

products may be as harmful as misuse. The adverse reaction data available to the agency indicate that excessive use and prolonged exposure are the causes of serious harm to consumers.

10. One comment suggested that the statement "Avoid inhalation of dust to prevent respiratory discomfort" not be adopted as a requirement for all bubble bath products in powder form. The comment stated that the commenter's product had been reformulated and the respiratory irritation problem resolved. The comment contended that the inhalation caution statement should therefore not be required for that product. Another comment suggested that this statement be included in the directions rather than the label warning.

The agency is persuaded that the problem of respiratory irritation from inhalation of the dust of powder bubble bath products has been eliminated, or at least significantly curtailed, through appropriate product reformulation. A review of the consumer complaints received by the FDA during the period of 1970 to 1976 demonstrated that the largest number of respiratory complaints were received in 1972. The number of such complaints decreased significantly in 1973, and no complaints of this type were received thereafter. Because of these events, the agency has decided to delete the phrase "Avoid inhalation of dust to prevent respiratory discomfort" from the required caution statement on bubble bath products in powder form. However, the agency urges manufacturers of powdered bubble bath products to include this or a similar statement in the directions for use. The respiratory irritation effect of the dust of detergent raw materials is well-known, and careless sprinkling of these products into water may result in such irritation. Notification of consumers in the directions for use that dusting may cause respiratory discomfort and should be avoided would greatly enhance the safe use of these products.

11. One comment recommended that the proposed effective date be abandoned and two other effective dates be established in its stead. The comment suggested that the first effective date apply to the ordering of new labels bearing the warning, and be the date 60 days after the date of publication of the final rule. The suggested second effective date would be the date when bubble bath products would be required to be labeled with the new labels bearing the required warning, and would be the date 9 months after publication of the final regulation.

The comment further argued that, should FDA continue to require the

effective date by which bubble bath products introduced into interstate commerce must bear the label warning, cosmetic firms should be given no fewer than 2 years to comply with the new rule. The reasons given for these suggested delays in implementing the final rule were that the label changes could not be accomplished within the proposed 6 months, the proposed effective date would require overlabeling, and such label changes could be expensive.

The agency recognizes the difficulties and economic factors associated with the requirement for the label warning. However, FDA is not convinced that the time to implement the label change needs to be as long as suggested. Furthermore, such a delay would be contrary to FDA's mission of effective consumer protection. Accordingly, all affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation. This effective date should provide adequate time to implement the labeling of inventory not introduced into interstate commerce by the end of the 12-month period.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 601, 602, 701(a), 52 Stat. 1041 as amended, 1054 as amended, 1055 (21 U.S.C. 321(n), 361, 362, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 740 is amended by adding new § 740.17, to read as follows:

§ 740.17 Bubble bath products.

(a) For the purpose of this section, a bubble bath product is any product intended to be added to a bath for the purpose of producing foam that contains a surface-active agent serving as a detergent or foaming ingredient.

(b) The label of bubble bath products within the meaning of paragraph (a) of this section shall bear adequate directions for safe use and the following caution:

Caution—Use only as directed. Excessive use or prolonged exposure may cause irritation to skin and urinary tract. Discontinue use if rash, redness, or itching occur. Consult your physician if irritation persists. Keep out of reach of children.

(c) In the case of products intended for use by children, the phrase "except under adult supervision" may be added at the end of the last sentence in the caution required by paragraph (b) of this section.

Effective dates. All affected products initially introduced or initially delivered for introduction into interstate

commerce on or after August 19, 1981, shall comply with this regulation.

(Secs. 201(n), 601, 602, 701(a), 52 Stat. 1041 as amended, 1054 as amended, 1055 (21 U.S.C. 321(n), 361, 362, 371(a)))

Dated: August 8, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-25093 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 575

Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops; Provisions Governing Application for and Issuance of a Waiver; Restrictions on Use of Pesticides and Other Chemicals

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: On February 15, 1980, the United States Court of Appeals for the District of Columbia Circuit entered a judgment ruling that certain portions of a regulation published by the Department of Labor relating to waivers pursuant to Section 13(c)(4) of the Fair Labor Standards Act for the employment of 10 and 11 year old children in the hand harvesting of pesticide-treated crops were invalid. The court held that the statute requires that there be absolute proof of the absence of danger to such children from the use of pesticides or other chemicals before waivers can be issued, and found that the department's regulation failed to apply this standard. The court further ruled that the Secretary of Labor lacked good cause to dispense with the notice-and-comment procedures required by the Administrative Procedure Act. The court remanded the case to the United States District Court for the District of Columbia for entry of an injunction pending appropriate notice-and-comment rulemaking (*National Association of Farmworker Organizations v. Marshall*, No. 79-1587).

