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40 CFR Ch. I (7-1-04 Edition)

the date of refiling or the date of receipt of certification from the Administrator, whichever is later. A deposit for fees as specified in § 180.33 shall accompany the resubmission of the petition.

[46 FR 22450, Nov. 25, 1971, as amended at 46 FR 34345, July 1, 1981; 55 FR 21200, May 23, 1990]

§ 180.9 Substantive amendments to petitions.

After a petition has been filed or referred to an advisory committee, the petitioner may submit additional information or data in support thereof, but in such cases the petition will be given a new filing date or a new initial date of consideration by the advisory committee, and the time limitation will begin to run anew.

[41 FR 4537, Jan. 30, 1976, as amended at 55 FR 21200, May 23, 1990]

ADVISORY COMMITTEES

§ 180.10 Referral of petition to advisory committee.

(a) If within the prescribed period a person filing a petition requests that the petition be referred to an advisory committee, he shall make such request in writing to the Administrator and forward with such request an advance deposit for fees prescribed by § 180.33.

(b) If further advance deposits are not made upon request of the Administrator, as provided for in § 180.33, the request for referral of the petition to an advisory committee shall be considered withdrawn, and a tolerance shall be established within 90 days of the date on which the Administrator requested the further advance deposit.

(c) In case the Administrator on his own initiative deems it necessary to refer a petition to an advisory committee, he shall, in writing, so inform the person filing the petition.

[41 FR 4537, Jan. 30, 1976, as amended at 55 FR 21200, May 23, 1990]

§ 180.11 Appointment of advisory committee.

(a) Whenever the referral of a petition or proposal to an advisory committee is requested or the Administrator otherwise deems such referral necessary, the Administrator will re-

quest the National Academy of Sciences, National Research Council, to select qualified experts, including at least one representative from land-grant colleges, willing to serve on the advisory committee. All such experts shall have had sufficient training and experience in biology, medicine, physiology, toxicology, pharmacology, veterinary medicine, or other appropriate science to evaluate the safety of pesticide chemicals. The Administrator will request the National Academy of Sciences, when it furnishes the names of such experts, to supply a biographical sketch showing the background of their experience and their connection, if any, with academic and commercial institutions.

(b) Each advisory committee shall consist of not less than three experts, at least one of whom is a representative from a land-grant college. The Administrator may specify a larger number to serve. He shall appoint one member of the committee as chairman, and the chairman shall be the spokesman of the committee for receiving and forwarding reports and other functions of the committee.

(c) The Administrator shall appoint the experts so selected and fix their compensation at not to exceed the maximum permitted by other authority per day for each day or part thereof spent in committee meetings and in traveling to and from committee meetings held outside the city of their residence, plus necessary traveling and subsistence expenses while the experts are serving away from their places of residence. Subsistence expenses shall not exceed the maximum per diem permitted by other authority.

§ 180.12 Procedure for advisory committee.

(a) The Administrator shall submit to the chairman of the committee the petition for tolerances, together with certification by the Administrator and such other relevant, reliable information as may be available. When the Administrator submits a proposal to an advisory committee, he shall inform the petitioner and furnish him with copies of material other than the petition and certification that is furnished the committee. The chairman of the

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committee shall acknowledge receipt of the information and readiness of the committee to act. The date of receipt of such information shall be considered the beginning of the period allowed for consideration by the committee. Copy of this acknowledgement shall be forwarded to the petitioner by the chairman of the committee.

(b) A secretariat to advisory committees will be established by the Administrator. The secretariat shall furnish members of the committee with copies of the proposal or petition, certification from the Administrator, and any data received by the chairman. If the chairman of the committee believes that a meeting of the committee is necessary before making a recommendation, he shall so advise the Administrator. Such meetings shall be held in Washington, DC, or such other place as the Administrator may designate. The Administrator shall furnish a suitable meeting place for the committee. If a meeting is held, the secretariat shall keep the minutes and provide clerical assistance.

(c) As soon as practicable, but not later than 60 days after receipt of proposal or petition (unless the time has been extended as provided in paragraph (d) of this section), the chairman shall certify to the Administrator the report of the committee, including any minority report, and shall return the petition for tolerances and the certification. The report will include copies of all relevant material considered by the committee, except that in the case of scientific literature readily available in scientific libraries proper reference may be made to it instead of furnishing actual copies. The report of the advisory committee shall be available for inspection by any interested person after a tolerance or exemption resulting from the petition is published.

(d) If at any time within 60 days, the chairman believes that the advisory committee needs more time, he shall so inform the Administrator in writing, in which case he shall make the certification contemplated by section 408(d)(3) of the act within the additional 30 days.

(e) The date of receipt of the committee report will be the date for com-

puting time for the Administrator to act for the purposes of both sections 408 (d)(3) and (e).

(f) The chairman of the committee, after consultation with the committee members, will inform the National Academy of Sciences of the committee's opinion as to the member who may best represent the committee at a hearing, if one occurs.

(g) More than one petition or proposal may be handled by a committee concurrently.

(h) Persons authorized under section 408(h) to discuss proposals or petitions with the committee shall notify the chairman and if practicable make appointments through him. The report of the committee shall show the names of persons other than committee members discussing proposals or petitions with the committee. Except for discussions with authorized persons the committee shall not disclose data originating with a petitioner prior to publication of a regulation.

ADOPTION OF TOLERANCE ON INITIATIVE OF ADMINISTRATOR OR ON REQUEST OF INTERESTED PERSONS; JUDICIAL REVIEW; TEMPORARY TOLERANCES; AMENDMENT AND REPEAL OF TOLERANCES; FEES

§ 180.29 Adoption of tolerance on initiative of Administrator or on request of an interested person.

(a) Upon the Administrator's own initiative, or at the written request of any interested person furnishing reasonable grounds therefor and such fees or deposits as are prescribed by § 180.33, the Administrator may propose, under sec. 408(e) of the Federal Food, Drug, and Cosmetic Act, the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance, or a regulation modifying or revoking an existing tolerance or exemption. As used in the preceding sentence, "reasonable grounds" shall include a statement describing the nature of the requestor's interest in issuance of such a tolerance or exemption, and adequate data on subjects outlined in sec. 408(d)(1) (A) through (F) of the Federal Food, Drug, and Cosmetic Act. Any petition received by the Agency which requests establishment of a tolerance or