of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

A new § 301.6103(p)(7)–1 is added immediately after § 301.6103 (h)(2)–1 to read as follows:

§ 301.6103(p)(7)–1 Procedures for administrative review of a determination that a State tax agency has failed to safeguard Federal tax returns or return information.

(a) *Notice of Service's intention to terminate disclosure to a State tax agency.* Notwithstanding subsection (d) of section 6103, the Internal Revenue Service may terminate disclosure of Federal returns and return information to a State agency, body, or commission described in section 6103(d) (hereinafter in this section referred to as a State tax agency) if the service makes a determination that:

(1) A State tax agency has made unauthorized disclosure of Federal returns or return information received from the Service and that the State tax agency has not taken adequate corrective action to prevent repetition of the unauthorized disclosure, or

(2) A State tax agency does not satisfactory maintain the safeguards described in subsection (p)(4) of section 6103, and has made no adequate plan to improve its system to maintain those safeguards satisfactorily. Prior to terminating disclosure, the Service will notify the State tax agency in writing of the Service's preliminary determination and of the Service's intention to discontinue disclosure of Federal returns and return information to the State tax agency. Upon so notifying the State tax agency, the Service, if it determines that Federal tax administration would otherwise be seriously impaired, may suspend further disclosure of Federal returns and return information to the State tax agency pending a final determination by the Commissioner or Deputy Commissioner described in subparagraph (2) of paragraph (c) of this section.

(b) *State tax agency's right to appeal.* A State tax agency shall have 30 days from the date of receipt of a notice described in paragraph (a) of this section to appeal the preliminary determination described in paragraph (a) of this section. The appeal shall be made directly to the Commissioner.

(c) *Procedures for administrative review.* (1) To appeal a preliminary determination described in paragraph (a) of this section, the State agency shall send a written request for a conference to: Commissioner of Internal Revenue (Attention: C), 1111 Constitution Avenue, NW., Washington, D.C. 20224. The request must include a complete description of the State tax agency's present system of safeguarding Federal returns or return information received from the Service. The request must then state the reason or reasons that the State agency believes that such system, including improvements, if any, to such system expected to be made in the near future, is or will be adequate to safeguard Federal returns or return information received from the Service.

(2) Within 45 days of the receipt of a request made in accordance with the provisions of subparagraph (1) of this paragraph, the Commissioner or Deputy Commissioner will personally hold a conference with representatives of the State tax agency, after which the Commissioner or Deputy Commissioner will make a final determination with respect to the appeal.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-30464 Filed 10-1-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1330–8]

Implementation Plan Revisions for the Lake Tahoe Nonattainment Area in the States of California and Nevada; Receipt/Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Availability.

SUMMARY: The purpose of this notice is to announce receipt of revisions to the California and Nevada State Implementation Plans (SIP) and to invite public comment. Nonattainment Area Plans for the Lake Tahoe Air Basin have been received from the California Air Resources Board and the State of Nevada. These revisions were submitted to EPA in accordance with the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas," and are available for public inspection at the addresses below. A notice of proposed rulemaking discussing these revisions will be published in the **Federal Register** at a later date. The period for submittal of public comments will end not less than 60 days from this date and not less than 30 days from the published date of EPA's notice of proposed rulemaking.

ADDRESSES: Copies of the SIP revisions are available during normal business hours at the following locations:

Library, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW., Room 2922, Washington, D.C. 20460.

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814.

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89710.

Tahoe Regional Planning Association, P.O. Box 8896, 2155 South Avenue, South Lake Tahoe, CA 95731.

INQUIRIES AND COMMENTS SHOULD BE ADDRESSED TO: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415)556–2938.

SUPPLEMENTARY INFORMATION: New provisions of the Clean Air Act, enacted in August, 1977, Pub. L. No. 95–95, require states to revise their SIP's for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were required by January 1, 1979 to develop, adopt, and submit to EPA revisions to their SIP's which provide for attainment of the NAAQS as expeditiously as practicable.

The Lake Tahoe Air Basin (which includes protions of the States of California and Nevada) is a designated nonattainment area for carbon monoxide and ozone.

The Governor's designee for California submitted to EPA the California portion of the plan on August 21, 1979, and the Governor of Nevada submitted the Nevada portion of the plan on July 24, 1979.

EPA is reviewing these revisions for conformance with the requirements of Part D of the Clean Air Act, as amended. Following review of the revisions, a notice of proposed rulemaking will be published in the **Federal Register** that

will provide a description of the proposed SIP revisions, summarize the Part D requirements, identify the major issues in the proposed revisions, and suggest corrections. An additional 30 days will be provided for public comments at that time.

The intent of this notice is to notify the public that these revisions have been formally submitted to EPA for approval, that they are available for public inspection, and that interested persons are encouraged to submit written comments.

(Secs. 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)).)

Dated: September 21, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 79-30385 Filed 10-1-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1331-3]

Tennessee; Proposed 1979 Plan Revisions

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Proposed Rule.

SUMMARY: EPA today proposes action on specific State Implementation Plan (SIP) revisions which the Tennessee Air Pollution Control Division recently submitted pursuant to requirements of Part D of the Clean Air Act Amendments (CAAA) of 1977 with regard to nonattainment areas. EPA has found all portions of the submitted revisions to be approvable except for certain portions of the transportation control plan which are needed to attain the air quality standards for carbon monoxide (CO) and ozone in Nashville. It is proposed to approve conditionally the CO and ozone control strategy for Nashville on condition that the noted deficiencies be corrected by March 1, 1980. It is also proposed to approve conditionally the statewide ozone control strategy, on condition that noted deficiencies in the stationary source regulations be corrected by March 1, 1980. EPA proposes to approve conditionally the total suspended particulate (TSP) plans for Nashville and Columbia provided the noted deficiencies be corrected by January 1, 1980, and March 1, 1980, respectively. The public is invited to submit written comments on these proposed actions.

DATES: To be considered, comments must be submitted on or before November 1, 1979. A thirty-day comment period is being used to enable publication of final action on the SIP revisions as soon as possible after July 1, 1979, because a Notice of Availability was published in the **Federal Register** more than 30 days ago and because the SIP submission and the issues involved are not so complex as to warrant a longer comment period.

ADDRESSES: Written comments should be addressed to Archie Lee of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.

Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

Air Pollution Section, Metropolitan Health Department, 1600 Hayes Street, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone 404/881-2864 (FTS-257-2864).

SUPPLEMENTAL INFORMATION:

Background

In the March 3, 1978, **Federal Register** (43 FR 8962 at 9035) and the September 11, 1978 **Federal Register** (43 FR 40412 at 40432) a number of areas within the State of Tennessee were designated as not attaining certain national ambient air quality standards. The areas designated nonattainment for the primary and secondary standards for total suspended particulate matter (TSP) are:

A. That portion of Anderson and Knox Counties surrounding TVA's Bull Run Plant. (Secondary only).

B. Those portions of Campbell County within downtown LaFollette and the area surrounding the Carborundum Company's plant at Jacksboro.

C. That portion of Davidson County within the 1964 Urban Services area of Nashville.

D. That portion of Hamilton County within, approximately, the city limits of Chattanooga.

E. That portion of Maury County within the northern section of Columbia.

F. That portion of Roane County within a downtown section of Rockwood

G. Those portions of Shelby County within two sections of downtown Memphis.

H. Those portions of Sullivan County within a section of Bristol and a section of Kingsport.

I. That portion of Sumner County surrounding TVA's Gallatin plant. (Secondary only)

The areas designated nonattainment for the primary and secondary standards for sulfur dioxide (SO_2) are:

A. That portion of Polk County surrounding the Cities Service plant at Copperhill.

B. That portion of Benton and Humphreys Counties surrounding TVA's Johnsonville plant.

The areas designated nonattainment for (the same standard serves as both the primary and secondary standard) carbon monoxide (CO) are:

A. That portion of Davidson County located in downtown Nashville.

B. That portion of Knox County located in metropolitan Knoxville.

C. That portion of Shelby County located in metropolitan Memphis.

The areas designated nonattainment (the same standard serves as both the primary and secondary standard) for photochemical oxidants (ozone) are:

A. Nashville area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties.

B. Shelby County.

C. Maury County.

D. Hamilton County.

E. Knox County.

F. Sullivan County.

G. Bradley County.

H. Roane County.

Implementation plan revisions under Part D of the CAAA were previously developed and submitted by the State for the following areas:

TSP—Sullivan County (Bristol), Campbell County, Sumner County, Anderson/Knox Counties.

SO—Polk County, Benton/Humphreys Counties.

CO—Shelby County, Knox County.

A notice of proposed rulemaking was published in the **Federal Register** on July 24, 1979, for the above areas. Implementation plan revisions under Part D of the CAAA developed by the State and the subject of today's proposal notice include the following areas:

Ozone—Statewide.

CO—Davidson County.

TSP—Columbia, Nashville.

The implementation plan revisions for the remaining nonattainment areas will be proposed later as the SIP revisions are submitted. These revisions were submitted for EPA's approval on June 28, and July 2, 1979. The Tennessee revisions have been reviewed by EPA in light of the CAAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, and July 2, Aug. 28 and Sept. 17, 1979, (44 FR 20372, 44 FR

38583, and 44 FR 50371, and 44 FR 53761) need not be repeated in detail here.

General Discussion

Section 172(b) of the CAAA contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Tennessee submittals.

