an underestimation of the actual levels of ECH and PO used in the production of the resin. A new petition (FAP 6A4500) was submitted to correct the regulation by listing the actual ratios of the starting materials ECH and PO that are currently being used in the manufacture of the ion-exchange resin.

The agency has reviewed the information in both petitions 6A3905 and 6A4500, and it has determined that