The District Court issued an Order on February 29, 1980, enjoining the Secretary of Labor from granting any waivers pursuant to the portions of the regulation which the Court of Appeals held were invalid (Civil Action No. 79-1044). The District Court further ordered the Secretary to publish proposed regulations in the *Federal Register*, provide a period of at least 30 days for

public comment, with an additional 15 days thereafter for interested persons to reply, and to issue final regulations as soon as practicable after the close of the comment period.

The present Final Rule is issued pursuant to the order of the District Court, following issuance of proposed regulations and an appropriate comment period. The comments received during the comment period did not provide the degree of certainty required by the ruling of the Court of Appeals. Accordingly, the Final Rule merely republishes the applicable portions of the regulations published on June 21, 1978 (43 FR 26562), which were previously subjected to appropriate notice-and-comment rulemaking.

EFFECTIVE DATE: These regulations shall be effective on August 19, 1980.

FOR FURTHER INFORMATION CONTACT:

Lucille C. Pinkett, Wage and Hour Division, Room S-3022, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone 202-523-8412.

SUPPLEMENTARY INFORMATION:

The child labor provisions of the Fair Labor Standards Act generally prohibit employment of children under the age of 16. Certain exceptions allow the employment of younger children in agriculture under specific conditions delineated in the statute. In 1974, Congress prohibited the employment in agriculture of any child under the age of 12 under most conditions. This prohibition applied until 1977, when Congress enacted the waiver amendment for certain agricultural employment.

Section 13(c)(4) of the Act authorizes the Secretary to grant a waiver from the Act's prohibitions, to permit the limited employment of 10 and 11 year olds as hand harvesters of short season crops under specified conditions. Among other conditions, the statute prohibits the Secretary from granting such a waiver "unless he finds, based on objective data submitted by the applicant," that five enumerated requirements are met. One of these five prerequisites is a finding that "the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply." Section 13(c)(4)(A)(iii).

The Labor Department's final regulations implementing the waiver provisions were published on June 21, 1978 (43 FR 26562), after the Department had considered comments and testimony on its proposed regulations published on April 4, 1978 (43 FR 14068). The introduction to the final regulations

discussed the testimony at a public hearing and information provided by the Environmental Protection Agency (EPA) and explained that "it was apparent from the testimony at the hearings that currently established EPA and other federal standards have not been shown to be safe for 10 and 11 year olds." Accordingly, the final regulations provided that the applicant for a waiver "will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds." The regulation also stated that in the event such data submitted by the growers, or additional studies undertaken by the Department, established safe reentry standards for particular chemicals, the regulation would be amended to include such standards so that a waiver applicant need merely identify the chemical and date last used.

When the Department determined that EPA standards could not be used to establish safe reentry times for children, the Department was concerned that the individual growers would simply not be able to meet their statutory burden of producing objective data showing that pesticides used would have no adverse effect on the health or well-being of 10 and 11 year old hand harvesters. Accordingly, the Department decided to try to develop its own expertise, by acquiring the scientific knowledge which would enable the Secretary to issue waivers where some pesticides had been used, if the necessary information to meet the statutory criteria existed. The Labor Department contracted in June, 1978, with Clement Associates, Inc., scientific regulatory consultants, to review data on the chemicals used by the affected growers.

Under a short term contract in 1978, Clement reviewed the scientific literature regarding approximately 30 chemicals used for strawberry and potato crops and issued reports in August, 1978, recommending minimum entry times for some chemicals. In reliance on these reports, the Department amended its regulations in August, 1978 to list certain pesticides which could be used if the specified periods had elapsed before 10 and 11 year olds were admitted to the fields. (August 18, 1978, 43 FR 36623).

Throughout the second half of 1978, officials of the Department consulted with EPA, OSHA, NIOSH, and experts outside the government to try to determine what type of longer term studies, including possible field

observations, were needed to acquire pesticide data relating to children. They were advised that the needed study would take 3 to 5 years, and steps were taken to commence the long-term study to measure exposure levels and evaluate the risk to children more precisely. (In March 1980, the Department signed an agreement with EPA to conduct a 5-year study of the effects of pesticide exposure on the health of youth under 16 years of age employed in agriculture. This will, of course, include children 10 and 11 years of age affected by the waiver provision. The study will undertake to determine the actual pesticide exposure and physical effects of such exposure; absorption rates of pesticides into the body; and acute and chronic health effects in relation to duration and level of exposure.)