172(b)(1) [SIP provisions shall] be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing;

Public hearings were held in the State on the adopted material following 30 days public notice. Public hearings were conducted October 16, 1978, February 14, April 19, May 8 and 9, and June 5, 6, 14, and 19, 1979. These SIP provisions were adopted by the State and/or local agency on March 14, April 11, and June 20 and 28, 1979.

172(b)(2) [SIP provisions shall] provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonably Available Control Technology (RACT) see discussion after 172(b)(3) below.

172(b)(3) [SIP provisions shall] require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

Reasonable further progress (RFP) graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area. The SIP calls for meeting the National Ambient Air Quality Standards in all areas by the end of 1982 except for carbon monoxide and ozone in Nashville. The State has requested an extension to the end of 1987 for meeting the carbon monoxide and ozone standards in this area. EPA is proposing to approve this extension request. Therefore, a mandatory inspection/maintenance program for motor vehicles, transportation control measures, and a new source review program consistent with Section 172(b)(11) must be implemented. As a requirement for the extension to 1987, with regard to an adequate inspection and maintenance program, the SIP must include:

(1) Certification of adequate legal authority for a mandatory inspection and maintenance (I/M) program;

(2) Commitments from the proper agency(s) to the implementation and enforcement of the I/M program;

(3) An adequate Implementation Schedule as defined in the July 17, 1978, policy memorandum from Assistant Administrator Hawkins; and

(4) Commitments from the proper agency(s) to obtaining at least a 25% emissions reduction from light-duty vehicles for hydrocarbons and/or carbon monoxide by December 31, 1987, as also stated in the July 17th Hawkins memorandum. The requirement for the 25% reduction would apply only to the pollutant(s) for which the extension is requested.

Each geographic area is discussed below.

Nashville (TSP)—The Nashville Metropolitan Health Department has reviewed all the sources in or impacting on the nonattainment area and found that the ambient violations were not due to a specific source or activity, but were the result of a combination of factors such as process fugitive emissions, nontraditional source emissions and traditional source emissions. During the review, RACT emission limitations were developed for all sources. These RACT emission limits were adopted as revised permit conditions which require compliance with specific mass emissions, visible emissions and in some cases limitations on hours of operation. When modelling all of the sources at their 1982 RACT allowable emission limits, attainment of the annual primary standard was not demonstrated, nor was attainment of the secondary standard demonstrated. One of the factors in the failure to demonstrate attainment of the primary standard was the impact of nontraditional sources. In order to evaluate and develop the necessary nontraditional source control measures to attain the primary standards, Nashville Metropolitan Health Department has submitted a schedule to develop these regulations. EPA is proposing to approve conditionally the plan for attainment of the primary standards on condition that a more detailed listing of measures to be investigated be submitted by January 1, 1980. In addition, Nashville has asked for an 18-month extension in order to develop the attainment plan for secondary standards. EPA is today proposing to approve Nashville's request for an 18-month extension to submit the plan for attainment of the secondary standard.

Columbia (TSP)—The nonattainment designation of this area was due to a combination of factors. Fugitive emissions from roadways, haul roads, materials handling systems and stack emissions all contribute to violations of the ambient standards. The State of Tennessee has made a RACT evaluation of all sources in or impacting on the nonattainment area and adopted, as categorical emission requirements, regulations for the area. These regulations include limitations on stack emissions, more stringent controls on fugitive sources and in some cases a restriction on hours of operation. When the State modelled the area at the 1982 RACT emission level, attainment of the primary standards was not demonstrated. This was due largely to the impact of emissions from nontradiional sources. The State has submitted a schedule for developing, adopting, and submitting regulations for control of nontraditional sources. EPA is today proposing to approve this schedule.

The State Plan includes a regulation allowing certain categories of sources, under specific conditions, to apply for a higher emission limit in lieu of the otherwise applicable emission limit. This option must either be deleted or revised to provide that every time a source applies, the approval of the higher emission limit must be in the form of a SIP revision. If the deficiency is not corrected, EPA proposes to disapprove the option provision. Whether or not the provision is approved, EPA proposes to approve the overall nonattainment SIP for primary standards as satisfying Part D requirements. EPA is also proposing to approve the State's request for an 18-month extension to submit the plan for attainment of the secondary standard.

Nashville (CO)—The State has calculated that a 40% reduction in CO emissions is necessary to achieve the 10 mg/m^3 8-hour ambient standard. Since approximately 99% of the CO emissions are attributed to motor vehicles, all emission reduction measures are directed toward this source category through use of the Federal Motor Vehicle Control Program (FMVCP). Nashville will be unable to meet the CO ambient standard by the end of 1982 and has requested an extension to 1987 to meet the ambient standard. EPA is proposing to approve this extension request. EPA's review of the Nashville CO control strategy relative to the Transportation Control measures has revealed some deficiencies. These deficiencies include:

1. The current 1979 Annual element of the Transportation Improvement Program (TIP/AE) must be reviewed for projects that have a positive air quality impact. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporating into the State Implementation Plan must also include a commitment to the implementation and

enforcement of such measures by the responsible agencies.

2. Under Section 174, the Memorandum of Understanding (MOU) between the proper local and State officials includes a commitment to the implementation of stationary source controls but not mobile source controls. The I/M schedule should be revised to identify the date by which the enforcement mechanism(s) will be decided. The I/M schedule should also identify when procedures and guidelines for testing and quality control will be adopted.

EPA has received an opinion from the Tennessee Attorney General's office concluding that there is sufficient statutory authority for an inspection and maintenance program to be implemented by certain cites in the State. Further, EPA has received a letter from the Mayor of Nashville committing to seek legislation and the necessary financial and manpower resources to implement a mandatory motor vehicle emission inspection and maintenance (I/M) program for light duty vehicles. Recently, the necessary ordinance was passed by the Council of the Metropolitan Governments of Nashville. This ordinance allows the Board to adopt by rule or regulation, promulgate, require and enforce programs for vehicles propelled by internal combustion engines and to prescribe reasonable fees. Also, the Mayor's letter and ordinance indicate that the final implementing regulations must be approved by the Council of Metropolitan Governments of Nashville. Because approval by the Council of Governments is the device used routinely for adoption of regulatory requirements, EPA believes the existing legal authority is adequate. However, EPA recognizes that the Mayor cannot commit the Council of Governments to any future action, and it should be understood that a failure by the City to institute a mandatory I/M program according to the schedule submitted in the SIP will make the area liable to the imposition of sanctions under the Clean Air Act.

The Mayor's letter endorses the I/M schedule submitted in the SIP. This schedule indicates that a centralized operated I/M program will be instituted, and calls for the mandatory I/M program to begin in September, 1981, with the institution of mandatory repairs being implemented in December 1981.

The enforcement mechanism is currently undecided between several options. The ordinance passed by the Council grants the authority for enforcement and establishment of fees to the Board of Health. One option is the Board of Health would use its personnel and resources to implementing an enforcement program. Another option is to add the I/M enforcement to the current city sticker system. Failure to enact an adequate enforcement mechanism would also make Nashville liable to sanctions under the Clean Air Act.

The SIP also indicates that a 25% reduction in CO emissions from light duty vehicles will be achieved and is reflected in the reasonable further progress (RFP) curve.

Based upon the commitments, legal authority and schedules to implement and enforce the I/M program, EPA is proposing to conditionally approve the CO control strategy for Nashville provided that the deficiencies noted above in the transportation control plan are corrected and submitted to EPA by March 1, 1980. Due to the legal procedures for adopting revisions, this length of time is necessary to comply with both the State and EPA requirements.

Nashville (Ozone)—The State has calculated that a 35% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions of 34% will be obtained through the FVMCP and regulations for volatile organic compounds (VOCs) emitted by specific categories of sources by 1982. Since the area will not be able to demonstrate attainment of the ozone standard by December, 1982, they have requested an extension to 1987 to attain the ozone standard. This requires that a transportation control plan including a mandatory inspection and maintenance program be implemented in Nashville/Davidson County. EPA proposes to approve this extension request. For the discussion on Nashville/Davidson County's transportation control plan, please refer to the discussion on the Nashville CO control strategy. The Nashville Metropolitan Health Department has adopted regulations pertaining to those emission limitations and process and equipment specifications necessary to meet the requirement that RACT be applied to these sources. Categorical compliance schedules are included. These regulations are for sources in nine source categories.

Categories of sources controlled by presently adopted regulations include:

(1) surface coating including (a) coil coating (b) paper coating (c) fabric and vinyl coating; (2) metal furniture coating; (3) large appliance surface coating; (4) petroleum liquid storage; (5) bulk gasoline plants; (6) bulk gasoline terminals; (7) gasoline dispensing facility Stage I; (8) solvent metal cleaning; and (9) cutback asphalt.

In addition, the local agency has committed to adopt VOC regulations for additional RACT categories annually as they are developed by EPA. The Control Techniques Guidelines (CTGs) provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the regulations are not supported by the information in the CTGs or the information submitted so far by the State, and the Nashville agency must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. The noted points are as follows:

(1) The adopted definition of VOC is 1.5 psia instead of the recommended 0.1 mm Hg.

(2) The Stage I requirements for gasoline service stations allow an exemption for stations with throughput of less than 260,000 gallons per year rather than specifying the tank size cutoff as recommended.

Nashville's VOC Regulation includes a provision which exempts Methyl chloroform (1,1,1 trichloroethane). Methyl chloroform (MCF) has been identified as being mutagenic, and is suspected of being carcinogenic, and having a deleterious effect on stratospheric ozone. At a recent conference on the atmospheric chemistry of methyl chloroform and other halocarbon pollutants, researchers reported tropospheric lifetimes for MCF ranging from three to twelve years, sufficient time to allow for significant migration of the chemical to the stratosphere. It was further estimated that, at the current growth projections in the production and use of this chemical, MCF could account for 10–20 percent of the total ozone depletion attributable to chlorofluorocarbons over the next ten years. Significant depletion of stratospheric ozone impairs the ability of this atmospheric layer to filter out harmful ultraviolet radiation. Increases in the amount of this type of radiation reaching the Earth may lead to reduced crop yields as well as increases in human skin cancer. Prior to the above findings, EPA had issued guidance to the States allowing them to exempt this compound. Therefore, EPA will not presently disapprove the SIP if the State chooses to maintain this exemption. The Nashville agency has indicated that they will remove the exemption for this compound whenever EPA identifies it as being harmful or requires its control.

EPA proposes to approve conditionally the ozone control plan submitted for Nashville/Davidson

County provided that the above noted deficiencies in the transportation control plan and the stationary source regulations be corrected by the appropriate officials and submitted to EPA by March 1, 1980.

Memphis (Ozone)—The State has calculated that a 13% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions will be obtained through the FMVCP and statewide regulations for volatile organic compounds (VOC) emitted by large sources—those with potential emissions equal to or in excess of 100 tons per year. The State projects that a 30% reduction will occur by 1982. Therefore, the area should become attainment by early 1981. It is proposed to approve the Memphis ozone plan conditioned upon the State correcting the deficiencies in the VOC regulations noted under the discussion on "Rural Areas", below.

Chattanooga (Ozone)—The State has calculated that a 7% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions will be obtained through the FMVCP and statewide regulations for VOCs emitted by large sources. The State projects that a 27% reduction will occur by 1982. Therefore, the area should become attainment by early 1981. It is proposed to approve the Chattanooga ozone plan conditioned upon the State correcting the deficiencies in the VOC regulations noted under the discussion on "Rural Areas", below.

Rural Areas (Ozone)—Several counties in Tennessee were designated as nonattainment for ozone. As discussed under the section of Ozone Control Strategy in 44 FR 41255 April 4, 1979, the criteria utilized in the review of the part D SIP revisions, EPA's Policy is that only the RACT requirements for VOC sources covered by Control Techniques Guidelines (CTGs) need to be adopted for rural areas. The State of Tennessee has responded and has adopted all the CTGs (applicable Statewide) which EPA had issued by January, 1978 and committed to adopt additional RACT categories as they are developed by EPA. The CTG's provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTG EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTG or submitted so far by the State, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTG. The noted points are as follows:

(1) 42,000 gallon tanks are exempted in the petroleum liquid storage requirements instead of the 40,000 gallon (or less) tanks as recommended.

The Stage I requirements for gasoline service stations allow a throughput exemption of 260,000 gallons per year rather than specifying a tank size cutoff as recommended.

The State's VOC Regulation includes a provision which exempts MCF. This exemption is presently acceptable (see discussion on MCF in the Nashville ozone strategy). The State of Tennessee has indicated they will remove the exemption for this compound whenever EPA identifies it as being harmful or requires its control.

EPA proposes to approve conditionally the ozone control plan submitted for the rural nonattainment areas, provided the noted deficiencies in the VOC regulations be corrected and submitted to EPA by March 1, 1980.

172(b)(4) [SIP provisions shall] include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for TSP, ozone (the inventory is for hydrocarbons which react with sunlight to form ozone), and CO have been submitted. Future reporting requirements for updating inventories annually are included. EPA proposes to approve this aspect of the SIP.

172(b)(5) [SIP provisions shall] expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

There is no identification and quantification of emissions from major new or modified sources. Therefore, offsets under Section 173 of the CAAA will be required for these new sources. The State expects to be able to satisfy the offset requirement also through emissions reductions on other sources, in excess of the reductions needed to provide for reasonable further progress. The mechanism for tracking these reductions and allowing growth in nonattainment areas is provided in Chapter 1200-3-9 of the Tennessee Air Pollution Control Regulations and Section 3-2 of Regulation No. 3 of the Nashville Metropolitan Health Department Air Pollution Control. EPA proposes to approve these portions of the plan.

172(b)(6) [SIP provisions shall] require permits for the construction and operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirements);

The State and Nashville local agency require permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (1200-3-9-.01(5), Regulation 3-Section 3-2). EPA proposes to approve this portion of the SIP.

172(b)(7) [SIP provisions shall] identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

The State has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. In Section 2.11 (tables 1 and 2), the State has project the amount of manpower and funding which will be expanded through FY 1983 to carry out the requirements of the SIP. EPA proposes to approve this portion of the SIP.

172(b)(8) [SIP provisions shall] contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package contains the necessary emission limitations and schedules of compliance for stationary sources of TSP, VOC and CO sources where appropriate. These provisions have been incorporated into newly adopted Chapters 18 and 19 for the State and Regulation No. 7 for Nashville. Therefore, EPA proposes to approve this portion of the SIP.

172(b)(9) [SIP provisions shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Section 174 consultation and involvement with the public and local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's and Nashville's analysis of the air quality, health, welfare, economic, energy, and social effects of the required

plan provisions and alternatives considered conclude that the impact of the SIP will be beneficial, and EPA proposes to approve this portion of the SIP.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the State of Tennessee, the Air Pollution Control Division of the Department of Public Health has full statutory authority for enforcing the SIP revisions submitted. Within Davidson County, the Metropolitan Health Department has the statutory authority for enforcing the SIP revisions submitted. The Tennessee Board of Air Pollution Control on June 28 and the Metropolitan Board of Health, Nashville and Davidson County on March 14, April 11, and June 20, 1979, adopted the necessary regulatory portion of the SIP submitted. Timetables for compliance are addressed in 172(b)(8). EPA proposes to approve conditionally this portion of the SIP (refer to 172(b)(3)).

172(b)(11) [SIP provisions shall] in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a),

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis, of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, of modification.

(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) identify other measures necessary to provide for attainment of the applicable National Ambient Air Quality standard not later than December 31, 1987.

Paragraph 11 of Subsection 172(b) applies to the Nashville nonattainment area for carbon monoxide and ozone. The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP as a revision to the State's permitting regulation (Tennessee Rule 1200–3–9.01[5]). Requirements of paragaphs B and C are also met (see earlier discussion on Nashville CO and ozone). EPA proposes to approve conditionally this portion of the SIP (refer to 172(b)(3)).

In addition to the implementation plan for the nonattainment areas under Part D of the CAAA, the SIP revisions contain changes applicable to other portions of the CAAA. These topics will be dealt with in a separate **Federal Register.**

Proposed Action

Based on the foregoing, EPA is proposing to approve conditionally the SIP under Part D of the CAAA, as it relates to the attainment of TSP standards in Columbia and Nashville; carbon monoxide in Nashville; and ozone throughout the State.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 6, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-30388 Filed 10-1-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1331-5]

Approval and Promulgation of Implementation Plans: Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On July 31, 1979, the U.S. Environmental Protection Agency proposed approval/disapproval of various revisions to the Oklahoma State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment and maintenance of National Ambient Air Quality Standards. In response to requests from the Oklahoma Congressional Delegation for an extension of time for the filing of comments, the comment period is extended to October 15, 1979.

DATE: Comments must be received on or before October 15, 1979.

ADDRESS: Comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, Attn: Jerry Stubberfield.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2742.

Dated: September 27, 1979.

Adlene Harrison,

Regional Administrator.

[FR Doc. 79-30532 Filed 10-01-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 55

[FRL 1330-7]

Proposed Delayed Compliance Order for Virginia Electric & Power Co.'s Portsmouth Generating Station

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to issue an administrative order to Virginia Electric and Power Company's Portsmouth Generating Station requiring its Boiler Number 4 at Portsmouth, Virginia to achieve compliance with air pollution requirements under the Virginia State Implementation Plan by June 30, 1982.

DATE: Written comments and requests for a public hearing (and reasons therefore) must be received no later than November 1, 1979.

ADDRESS: All comments and requests for a public hearing should be submitted to: U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Director, Air & Hazardous Materials Division.

FOR FURTHER INFORMATION CONTACT: Mr. Bernard E. Turlinski, Regional Energy Coordinator, Environmental Protection Agency, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106 (215–597–9944).

SUPPLEMENTARY INFORMATION: EPA has developed an administrative order it proposes to issue under section 113(d)(5) of the Clean Air Act ("the Act") 42 U.S.C. 7401 et seq., to the Virginia Electric and Power Company's Portsmouth Generating Station requiring its Boiler Number 4 at Portsmouth, Virginia to achieve compliance with Virginia State Air Pollution Control Board, Section IV, Rules 2 and 3 of the Virginia State Implementation Plan by June 30, 1982. The order would require the Virginia Electric and Power Company's Portsmouth Generating Station to install control equipment according to the schedule set forth below and also contains interim emission reduction requirements, specifies emission limitations, coal pollutant characteristics, and requires

monitoring and reporting of air quality and air pollutant emissions data. If the order is issued, source compliance with its terms will preclude any further EPA enforcement action under section 113 of the Act and any citizens' suits under section 304 of the Act against the source for violations of the Virginia Implementation Plan provisions covered by the order. The purpose of this notice is to invite public comments on whether or not EPA should issue this order under section 113(d)(5) and to offer an opportunity for public hearing, if significant public interest exists, to discuss this issue.