After publication of the August 18, 1978 amendment, the growers asked the Labor Department to study additional pesticides for possible inclusion on the approved pesticide list. Accordingly, the Department of Labor, in early 1979, initiated a second contract with Clement Associates to review 16 additional chemicals and re-review the 30 chemicals it had already studied under the first contract. Under this second contract, Clement Associates expanded its research of the scientific literature. Accordingly, in April and May, 1979, the waiver regulations were amended to delete certain chemicals from the approved list while including others (April 13, 1979, 44 FR 22061; April 24, 1979, 44 FR 24059; May 16, 1979, 44 FR 29049).

The National Association of Farmworker Organizations sued the Secretary of Labor on April 12, 1979, asserting that the standards adopted in the various amendments to the June 21, 1978 regulations were unlawful. The District Court ruled on June 7, 1979, that these standards were consistent with the Act's requirements.

The United States Court of Appeals for the District of Columbia Circuit subsequently ruled, however, that in publishing the amendments in question, the Secretary had failed to satisfy the statutory criteria. Specifically, the court stated that the Clement Report, on which the Secretary relied in issuing specific pesticide standards, was "based on the assumption that his recommendations would provide only 'reasonable protection' for the children." The court held, however, that under the statute there must be absolute proof of the absence of danger to 10 and 11 year old children from the use of pesticides or other chemicals. The court further ruled that the Secretary lacked good cause to

dispense with the notice-and-comment procedures required by the Administrative Procedure Act (*National Association of Farmworker Organizations v. Marshall*, No. 79-1587; Mar. 20, 1980).

In *Washington State Farm Bureau et al., v. Marshall* (C.A. 9, No. 79-4449), the Department is continuing to assert its position that its pesticide regulations are consistent with the statutory standard. This case was argued in the United States Court of Appeals for the Ninth Circuit on March 5, 1980. It is possible that the Ninth Circuit will reach a different result from that of the District of Columbia Circuit, in which event the matter may require resolution by the United States Supreme Court. In the meantime, however, in order to abide by the ruling in *National Association of Farmworker Organizations v. Marshall*, the Department is now issuing final regulations, after having thoroughly studied all of the comments following the close of the 45-day comment period provided in the proposed regulations issued on March 7, 1980.

The Secretary's proposed regulations listed the same pesticides and other chemicals and set the same minimum entry times for strawberries and potatoes as did those portions of the amended regulations which were held to be invalid by the Court of Appeals for the District of Columbia Circuit, and which were codified at 29 CFR 575.5(d). This was done in order to provide interested parties with a concrete proposal on which to comment.

A total of 43 written comments were received, as well as 10 responses to comments. The commenters included government officials, individuals and organizations in four states and the District of Columbia.

Thirty-five of the commenters expressed opinions favoring the employment of 10 and 11 year old children as hand harvesters but opposing restrictive regulations. Two organizations opposed the statutory provisions permitting such employment, as well as the Secretary's proposed implementing regulations. Several commenters noted the lack of documentation of illness or harm resulting from proper use of pesticides. Several comments related specifically to Benomyl and Captan, arguing for the importance and safety of these particular chemicals in the growing of strawberries.

Only 4 letters of comment included supporting scientific data.

One letter defended the use of Captan and Benomyl in the harvesting of strawberries by 10 and 11 year olds, and attached the affidavit of Dr. James M.

Witt of Oregon State University which was filed with the Court of Appeals for the Ninth Circuit in the *Washington State Farm Bureau* case. Dr. Witt's affidavit criticizes the scientific bases and conclusions of the Clement Report.

Dr. Witt himself also submitted a statement reviewing his criticisms of the Clement Report.

Another letter enclosed material published in the journal *Agrichemical Age* regarding the herbicides 2,4-D and 2,4,5-T, and the chemical residue TCDD. Neither the commenter nor the journal material indicated whether these herbicides were necessary or appropriate for use on the short season crops which are the subject matter of the present regulations.

Finally, the National Association of Farmworker Organizations submitted material criticizing the Secretary's proposed regulations and contending that scientific data upon which safe entry standards may be developed for 10 and 11 year old children is presently non-existent.

The Secretary has concluded that none of the data submitted by commenters meets the test laid down by the Court of Appeals for the District of Columbia Circuit, i.e., absolute proof of no adverse health effects of pesticides or other chemicals on 10 and 11 year old children. In the opinion of the EPA, which reviewed the technical and scientific comments, none of the "comments establish, with absolute certainty, that there would be no adverse effect on the health or well-being of 10- and 11-year-old children where any of the pesticides or other chemicals described [in the proposed regulations] have been used on short season crops." Indeed, the EPA stated its belief that there is not "any scientific data or methods presently available which would show that particular pesticides or other chemicals can be used on crops with an absolute assurance of safety to harvesters." Thus, no minimum entry times for 10- and 11-year-old hand harvesters can presently be established for specific pesticides or other chemicals.