The actual terms of the order, as set forth below, may be modified prior to final EPA issuance. Background information applicable to the Virginia Electric and Power Company's Portsmouth Generating Station may be viewed during normal business hours at the address provided above.

All interested persons are invited to submit written comments on the proposed order. Comments, submitted in person or by mail on or before November 1, 1979, will be considered in determining whether EPA should issue the order. Any person may request a public hearing on the subject order by submitting a request in writing and reasons therefore to the above Regional Office on or before November 1, 1979. If there is significant public interest in holding such a hearing, it will be conducted by the Region III office following 30 days prior notice of the time and place of the hearing.

The Clean Air Act Amendments ("the Amendments") of 1977 have changed the authority of the Administrator to issue extensions of compliance dates to sources which receive orders from the Department of Energy prohibiting the use of oil or gas as a primary energy source under section 2(a) of the Energy Supply and Environmental Coordination Act (ESECA). Such extensions were issued under section 119 of the Clean Air Act ("the Act") as in effect prior to the amendments, and regulations implementing section 119 were codified under 40 CFR Part 55. Section 112 of the Amendments repealed section 119 and added a new Section 113(d) which provides for the issuance of extensions to all sources generally and to prohibited sources specifically [113(d)(5)]. Regulations promulgated in 40 CFR Part 55 under the authority of section 119 are being revised to reflect this statutory change, and any extensions granted under the new authority of 113(d)(5) will be promulgated in Part 55.

The Clean Air Act Amendments of 1977 have changed the ESECA program in four major respects. These changes are:

(1) Sources able to comply with the applicable State Implementation Plan by December 31, 1985 may be eligible for an extension as opposed to the previous date of January 1, 1979;

(2) Extensions are to be provided for via section 113(d)(5), Delayed Compliance Orders, rather than section 119, Compliance Date Extensions;

(3) The regional limitation of old section 119(c)(2)(D) has been made a rebuttable presumption by the new section 113(d)(5)(D); and

(4) Written consent of the Governor of the appropriate State must be obtained on any date EPA proposes to certify to the Department of Energy as the earliest date a prohibited source can convert to coal in compliance with applicable air pollution requirements.

Therefore, if the subject order is issued by EPA, 40 CFR Part 55 would be amended based upon the actual term of Order No. R-III-CC-004 appearing below:

[Order No. R-III-CC-004]

In the matter of the Virginia Electric and Power Company.

This order is issued pursuant to Subsection 113(d)(5) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) ["the Act"]. This order contains a schedule for compliance, interim requirements, monitoring and reporting requirements, and other requirements of this subsection of the Act. Public notice has been provided pursuant to subsection 113(d)(1) of the Act, and a copy of this order has been provided to the Governor of the Commonwealth of Virginia to seek his concurrence.

Findings

On June 30, 1975, Virginia electric and Power Company ("Company") received a Prohibition Order from the Federal Energy Administration ["FEA"] pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792 (Supp. V, 1975), as implemented by 10 CFR Parts 303 and 305 (1976), as amended, 42 FR 23132 (1977). Said order prohibited, upon receipt of a Notice of Effectiveness, any further burning of natural gas or petroleum products as the primary energy source for the Company's Number 4 Boiler.

The Company's Number 4 Boiler was burning petroleum products at the time the FEA Prohibition Order was issued, and if converted to coal, would no longer be in compliance with every applicable air pollution requirement under the Virginia State Implementation Plan ("SIP"). A violation of the annual primary ambient air quality standard for particulate matter in Chesapeake, Virginia resulted in a finding by the United States Environmental Protection Agency ("EPA") that, for purposes of this Order, the Hampton Roads Intrastate Air Quality Control Region is a nonattainment region with respect to particulate matter and that regional limitation was applicable.

The Company, on February 27, 1979, successfully rebutted the statutory limitation on the effectiveness of an order, pursuant to section 113(d)(5)(D), by demonstrating that, upon converting Number 4 Boiler to coal, the source's emissions would have an insignificant effect on the air quality concentrations in that portion of the region where particulate matter is being exceeded. They further demonstrated that conversion to coal would not contribute to the exceedance of the national primary ambient air quality standard for particulate matter in Chesapeake, Virginia. The Company, therefore, formally requested from EPA an order to allow the burning of coal as the primary energy source. After a thorough investigation of the information obtained from all sources, including public comment, the Administrator of EPA has determined that the emission limitations, coal pollution characteristics, and other enforceable measures contained in the order below, satisfy the requirements of subsection 113(d)(5)(B) of the Act. Further, pursuant to subsection 113(d)(5)(B), the Administrator has determined that compliance with the requirements of this order will assure that, during the period of the order before final compliance is achieved, the buring of coal by the source will not result in emissions which will cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

Pursuant to subsection 113(d)(6) of the Act, the Administrator has determined that the schedule for compliance set forth below is as expenditious as practicable.

Finally, pursuant to subsection 113(d)(7) of the Act, the Administrator has determined that the order provides that the source shall use the best practicable system or systems of continuous emission reduction, taking into account the requirement with which the source must ultimately comply, during the period of said order. The source shall also be required to comply with interim requirements, set forth in said order, and determined to be necessary to comply with the requirements of the Virginia State Implementation Plan ("SIP") insofar as the Administrator had determined that the source is able to do so.

Pursuant to subsection 113(d)(5) of the Act, the Administrator has determined that the Company's Number 4 Boiler cannot achieve final compliance with the requirements set forth in this order prior to December 31, 1980. The Administrator, therefore, may issue an additional order to provide time to come into compliance with the applicable air pollution requirements which is determined to be as expeditious as practicable, but in no event later than December 31, 1985.

Order

Therefore, it is hereby ordered:

I. That the Number 4 Boiler of the Portsmouth Generating Station will comply with the requirements of the Virginia SIP, as specified in Section IV, Rule 2 (Effective date: March 17, 1972) and Rule 3 (Effective date: March 17, 1972; amended August 11, 1972) of the federally approved Regulations for the Control and Abatement of Air Pollution in the

Commonwealth of Virginia, as expeditiously as practicable, but in no event later than the dates specified in the following schedule:

A. Not later than April 1, 1980: Enter into contracts for particulate emission controls and other equipment necessary for final compliance.

B. Not later than May 1, 1980: Submit for approval to the EPA Region III, Air and Hazardous Materials Division Director, contracts for continuous particulate emission reduction systems and other equipment necessary for final compliance.

C. Not later than April 1, 1981: Initiate on-site construction or installation of continuous particulate control systems.

D. Not later than April 1, 1982: Complete on-site construction or installation of continuous particulate control systems.

E. Not later than June 30, 1982: Perform emission tests in accordance with 40 CFR Part 60 and submit reports demonstrating final compliance with the Regulations of the Commonwealth of Virginia State Air Pollution Control Board, Section IV, Rules 2 and 3 as approved by EPA.

II. With respect to the schedule increments set out in subparagraphs (A) through (E) of Paragraph I hereinabove, the Company shall notify the Division Director, Air and Hazardous Materials Division, EPA Region III, within ten (10) days after each incremental requirement has been satisfied, or within ten (10) days after the final date set for achieving each such requirement, is such requirement has not been achieved.

III. That the Company's Portsmouth Generating Station ("the source") shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of continuous emission reduction (taking into account the requirements or Paragraph I, above), and which are necessary to assure compliance with the federally approved Rules 2 and 3 of Section IV of the Virginia Regulations for the Control and Abatement of Air Pollution, insofar as the source referred to above is able during the period this order is in effect:

A. During the period of the order's effectiveness, prior to the date set for final compliance or the date on which final compliance is achieved (whichever is earlier), the Number 4 Boiler shall not burn coal with an ash content exceeding twelve percent (12%) and a high heating value of less than 12,000 British Thermal Units (BTU's) per pound;

B. During the same period specified in subparagraph A hereinabove, the Number 4 Boiler shall not emit in excess of 2263 pounds of particulate matter per hour at maximum load from Boiler Number 4; and

C. During the same period specified in subparagraph A hereinabove, the Company shall not emit in excess of 492 pounds of particulate matter per hour at maximum load from Boiler Numbers 1, 2 and 3 combined.

The above conditions have been determined by the Administrator to be the best practicable interim system or systems of emission reduction for the period during which this order will be in effect. The conditions of this paragraph are also ordered to meet the requirements of Subsection 113(d)(5)(B) of the Act, and are therefore subject to modification from time to time pursuant to said provision. Any modifications, if made, shall be accompanied by a determination of the Administrator that such modifications continue to meet the best practicable interim system of emission reduction, and other interim requirements of Subsection 113(d)(7) of the Act, or shall include requirements to comply with said subsection.

IV. That the Virginia Electric and Power Company is not relieved by this order from compliance with any requirements imposed by the applicable State Implementation Plan, EPA, and/or the courts pursuant to Section 303 of the Act during any period of imminent and substantial endangerment to the health of persons.

V. That the period of effectiveness of this order shall not include any interval in which a national primary ambient air quality standard for particulate matter is being exceeded, which Virginia Electric and Power is causing or contributing to, in the Hampton Roads Air Quality Control Region. During such intervals, if any, full compliance with standards and limitations of the Virginia Electric and Power Company of said SIP shall be subject to enforcement under any or all authorities of Section 113 of the Act.

VI. That the Virginia Electric and Power Company shall comply with the following emissions monitoring and reporting requirements on or before the dates specified below:

A. Emission Monitoring

1. Within thirty (30) days of the effectiveness of this order, the Virginia Electric and Power Company shall submit to the Director, Air and Hazardous Materials Division, EPA Region III, a proposal for a complete air quality monitoring network to be set up by the Company in the vicinity of the Source. Said network shall include monitors capable of measuring 24-hour average particulate concentrations. EPA Region III may, on its own initiative, direct that continuous sulfur dioxide monitors be located with particulate samplers and operated by the Company.

2. Within ninety (90) days after receiving EPA approval of the network proposed under subparagraph A.1 of this paragraph, said approval including any modifications made in the network by the Director, Air and Hazardous Materials Division, EPA Region III, the Company shall complete installation and begin operation of the EPA-approved network.

3. Within ninety (90) days of the effectiveness of this order, the Company shall submit in writing for his approval to the Director, Air and Hazardous Materials Division, EPA Region III, the methods, procedures and devices the Company intends to use to obtain the information required by subparagraph B of this paragraph.

4. Within thirty (30) days of approval by EPA of the monitoring and information-gathering system proposed under subparagraph A.3 of this paragraph, the Company shall implement such system as may be modified by the Director, Air and Hazardous Materials Division, EPA Region III, in his approval.

5. Within sixty (60) days of commencing the use of coal in the Company's Boiler Number 4, the Company shall perform source testing for particulate emissions using EPA method five (5) as specified in Appendix A of Part 60, Title 40 of the Code of Federal Regulations, as amended. The Company shall perform such tests in a manner approved in writing by EPA Region III and shall provide to the EPA Region III Regional Energy Coordinator a minimum of fifteen (15) days written notice prior to conducting such tests. The Company shall provide to said Regional Energy Coordinator a complete report containing all information pertinent to the performance and results of said stack tests within thirty (30) days of completing such tests.

6. Within thirty (30) days of the effectiveness of this order, the Company shall install and operate a continuous opacity monitor required under subparagraph B.1 of this paragraph.

7. Within sixty (60) days of installation of the continuous opacity monitor required under subparagraph B.1 of this paragraph, the Company shall conduct a Performance Specification Test (PST) in accordance with Performance Specification 1, Appendix B of Part 60, Title 40 of the Code of Federal Regulations. The Company shall notify the Regional Energy Coordinator, EPA, Region III, of the date on which the PST will be conducted at least thirty (30) days prior to such date.

8. Within forty-five (45) days of the PST required under subparagraph A.6 of this paragraph, the Company shall submit a complete report containing all information pertinent to the PST to the Regional Energy Coordinator, EPA Region III.

B. Recordkeeping

1. The Company shall keep monthly records both of air quality monitoring data and of air pollutant emissions, of which records the Company shall submit copies to the EPA Region III Regional Energy Coordinator within fifteen (15) days of the end of each calendar month. Said air pollutant emission records shall detail daily emission for all fuel-burning units of the Company at its Portsmouth Generating Station as determined by application of EPA emission factors and shall at a minimum include:

a. For each fuel-burning unit, a breakdown of the fuel consumed each day of the preceding month;

b. For each fuel-burning unit, an analysis of the fuel consumed each week to include sulfur content, ash content and high heating value; and

c. For the stack-serving Boiler Number four (4) only, a record of the hourly measurement of opacity, acquired by means of a continuous opacity monitoring device. Such a device shall be installed, calibrated, and maintained in accordance with Performance Specification 1 of Appendix B, Part 60, Title 40 of the Code of Federal Regulations.

2. If, for any reason, the Company does not comply or will be unable to comply with the requirements of this Order, the Company shall provide in writing to the Director, Air and Hazardous Materials Division, EPA

Region III, within five (5) days of becoming aware of such situation:

a. A description of the noncompliance and its cause; and

b. The period during which noncompliance has occurred and/or is expected to occur, and the steps taken to reduce, eliminate and prevent recurrence of the noncompliance.

3. If the air quality monitoring data collected by the Company pursuant to Section A of this paragraph indicates that the National Primary Ambient Air Quality Standards for particulates are being exceeded in the area, the Company shall notify the Director, Air and Hazardous Materials Division, EPA Region III, of such occurrence by telephone or letter or other means, within seventy-two (72) hours of the collection of such data.

4. The requirement of subparagraph 3 hereinabove shall apply with respect to monitoring data and the National Ambient Air Quality Standards for Sulfur Dioxide, if such monitoring requirements are imposed pursuant to Section A. of this paragraph.

VII. Nothing herein shall affect the responsibility of Virginia Electric and Power Company to comply with State, local or other federal regulations.

VIII. Virginia Electric and Power Company is hereby notified that its failure to achieve final compliance at its Boiler Number 4 with the applicable particulate emission regulations of the Virginia SIP by June 30, 1982, or such other date as may be specified in a second order pursuant to subsection 113(d) of the Act, if issued, may result in a requirement to pay a noncompliance penalty under Section 120 of the Act. Such requirement may be imposed at an earlier date, as provided by Subsection 113(d) and section 120 of the Act, either in the event that this order is terminated as provided in Paragraph IX, below, or in the event that any requirement of this order is violated as provided in paragraph X, below. In any event, the Company will be formally notified, pursuant to Subsection 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

IX. This order shall be terminated in accordance with Subsection 113(d)(8) of the Act if the Administrator or his delegatee determines, on the record, after notice and hearing, that an inability of the Company to comply with Rules 2 and 3, Section IV of the Virginia Regulations for the Control and Abatement of Air Pollution, as approved by EPA, no longer exists with respect to its Boiler Number 4. In addition, if the Company is able to demonstrate compliance with Rules 2 and 3 prior to June 30, 1982, then this order may be terminated at that earlier date by mutual agreement of the Administrator and the Company.

X. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to subsection 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of the Virginia SIP in accordance with the preceding paragraph.

C. If a violation occurs, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

XI. This order is effective upon promulgation in the **Federal Register** and after having received concurrence from the Governor of the Commonwealth of Virginia.

Authority: 42 U.S.C. 7413(d).

Dated: September 12, 1979.

Jack Schramm,

Regional Administrator.

[FR Doc. 79-30386 Filed 10-1-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 250

[FRL 1329-8]

Hazardous Waste and Hazardous Waste Management; Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today making available to the public two final reports, one interim report and one informal report on hazardous waste and hazardous waste management which were completed and published after the close of the comment period on EPA's proposed regulations implementing Sections 3001–3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (43 FR 18506–18512, April 28, 1978, and 43 FR 58946–59022, December 18, 1978). In addition, EPA is also making available to the public several additional responses to the EPA requests for information on hazardous waste which were noticed for public comment on August 22, 1979 (44 FR 49278) and extending the comment period on the two reports (Comparison of Three Waste Leaching Tests: Executive Summary and Background Study on the Development of a Standard Leaching Test) which were also noticed on that same date (44 FR 49277).

DATES: Comments on these reports and letters are due no later than November 13, 1979.

ADDRESSES: Comments should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Communications should identify the regulatory docket or notice number, which is section 3001.

Copies of the reports and letters described in this notice are available for reading at the EPA Public Information Reference Unit (Room 2404) and the Subtitle C Docket Room (Room 2439K), both located at 401 M Street, SW., Washington, D.C., and at all EPA Regional Office libraries during the hours of 9:00 a.m. to 4:30 p.m., Monday through Friday. Copies of the two final reports may also be ordered from Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, Ohio 45268, (513) 684–8491. Copies of the other two reports and letters are available from the EPA Docket Clerk at the address indicated below. EPA plans to provide the four reports noticed today free of charge to all who request copies. However, the Agency may charge $0.20 per page for photocopying if the available copies run out.

FOR FURTHER INFORMATION CONTACT: Ken Stacey, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–9173.

SUPPLEMENTARY INFORMATION: During the development of its proposed Section 3001–3004 regulations, EPA initiated several studies on hazardous waste to obtain additional information on and/or analyze major issues raised by those regulations. In a number of cases, reports of those studies have only recently been finalized or are not scheduled to be finalized until some time between now and the end of the year. The purpose of this notice is to announce the availability of four of those reports for public comments and EPA's intent to make available several additional reports on hazardous waste before December 31, 1979. Announcements regarding the release of other reports will be made in subsequent **Federal Register** notices.

The four reports which EPA is making available to the public today are:

Compilation and Evaluation of Leaching Test Methods (EPA–600/2–78–095)

This recently published final report evaluates the factors to be considered in developing a standardized leaching test, discusses leachate generation, describes and evaluates existing leaching tests, and recommends several tests for further study and evaluation.

Comparison of Three Waste Leaching Tests (EPA–600/2–79–071)

In the study discussed in this final report, EPA ran three leaching tests on 14 different industrial wastes to determine the potential of each test for use as a standard leaching test. A summary of this report and the background study for the report ("Background Study on the Development

of a Standard Leaching Test") were previously noticed for public comment on August 22, 1979 (44 FR 49277).