Consequently, the final regulation provides, as did the final regulation of June 21, 1978, that an applicant, in order to satisfy the statutory pesticide requirement, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data is sufficient, the application will be considered as meeting the statutory pesticide requirement.

Effective date. The Department finds that there is good cause for having this regulation become effective upon publication, thereby dispensing with the normal rule in section 553(d) of Title 5, U.S.C., that regulations are to be published not less than 30 days before their effective date. The regulation as now published authorizes the granting of waivers on the same basis as authorized under Section 13(c)(4) of the FLSA itself, even if there were no regulation. For this reason, there is no need for a delay in the effective date of the regulation.

This document was prepared under the direction and control of Henry T. White, Jr., Deputy Administrator, Wage and Hour Division.

Accordingly, Part 575, of Title 29 of the Code of Federal Regulations is revised by striking out all of present § 575.5(d) and substituting therefor the following:

§ 575.5 Supporting data to accompany application.

(d) The "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The safe reentry standards established by the Environmental Protection Agency, and followed by other federal and state agencies, were established for adult workers and have not been shown to be safe for 10 and 11 year olds. Therefore, the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds, this section will be amended to include such standards and the applicant will then need only identify the type and level of pesticides or chemicals used and the date of last application of same prior to harvest.

(Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; (29 U.S.C. 211, 212, 213, 218); Secretary of Labor's Order No. 16-75, 40 FR 55913)

Signed at Washington, D.C. on this 14th day of August 1980.

Donald Elisburg,
Assistant Secretary for Employment Standards.

[FR Doc. 80-25240 Filed 8-16-80; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 346

Regulations Governing U.S. Individual Retirement Bonds

Correction

In FR Doc. 80-24070 appearing on page 53397 in the issue of Monday, August 11, 1980, make the following correction:

In Table A, the headings now reading,

Issue price	\$50	\$100	\$500	\$1,000
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			

should have read,

Issue price	\$50	\$75	\$100	\$500
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1556-5]

Approval of Revision of the Commonwealth of Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This notice announces the Administrator's approval of an amendment to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning. The amendment would allow sources to use on a temporary basis, for a defined site, an air curtain destructor for open burning both inside and outside of an air basin. Use of an air curtain destructor, which is a transportable incineration-type device, is optional if used outside of an air basin. The air curtain destructor must operate in such a manner that there are very little or no emissions and no odor problems. If subsequent to approval by the Department of Environmental Resources (DER) the operation should cause particulate, visible, or malodorous emissions, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be

a significant impact to ambient air quality.

EFFECTIVE DATE: September 18, 1980.

ADDRESSES: Copies of the amendment and associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Patricia Sheridan.

Pennsylvania Bureau of Air Pollution Control, Fulton Building, 18th Floor, 200 North Third Street, Harrisburg, PA 17120. Attn: Mr. James K. Hambright. Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8176.

SUPPLEMENTARY INFORMATION:**I. Background**

The Secretary of the Department of Environmental Resources (DER) of the Commonwealth of Pennsylvania submitted for the Governor a revision of the Pennsylvania State Implementation Plan (SIP) consisting of an amendment to the Pennsylvania Air Resources Regulations. The revision submitted on August 11, 1976 pertains to Chapter 129, Standards for Sources, and relates to open burning operations. The Commonwealth of Pennsylvania submitted proof that public hearings were held for this revision on June 6, 7, and 8, 1976 in Norristown, Pittsburgh, and Harrisburg, Pennsylvania, respectively, in accordance with the requirements of 40 CFR 51.4. This amendment gives DER the authority to allow sources to use an air curtain destructor, a transportable incineration-type device, for clearing and grubbing wastes such as trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction.

Permission to use an air curtain destructor will be for a defined site on a temporary basis, not to exceed three months, both inside and outside of an air basin, for open burning. The use of an air curtain destructor is optional if used outside of an air basin. An extension may be approved by DER after three months for additional limited periods not to exceed six months. The

air curtain destructor, once installed, must operate in such a manner that there are very little or no emissions and no odor problems. Although the Commonwealth of Pennsylvania has not stated in its regulations, DER notified EPA in a letter dated December 9, 1976 that if any visible emissions do occur, they would have less than 20% opacity. If, subsequent to approval by DER, the operation should cause particulate, visible or malodorous emissions, i.e., an air pollution problem, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality. The Regional Administrator invited comments in the notice published in the *Federal Register* on March 13, 1980, 45 FR 16207, and provided for a 30-day comment period ending April 12, 1980.

II. Control Strategy Demonstration

This amendment is a regulatory change rather than a substantive change. Because the amendment has no adverse impact on air quality, a modeling demonstration of attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. Policy Issues

There are no policy issues involved with this revision other than the basis for the Administrator's approval; i.e., whether the revision submitted by the Commonwealth of Pennsylvania meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

V. EPA Evaluation

The revision submitted by the Commonwealth of Pennsylvania meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, 51.6, and 51.11.

VI. Final Action

In view of this evaluation, the Administrator approves the above-described amendments to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning, as a revision to the Pennsylvania State Implementation Plan. The revision allows sources to use, on a temporary basis, an air curtain destructor for open burning both inside and outside of an air basin.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401-642)

Dated: August 5, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. Section 52.2020(c) is amended by adding a new paragraph (33) to read as follows:

§ 52.2020 Identification of plans

(c) The plan revision listed below was submitted on the date specified

(33) A revision submitted by the Commonwealth of Pennsylvania on August 11, 1976 consisting of an amendment to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning.

[FR Doc. 80-25143 Filed 8-16-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1569-1]

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rulemaking amends the Maryland State Implementation Plan (SIP) to include the Secretarial Order issued to the Maryland Cup Corporation of Owings Mills, Baltimore County, Maryland. The revision would be effective for three (3) years from

September 11, 1979 and applies to the regulation prohibiting visible emissions. During the three year period visible emissions may not exceed 25 percent opacity.

EFFECTIVE DATE: September 18, 1980.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency,
Air Programs Branch, Curtis Building,
6th and Walnut Streets, Philadelphia,
PA 19106. Attn: Pat Sheridan.

Air Quality Programs, State of
Maryland, O'Connor Office Building,
201 West Preston Street, Baltimore,
MD 21203. Attn: George Ferreri.

Public Information Reference Unit,
Room 2922, EPA Library, U.S.
Environmental Protection Agency, 401
M Street, S.W. (Waterside Mall),
Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Pat Sheridan (3AH10), U.S.
Environmental Protection Agency,
Region III, 6th & Walnut Streets,
Philadelphia, PA 19106, telephone
number (215) 597-8176.

SUPPLEMENTARY INFORMATION:

I. Background

On September 27, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III, a revision of the Maryland State Implementation Plan. The revision consisted of a Secretarial Order for the Maryland Cup Corporation of Owings Mills, Baltimore County, Maryland.

The Company's Owings Mills plant sprays paraffin wax onto paper cups. This operation causes visible emissions of wax vapors which are discharged through four rooftop exhausters.

Stack tests on one of the four (4) exhausters, conducted by Maryland indicated an average grain loading of 0.009 grains/SCFD and an emission rate of about 1.8 lbs./hr., well below the maximum levels for particulate emissions of 0.03 grains/SCFD required by Maryland regulations.

Additionally, a significant portion of this particulate matter, i.e. wax, settles out in the immediate vicinity of the rooftop exhausters.

The potential toxicity of the paraffin wax was investigated by the State and it was determined that this material is nontoxic and poses no known threat to the public health.

The Company and the County reported that there is no air pollution control device which could feasibly eliminate or reduce emissions because

of the high volume of air and the clogging of any control device by the waxy particulate discharge.

The revision is effective for three (3) years from September 11, 1979, and applies to the regulation prohibiting visible emissions (COMAR 10.18.04.02A). During the three year period, visible emissions may not exceed 25 percent opacity.

Also, during this three year period, the company will continue to research the development of new control technology which may be adaptable to its drinking cup coating operations and will report its finding to local and State control agencies. Then, if necessary, determinations will be made whether to extend the variance once the three year period expires.

Since particulate emissions meet all applicable air quality regulations, and will not increase as a result of this revision, there is no need to revise those regulations.

The Regional Administrator invited comments in the notice published in the *Federal Register* on May 8, 1980, 45 FR 30456, and provided for a 30-day comment period.

II. Public Comment

No comments were received during the 30-day comment period.

III. Control Strategy Demonstration

A review of the submittal indicates that this revision will not result in a violation of either the National Ambient Air Quality Standards (NAAQS) or exceed the PSD increments for particulate matter.

IV. Approvability of the Proposed Revision

Based upon an evaluation of the material submitted by the State of Maryland, the Agency believes that the revision satisfies the applicable requirement of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. The revision will not exceed the PSD increments. Therefore, the Administrator approves the revisions to the Maryland State Implementation Plan.

Concurrently, the Administrator amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate this plan revision into Maryland's SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and