Toxicity of Leachate: Interim Report

This interim report discusses a study which evaluates the utility of a series of test procedures which were proposed on December 18, 1978 for use in the Section 3001 Regulations. (43 FR 58949, 58956–58957). This study was conducted by the Oak Ridge National Laboratories (ORNL) and the work performed during the period April 1, 1978, through January 1, 1979. In the course of this study, Oak Ridge ran EPA's proposed extraction procedure on several wastes; chemically analyzed the extracts obtained; subjected the extracts to mutagenicity, phytotoxicity and aquatic toxicity bioassays; and evaluated the extraction procedure from an operational standpoint.

C. C. Sun and J. J. McAdams, Assessment of RCRA/EP Test Results on FBC Residue: Part II—Proposed Procedure in Federal Register, December 18, 1978 (May 4, 1979)

This study was prepared by the Westinghouse Research and Development Center, Pittsburgh, Pennsylvania for the Industrial Environmental Research Laboratory (Research Triangle Park), U.S. Environmental Protection Agency, as part of an overall program to evaluate the hazardousness of FBC (fluidized bed combustion) residues. It presents the results of their testing program and some recommendations on EPA's proposed extraction procedure.

In addition to these four reports, EPA is today making available for public comment a number of letters which EPA received in response to the EPA written requests for information on hazardous wastes noticed in the **Federal Register** on August 22, 1979 (44 FR 49278). These responses were received after publication on that notice. Finally, EPA is extending the comment period on the two reports (Comparison of Three Waste Leaching Tests: Executive Summary and Background Study on the Development of a Standard Leaching Test) which were noticed for public comment on August 22, 1979 (44 FR 49277). These reports, due to distribution problems, have not been readily available to the public; therefore, the comment period for these two reports are being extended to allow the public adequate time to review and comment on them.

Comments on these reports and letters should be submitted to EPA no later than forty (40) days after the date of publication of this notice. Because EPA is currently under a court order to promulgate final Section 3001–3004 regulations by December 31, 1979 (*State of Illinois* vs. *Costle*, 12 ERC 1597 (D.D.C. 1979)), a shorter comment period (probably thirty (30) days) may be provided on reports released later this year in order to give EPA adequate time to evaluate and respond to public comments on the reports before those regulations are finalized.

The purpose of making this information available to the public is to comment on the accuracy of the data contained in the reports and letters and the conclusions reached, not to reopen the comment period on EPA's proposed Section 3001–3004 regulations. Commenters should limit the scope of their written submissions accordingly.

Dated: September 21, 1979.

Swep T. Davis, Jr.,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-30495 Filed 10-1-79; 8:45 am]

BILLING CODE 6560-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1152

National Endowment for the Arts; Nondiscrimination on the Basis of Age

AGENCY: National Endowment for the Arts.

ACTION: Proposed Regulations.

SUMMARY: The National Endowment for the Arts is proposing regulations to carry out its responsibilities under the Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.* The proposed regulations are consistent with and reflect standards and procedures included in general government-wide regulations issued by the Department of Health, Education, and Welfare and published in the **Federal Register** June 12, 1979, 44 FR 33768 (1979). The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance. The Act contains exceptions which permit age distinctions and factors other than age to continue in use under certain circumstances. The Act excludes from its coverage most employment practices except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act (CETA). The Age Discrimination in Employment Act (ADEA), administered by the Equal Employment Opportunity Commission continues to be the Federal statute that prohibits employment discrimination for persons between the ages of 40 and 70.

DATE: Comments are invited from other federal agencies and the public. They must be received on or before November 15, 1979.

ADDRESS: Comments should be submitted in writing to Susan Liberman, Assistant to the General Counsel, National Endowment for the Arts, 2401 E Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Garrett M. Johnson, Office of the General Counsel, National Endowment for the Arts, 2401 E Street, NW., Washington, D.C. 20506, 202–634–6588.

SUPPLEMENTARY INFORMATION:

Background

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act contains exceptions which limit the general prohibition against age discrimination. The Act permits the use of age distinctions which are necessary to the normal operation of a program or to the achievement of a statutory objective. It also permits actions based on reasonable factors other than age. In accordance with section 304(a)(1) of the Act, the Secretary of the Department of Health, Education, and Welfare (HEW) was required to issue government-wide regulations to guide the development of agency specific regulations by each Federal agency that administers programs of Federal financial assistance. Final government-wide regulations were published in the **Federal Register** June 12, 1979, 44 FR 33708 (1979). It should be noted that under the Age Discrimination Act the prohibition of age discrimination was to become effective upon the issuance of agency regulations. According to HEW, the effective date of the Act will be July 1, 1979, the effective date of HEW government-wide regulations.

Section 90.31(b) of the HEW government-wide regulations required Federal agencies with statutory authority to extend Federal financial assistance to issue proposed agency regulations applicable to the specific programs and activities administered by that agency.

In addition to publishing specific regulations consistent with HEW government-wide regulations, the following actions are required to be taken by the Endowment in connection with implementation of the Act.

1. An appendix is required to be included in Endowment regulations listing all age distinctions which appear in Federal statutes and regulations and

affect the agency's programs of financial assistance. A review of the National Foundation on the Arts and the Humanities Act of 1965, as amended, 20 U.S.C. 951 *et seq.*, and Endowment regulations reveals no statutory age distinctions used by the Endowment in the administration of agency programs.

2. As a second step in the public information process, the Endowment must review any age distinctions it imposes on its recipients by regulation or by administrative action in order to determine whether these distinctions are permissible under the Act. This review must be completed within 12 months after publication of agency final regulations and must be published for public comment in the **Federal Register.**

3. The Act requires the Endowment to report annually to the Congress through HEW on its compliance and enforcement activities.

4. The Endowment is required to provide written notices to each recipient of the recipient's obligations under the Act, to provide technical assistance to recipients where necessary, and to make available educational materials explaining the rights and obligations of beneficiaries and recipients.

5. The Endowment is required to establish a procedure for processing complaints of age discrimination. The complaint handling procedure must include an initial screening by the Endowment and notice to complainants and recipients of their rights and obligations in the complaint process. All complaints which fall within the coverage of the Act will be referred to a mediation process managed by the Federal Mediation and Conciliation Service (FMCS).

6. The Endowment must review the effectiveness of its regulations 30 months after their effective date. The review is to be published in the **Federal Register** with an opportunity for public comment.

Summary of Proposed Regulation

The Endowment's proposed regulations are divided into four subparts: Subpart A—General; Subpart B—Standards for Determining Age Discrimination; Subpart C—Responsibilities of Endowment Recipients; Subpart D—Investigation, Conciliation, and Enforcement Procedures.

Subpart A of the proposed regulations explains the purpose of the Endowment's age discrimination regulations and sets forth general definitions. Section 1152.3(h) defines the term "recipient." As indicated, recipient includes any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient including any successor, assignee, or transferee of a recipient. It should be noted that the ultimate beneficiary of the assistance is excluded from the definition of recipient. This language points out the inapplicability of these regulations to assistance programs administered directly by the Federal government to beneficiaries, e.g., individual fellowship award programs. However, with respect to direct assistance programs, the regulations may apply whenever direct aid is provided to an individual on condition that the aid be spent in providing services or benefits to others.

The general and specific prohibitions against discrimination on the basis of age (§ 1152.7) as well as the exceptions to those prohibitions are set forth in Subpart B (§ 1152.8). As a general rule, under the regulations, no person in the United States shall, on the basis of age, by excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Endowment financial assistance.

The Act contains several exceptions which limit the general prohibition against age discrimination. Section 304(b)(1) of the Act permits the use of age distinctions which are based on reasonable factors other than age. The regulations provide definitions for two terms which are essential to an understanding of those exceptions: "Normal operation" and "statutory objective" (§ 1152.8). "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives. "Statutory objective" is defined to mean any purpose which is explicitly stated in a Federal statute, State statute or local statute or ordinance.

The regulations establish a four part test, all parts of which must be met for an explicit age distinction to satisfy one of the statutory exceptions and to continue in use in a Federally assisted program. This four part test will be used to scrutinize age distinctions which are imposed in the administration of Endowment assisted programs, but which are not explicitly authorized by a Federal, State or local statute.

Recipients of Endowment funds also are permitted to take an action otherwise prohibited by the Act, if the action is based on "reasonable factors other than age." In that event, the action may be taken even though it has a disproportionate effect on persons of different ages. However, according to the regulations (§ 1152.8(c)), the factor other than age must bear a direct and substantial relationship to the program's normal operation or to the achievement of a statutory objective.

General illustrative application of these basic principles to Endowment supported programs and activities are set forth in § 1152.10 of the proposed regulations.

Subpart C sets forth the duties of Endowment recipients. Endowment recipients are responsible for ensuring that their programs and activities are in compliance with the Act and Endowment regulations.

Where an Endowment recipient passes on financial assistance to subrecipients, the recipient must notify subrecipients of their obligations under the regulations (Section 1152.12). Each recipient and each subrecipient would be required to complete a one-time written self-evaluation of its compliance with the proposed regulations. The self-evaluation must be kept on file for three years from the effective date of the regulations and made available to the public upon request.

Subpart D of the proposed regulations establishes the procedures for investigation, conciliation, and enforcement of the Act. This Subpart closely reflects the procedural requirements included in HEW's government-wide regulations.

Section 1152.17 introduces mediation into the complaint process for age discrimination. The Endowment will refer all complaints of discrimination under the Act to the Federal Mediation and Conciliation Services (FMCS), which was designated by the Secretary of HEW to manage the mediation process.

Complainants and recipients are required to participate in the effort to reach a mutually satisfactory mediated settlement of the complaint. Mediation may last no more than 60 days from the date the Endowment first receives the complaint. No further action will be taken by the Endowment in connection with a successfully mediated complaint. The Endowment will, however, investigate complaints that are unresolved after mediation or are reopened because the mediation agreement is violated.

Finally, the regulations permit the Endowment to disburse withheld funds to an appropriate alternate recipient. The alternate recipient must be in compliance with the regulations and must demonstrate the ability to achieve the goals of the Endowment's enabling

legislation and applicable program guidelines.

In consideration of the foregoing, it is hereby proposed to add Part 1152 to Title 45 of the Code of Federal Regulations to read as set forth below.

Dated: September 25, 1979.

Livingston L. Biddle, Jr.,

Chairman, National Endowment for the Arts.

PART 1152—NONDISCRIMINATION ON THE BASIS OF AGE

Subpart A—General

Sec.
1152.1 Purpose.
1152.2 Application.
1152.3 Definitions.
1152.4–1152.6 [Reserved].

Subpart B—Standards for Determining Discriminatory Practices

1152.7 Rules against age discrimination.
1152.8 Exceptions to the rules against age discrimination.
1152.9 Burden of proof.
1152.10 Illustrative examples.

Subpart C—Responsibilities of Endowment Recipients

1152.11 General responsibilities.
1152.12 Notice to subrecipients.
1152.13 Self-evaluation.
1152.14 Information requirements.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

1152.15 Compliance reviews.
1152.16 Complaints.
1152.17 Mediation.
1152.18 Investigation.
1152.19 Prohibition against intimidation or retaliation.
1152.20 Compliance procedure.
1152.21 Remedial and affirmative action by recipients.
1152.22 Alternate funds disbursal procedure.
1152.23 Exhaustion of administrative remedies.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*; 45 CFR Part 90.

Subpart A—General

§ 1152.1 Purpose.

The purpose of this part is to implement the Age Discrimination Act of 1975, as amended. The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations.

§ 1152.2 Application.

(a) This part applies to each recipient of financial assistance from the National Endowment for the Arts and to each program or activity that receives or benefits from such assistance.

(b) These regulations do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1975 (CETA), (29 U.S.C. 801 *et seq.*).

§ 1152.3 Definitions.

As used in these regulations, the term:

(a) "Act" means the Age Discrimination Act of 1975, as amended, (Title III of Pub. L. 94–135).

(b) "Action" means any act, activity, policy role, standard, or method of administration; or the use of any policy, role, standard, or method of administration.

(c) "Age" means how old a person is, or the number of years from the date of a person's birth.

(d) "Age distinction" means any action using age or any age-related term.

(e) "Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(f) "Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal government.

(g) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(h) "Sub-recipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A sub-recipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

(i) "Endowment" means the National Endowment for the Arts.

(j) "Chairman" means the Chairman of the National Endowment for the Arts.

(k) "FMCS" means the Federal Mediation and Conciliation Service.

§§ 1152.4–1152.6 [Reserved]

Subpart B—Standards for Determining Discriminatory Practices

§ 1152.7 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 1152.8.

(a) General rule. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Specific rules. A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 1152.8 Exceptions to the rules against age discrimination.

(a) *Definitions.* For purposes of this section, the terms "normal operation" and "statutory objective" shall have the following meaning:

(1) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(2) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by any elected, general purpose legislative body.

(b) *Normal operation or statutory objective of any program or activity.* A recipient is permitted to take an action otherwise prohibited by § 1152.7, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(1) Age is used as a measure or approximation of one or more other characteristics; and

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

(c) *Reasonable factors other than age.* A recipient is permitted to take an action otherwise prohibited by § 1152.7 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 1152.9 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in § 1152.8(b) and (c) is on the recipient of Federal financial assistance.

§ 1152.10 Illustrative examples.

The following examples will illustrate the application of the foregoing provisions to some of the activities funded by the National Endowment for the Arts:

(a) The Endowment's Artists-in-Schools Program places professional artists in elementary and secondary schools to work and demonstrate their artistic disciplines. The primary purpose of the program is to enhance among children the powers of perception and self-expression, and to help them communicate creatively with tools and skills they otherwise might not develop. Primary responsibility for administering the Artists-in-Schools Program belongs to State Arts Agencies and designated cooperating organizations in coordination with State Education Agencies. Participation in the Program is limited to children attending elementary and secondary schools. Although this factor might have a disproportionate effect on persons of different ages, under § 1152.8(c) of the regulations State Arts Agencies may impose this limitation since the factor bears a direct and substantial relationship to the normal operation of the program, i.e., the operation of the program without significant changes that would impair its ability to meet its objectives.

(b) The Endowment's Theatre Program provides support for professional theatre groups engaged primarily in the production of dramatic material for audiences ages five through 15. This Program category was established in response to the needs of the many existing children's theatres. It was believed that support for children's theatre would broaden the audience served by recipients of the Theatre Program and would assist in the development of quality works for children. The age criterion included in Theatre Program guidelines relates to the subject matter of the theatrical works to be produced rather than to eligibility requirements for participation in the Program. This Program is designed to include not exclude larger audiences and therefore would not contravene the general specific prohibitions against age discrimination included in § 1152.7 of the regulations.

(c) The Museum Program's Formal Training Programs provide matching grants to organizations for graduate level programs in curatorial training, museum administration or museum education conducted jointly by museums and universities. The graduate level eligibility criterion would not necessarily have the effect of disproportionately limiting participation in the program on the basis of age. Consequently, graduate level eligibility would not appear to be an age related factor requiring justification under the regulations.

Subpart C—Responsibilities of Endowment Recipients

§ 1152.11 General responsibilities.

Each Endowment recipient has primary responsibility for ensuring that its Endowment supported programs and activities are conducted in a manner consistent with the Age Discrimination Act and Endowment regulations.

§ 1152.12 Notices to subrecipients.

Where a recipient passes on Federal financial assistance from the Endowment to subrecipients, the recipient shall provide the subrecipients with written notice regarding the subrecipients obligations under these regulations.

§ 1152.13 Self-evaluation.

(a) Each recipient shall complete a one-time written self-evaluation of its compliance under the Act within 18 months of the effective date of this section. The self-evaluation shall identify and justify each age distinction imposed by the recipient.

(b) Each recipient shall take corrective and remedial action whenever a self-evaluation indicates a violation of these regulations.

(c) Each recipient shall make the self-evaluation available on request to the Endowment and to the public for a period of three years following its completion.

§ 1152.14 Information requirements.

Each recipient shall:

(a) Make available upon request to the Endowment information necessary to determine whether the recipient is complying with these regulations.

(b) Permit reasonable access by the Endowment to the books, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with these regulations.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 1152.15 Compliance reviews.

The Endowment may conduct compliance reviews and pre-award reviews of recipients in order to investigate and correct violations of these regulations. In the event a compliance review or pre-award review indicates a violation of these regulations, the Endowment will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, enforcement efforts will proceed as described in § 1152.20 of these regulations.

§ 1152.16 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with the Endowment, alleging discrimination prohibited by these regulations based on an action occurring on or after July 1,

1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause, the Endowment may extend this time limit.

(b) The Endowment will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(2) Notifying the complainant and the recipient of their rights under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(3) Notifying the complainant and the recipient (or their representatives) of their right to contact the Endowment for information and assistance regarding the complaint resolution process.

§ 1152.17 Mediation.

(a) Referral of complaints for mediation. The Endowment will refer to the Federal Mediation Service all complaints that:

(1) Fall within the jurisdiction of these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before the Endowment will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to the Endowment. The Endowment will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) The Endowment will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time the Endowment receives the complaint; or

(2) Prior to the end of that 60 day period, an agreement is reached; or

(3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to the Endowment.

§ 1152.18 Investigation.

(a) *Informal investigation.* (1) The Endowment will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, the Endowment will use informal fact finding methods, including joint or separate discussions with the complainant and recipient to establish the facts, and, if possible, settle the complaint on terms that are mutually agreeable to the parties. The Endowment may seek the assistance of any involved State program agency.

(3) The Endowment will put any agreement in writing and have it signed by the parties and an authorized official at the Endowment.

(4) The settlement shall not affect the operation of any other enforcement effort of the Endownment, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If the Endowment cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, the Endowment will attempt to obtain voluntary compliance. If the Endowment cannot obtain voluntary compliance, it will begin enforcement as described in § 1152.20.

§ 1152.19 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of the Endowment's investigation, conciliation and enforcement process.

§ 1152.20 Compliance procedure.

(a) The Endowment may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from the Endowment under the program or activity involved where the recipient has violated the Act and these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from the Endowment.

(2) Any other means authorized by law including, but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) The Endowment will limit any termination under § 1152.20(a)(1) to the particular recipient and particular program or activity the Endowment finds in violation of these regulations. The Endowment will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from the Endowment.

(c) The Endowment will take no action under paragraph (a) of this section until:

(1) The Chairman has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Chairman has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Chairman will file a report whenever any action is taken under paragraph (a) of this section.

(d) The Chairman also may defer granting new Federal financial assistance from the Endowment to a recipient when a hearing under § 1152.20(a)(1) is initiated.

(1) New Federal financial assistance from the endowment includes all assistance for which the Endowment requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from the Endowment does not include

increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 1152.20(a)(1).

(2) The Endowment will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 1152.20(a)(1). The Endowment will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Chairman. The Endowment will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 1152.21 Remedial and affirmative action by recipients.

(a) Where the Chairman finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that the Chairman may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the Chairman may require both recipients to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(c) If a recipient operating a program which serves the elderly or children in addition to persons of other ages, provides special benefits to the elderly or to children the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

§ 1152.22 Alternate funds disbursal procedure.

(a) When the Endowment withholds funds from a recipient under these regulations, the Chairman may disburse the withheld funds directly to an alternate recipient.

(b) The Chairman will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Endowment's enabling legislation and applicable program guidelines.

§ 1152.23 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the endowment has made no finding with regard to the complaint; or

(2) The Endowment issues any finding in favor of the recipient.

(b) If the Endowment fails to make a finding within 180 days or issues a finding in favor of the recipient, the endowment will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

[FR Doc. 79-30528 Filed 10-01-79; 8:45 am]
BILLING CODE 7537-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL 1332-2]

National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides

AGENCY: Environmental Protection Agency.

ACTION: Notice of Decisions Regarding Revision of Criteria and Review of Standards for Particulate Matter and Sulfur Oxides.

SUMMARY: This notice announces EPA's decision to revise the criteria documents for particulate matter and sulfur oxides underlying the national ambient air quality standards for those pollutants, and to complete such revisions and any appropriate revision of the ambient standards themselves by December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Padgett, Director, Strategies and Air Standards Division (MD-12), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5204; or Dr. Lester D. Grant, Director, Environmental Criteria and Assessment Office (MD-52), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2266.

SUPPLEMENTARY INFORMATION: On April 30, 1971, the Environmental Protection Agency published in the **Federal Register** (42 FR 8186) National Ambient Air Quality Standards for particulate matter (40 CFR 50.6 and 50.7) and for sulfur oxides (40 CFR 50.4 and 50.5). The scientific, technical, and medical basis for these standards is contained in air quality criteria documents published by the U.S. Department of Health, Education and Welfare in January, 1969 (particulate matter, AP-49; sulfur oxides, AP-50).

In 1976, as a result of internal agency review of criteria for these pollutants and the recommendations of a committee of EPA's Science Advisory Board, the decision was made to revise the criteria documents for particulate matter and sulfur oxides. The review of health and welfare effects criteria and the resulting decision to revise were made pursuant to Section 108(c) of the Clean Air Act (42 U.S.C. 7408(c)), which provides in part that "The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria . . . issued pursuant to this section." The review of criteria consisted of analyzing the results of research undertaken by EPA, and evaluating scientific literature and health effects data which had accumulated since publication of the original criteria documents. The process of criteria revision was scheduled to occur during 1979-1980, because of the competing priorities of other criteria documents which also required revision, and the need to complete additional research on particulates and sulfur oxides. At that time the Clean Air Act specified no dates for the completion of criteria review or revision. Accordingly, the schedules for revision of the various criteria documents were established on

the basis of the best judgment of the Administrator.

In 1977, amendments to the Clean Air Act provided that a thorough review of criteria and standards, and such revisions as may be appropriate, shall be completed by December 31, 1980. (Clean Air Act Section 109(d)(1); 42 U.S.C. 7409(d)(1)). In response to this specific requirement, the Agency established May, 1980, as a target date for completion of revised criteria documents for particulate matter and sulfur oxides.

On June 13, 1979, I formally approved Development Plans for particulate matter and sulfur oxides. The Development Plans provide a summary of Agency schedules and actions regarding the review and revision of the criteria for these pollutants. Also set forth are schedules and actions for the review of the corresponding ambient air quality standards, and if appropriate the proposal and promulgation of revised standards. Copies of the Development Plans can be obtained on request from Joseph Padgett, Director of the Strategies and Air Standards Division, at the address referenced above for further information.

Work on a revised combined criteria document for particulate matter and sulfur oxides is now in progress and has been among the highest priorities of the Agency's Environmental Criteria and Assessment Office since mid-1978. Such revision necessarily entails the thorough additional review of criteria as contemplated in Section 109(d)(1) of the Clean Air Act. EPA anticipates that an external review draft of the combined criteria document for particulate matter and sulfur oxides will be made available for public comment later this year, and a notice of its availability will be published in the **Federal Register** at that time. A draft of the document will also be reviewed by an independent scientific advisory committee of the Agency's Science Advisory Board in a public meeting, the time and place of which will be announced in the **Federal Register.**

If any revised standards are to be proposed, they would be based on, and announced concurrently with, the final revised criteria document. The Development Plans specify December of 1980 for the final promulgation of any revised standards. Regardless of whether the Agency proposes to revise or to retain the existing standards for particulate matter and sulfur oxides, I have decided to follow the rulemaking procedures specified in Section 307(d) of the Clean Air Act (42 U.S.C. 7607(d)) in the review of these particular standards. The Section 307(d) procedures provide for extensive public participation in the decisionmaking process.

The purpose of this Notice is to announce the decision to revise, and the schedules for revision of, the criteria documents for particulate matter and sulfur oxides. Revision will occur in the context of the criteria and standard review process as set forth in the Development Plans discussed above. I have decided that it would not be advisable or feasible to accelerate issuance of the combined criteria document or the review and possible revision of standards. In so deciding, I have considered alternative schedules for completing the combined revised criteria document, the availability of resources needed to complete the document, and legal requirements that the document be reviewed by the public and by the independent scientific advisory committee mentioned above. I am also mindful of the importance of producing the best possible document to be used as a basis for reviewing and possibly revising standards which are of critical importance to the health and economy of the nation. For these reasons, I have decided to complete the revision of the criteria for particulate matter and sulfur oxides, and review and possible revision of the corresponding standards, by December 31, 1980.

Because EPA's national ambient air quality standards are the basis for all state implementation plans under section 110 of the Clean Air Act (42 U.S.C. 7410) and are of nationwide applicability and significance, I consider my decisions announced today with regard to review and revision of the criteria and standards for particulate matter and sulfur oxides, and the schedules for completing such review and revision, to be nationally applicable final actions for purposes of Section 307(b)(1) of the Clean Air Act (42 U.S.C. 7607(b)(1)).

Dated September 27, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-30665 Filed 10-1-79; 11:02 am]

BILLING CODE 6560-01-M

Notices

Federal Register
Vol. 44, No. 192
Tuesday, October 2, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Public Information; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10:00 a.m., on Monday, October 22, 1979, in the library of the Administrative Conference, Suite 500, 2120 L Street NW., Washington, D.C.

The Committee will meet to further consider proposed recommendations on the subject of the Federal Trade Commission's administration of its expense reimbursement program. These recommendations were published at 44 FR 55219 (September 25, 1979).

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Stephen Babcock (202–254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

September 26, 1979.

[FR Doc. 79-30511 Filed 10-1-79; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

Recalls of Meat and Poultry Products, Notice of Staff Reorganization; Notice of Availability of FSQS Directive

On June 12, 1975, a memorandum of understanding between the Federal Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) was published in the **Federal Register** (40 FR 25079) concerning recalls by FDA of food products for human consumption. The memorandum sets forth the working arrangements to be followed in carrying out respective responsibilities when such a recall is initiated.

Due to USDA reorganization, the following staffs are now responsible for maintaining liaison with FDA: The Evaluation and Enforcement Division, Compliance Program, Food Safety and Quality Service (FSQS) ((202) 447–3317), is the primary liaison for operational matters concerning recalls between both agencies. Secondary liaison for technical matters will be maintained by the Epidemiology Branch, Pathology and Epidemiology Division, Science Program, FSQS ((301) 344–2003).

In certain cases not contemplated by the memorandum of understanding, meat and meat food products or poultry and poultry products may be voluntarily recalled. For instance, when a manufacturer or distributor believes that products which have been distributed are adulterated or misbranded, it may voluntarily recall the products from commerce. In addition, when FSQS believes that adulterated or misbranded products are in commerce, the Deputy Administrator, Compliance Program, FSQS, may request a firm to make a voluntary recall.

To maintain the objectives similar to those specified in the memorandum of understanding, FSQS has issued internal instructions (FSQS Directive 8080.1) designating actions and delegating responsibilities for monitoring voluntary recalls.

FSQS Directive 8080.1 is available for public inspection and copying. Interested persons should contact the Coordinator, Freedom of Information Act, Room 3805, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, on: September 26, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-30456 Filed 10-1-79; 8:45 am]

BILLING CODE 3410-DM-M

COMMISSION ON CIVIL RIGHTS

Appointments of Individuals To Serve as Members of the Performance Review Board—Senior Executive Service

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register.** Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the U.S. Commission on Civil Rights for the rating year beginning October 1, 1979, and ending September 30, 1980.

Name and title

John Hope III—Deputy Staff Director, USCCR

Harriett Jenkins—Director of Equal Employment Programs, NASA

Alfredo Matthew—Director, Office of Government Employment, EEOC

Bert Silver—Assistant Staff Director for Administration, USCCR

Eileen Stein—General Counsel, USCCR

Louis Nunez,

Staff Director.

September 26, 1979.

[FR Doc. 79-30411 Filed 10-1-79; 8:45 am]

BILLING CODE 6335-01-M

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12:00p and will end at 4:30p, on October 16, 1979, the State Administration Building, Route 113, South Conference Room, Dover, Delaware.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic