available for use on the unit that collects it.

Response: By law, the money must be deposited in the U.S. Treasury and will not be directly available for use on the unit. Returning the monies to the local unit would require new legislation.

Comment: Implementation of the rule should be delayed until the entire Forest Service fee proposal can be coordinated and examined by the President's Commission on Americans Outdoors.

Response: The Forest Service has been actively considering a proposal for a general use fee. That proposal is of much broader scope with extensive policy ramifications and would require legislation. It has been placed before the President's Commission as an item that the Forest Service would like to see throughly discussed. The subject of this rulemaking is of a different nature and much narrower in scope and implication, is based upon existing law, and meets a current resource management need. Therefore, we fell it is advisable to move forward with implementation of this rule.

Comment: Additional details are needed to understand how the rule will be applied.

Response: Implementation instructions have been developed for issuance in the Forest Service Manual, the principal source of direction to Forest Service personnel. Included in the instructions are delegations of authority to Forest Supervisors to collect fees, as well as a list of criteria Supervisors are to use in determining where fees will be collected. The criteria are: a substantial number of people use the site or area; recreation use is near or above the use capacity of the site or area; costs of the permit reservation system are significant; and conditions exist which lend themselves to the implementation of a reservation fee without burdensome and costly requirements on the user and agency. The full text of this directive appears as a separate notice in this issue of the **Federal Register.**

Additional Comments: In addition to the preceding major comments received on the proposed rule, reviewers made a number of suggestions:

—Distinguish between recreation areas and Wilderness Areas.
—Broaden the scope of the rule to include recreation sites.
—Include a citation to Pub. L. 97–258 concerning fees and charges.
—Explain what is meant by "other special services."

Response: The final rule adopts the first three suggestions and deletes the phrase "other special services."

The following comments were received that relate to aspects of the overall reservation (permit) process:

—No limits on use should be imposed unless users stay overnight.
—Permit systems discourage use and over-regulate users.
—Reservation fees should not be used as a method to adjust allocations between publics served by outfitters and guides and those that are not.

Response: These comments relate to matters beyond the scope of this rule and cannot be dealt with as part of this rulemaking.

Except as noted in the foregoing discussion of comments received, the final rule is identical to the proposed rule.

Regulatory Impact

This rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that the regulation is not a major rule. It will result in an insignificant increase in costs to individual users of the selected sites and areas while permitting the Government to recoup administrative expenses for the reservation system. Because the regulation applies to individual recreation users in a limited situation, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this action will not have a significant economic impact on a substantial number of small entities.

This rule is determined to be limited in context and intensity and to produce little or no environmental effects, individually or cumulatively, to either the biological or physical component of the human environment. Therefore, it is unnecessary to prepare an environmental assessment or an environmental impact statement.

Lists of Subjects in 36 CFR Part 291

Recreation and recreation areas.

Therefore, for the reasons set forth above, Part 291 of Chapter II of Title 36 of the Code of Federal Regulations is hereby amended as follows:

1. Part 291 is amended by adding the following Table of Contents and authority citation. The authority citation which follows § 291.9 is removed.

PART 291—OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 4(b,c) Pub. L. 92–347, 86 Stat. 460 (16 U.S.C. 4601–6a(b,c)); Sec. 10(d), Pub. L. 90–542, 82 Stat. 916 (16 U.S.C. 1281(d)); Sec. 7(i), Pub. L. 90–543, 82 Stat. 925, as amended (16 U.S.C. 1246(i)); Sec. 4(b), Pub. L. 88–577, 78 Stat. 893 (16 U.S.C. 1133(b)); Sec. 4(a), Pub. L. 95–495, 92 Stat. 1650; 65 Stat. 290 (31 U.S.C. 9701).

2. Add a new section 291.10 to read as follows:

§ 291.10 Reservation fees.

(a) The Forest Service may charge fees to recover expenses incurred in providing reservation services for the public use of recreation areas and sites and Wilderness Areas where limitations on use are deemed necessary or desirable to achieve the management purposes of an area of the National Forest System. The Chief of the Forest Service or his delegate shall establish the amount of such fees.

(b) Forest Service officials shall prominently post clear notice that a reservation fee has been established at each area, site or Wilderness Area and at appropriate locations therein. Publications distributed at such areas, sites, and Wilderness Areas shall also include such notice.

Dated: March 20, 1986.

Peter C. Myers,
Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86–6628 Filed 3–25–86; 8:45 am]
BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Parts 18, 18a and 18b

Nondiscrimination in Federally-Assisted Programs; Technical Amendments

AGENCY: Veterans Administration.

ACTION: Final Technical Amendments.

SUMMARY: The VA (Veterans Administration) amends its regulations for the enforcement of nondiscrimination in programs and activities receiving Federal financial assistance to: (1) Eliminate sexually biased language; (2) change the title of hearing examiner to administrative law judge, consistent with Pub. L. 95–251, 92

Stat. 183; (3) update the appendices to the regulations which provide a listing of the Federal financial assistance programs administered by the VA; and (4) correct references to the Department of Health, Education and Welfare, which was reorganized in 1980 into two independent departments: The Department of Health and Human Services and the Department of Education.

EFFECTIVE DATE: March 26, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Ana Matilde Del Toro, Equal Employment Specialist, Office of Equal Opportunity (006B5), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 389-2150.

SUPPLEMENTARY INFORMATION: The VA finds that good cause exists for making these regulation amendments final without previous publication of a notice of proposed rulemaking. All the changes contained in these regulations are technical ones designed to correct erroneous references and eliminate sexually biased language. There are no substantive changes. Public participation in this rulemaking is therefore unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), and are therefore not subject to the requirements of the Act. Nevertheless, these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612.

The Administrator hereby determines that these regulations do not contain a major rule as the term is defined by Executive Order 12291, Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs and prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete in domestic or export markets.

These amendments do not impose any additional reporting or recordkeeping requirements on the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 38 CFR Parts 18, 18a, and 18b

Administrative practice and procedure, Age discrimination, Authority delegations, Civil rights, Handicapped, Veterans.

Approved: March 19, 1986.

Everett Alvarez, Jr.,

Acting Administrator.

PART 18—[AMENDED]

38 CFR Part 18, nondiscrimination in Federally-Assisted Programs of the Veterans Administration—Effectuation of Title VI of the Civil Rights Act of 1964, is amended as follows:

§ 18.3 [Amended]

1. In § 18.3, paragraph (b)(1) is amended by removing "his" in (b)(1)(iii); by removing the words "he satisfies" and adding the words "is satisfied." at the end of the sentence in (b)(1)(v); and by removing "him" in (b)(1)(vi).

§ 18.4 [Amended]

2. Section 18.4 is amended by changing "he" to "the recipient" in paragraph (a)(1); and changing "him" to "the official" in (c).

§ 18.6 [Amended]

3. Section 18.6 is amended by removing "his" in paragraphs (b) and (c) and by changing "him" to "the official" in paragraph (b).

4. Section 18.7 is amended by removing "his" in paragraphs (a), (c), and (d) (1) and (2); by changing "he" to "the individual" in paragraph (e) and by revising paragraph (b) to read as follows:

§ 18.7 Conduct of investigations.

* * * * *

(b) *Complaints.* Any person or any specific class of individuals who believe they have been subjected to discrimination prohibited by this part may themselves, or by a representative, file with the responsible agency official or designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination unless the time for filing is extended by the responsible agency offical or designee.

* * * * *

§ 18.8 [Amended]

5. Section 18.8 is amended by removing the word "his".

§ 18.9 [Amended]

6. In §18.9(b) the word "he" is changed to "the official"; "his" is changed to "the official's"; and "hearing examiner" is changed to "an administrative law judge".

7. In §18.10, paragraphs (a), (b), (d), (e) and (g) (2) are revised to read as follows:

§ 18.10 Decisions and notices.

(a) *Procedure on decisions by an administrative law judge.* If the hearing is held by an administrative law judge such administrative law judge shall either make an initial decision, if so authorized, or certify the entire record including recommended findings and proposed decision to the responsible agency official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the administrative law judge the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible agency official exceptions to the initial decision with reasons therefor. In the absence of exceptions, the responsible agency official may within 45 days after the initial decision serve on the applicant or recipient a notice that the decision will be reviewed. Upon the filing of such exceptions or of such notice of review the responsible agency official shall review the initial decision and issue a decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible agency official.

(b) *Decisions on record or review by the responsible agency official.* Whenever a record is certified to the responsible agency official for decision or the official reviews the decision of an administrative law judge pursuant to paragraph (a) of this section, or whenever the responsible agency official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with the official briefs or other written statements of its contentions, and a written copy of the final decision of the responsible agency official shall be sent to the applicant or recipient and to the complainant, if any.

* * * * *

(d) *Rulings required.* Each decision of an administrative law judge or responsible agency official shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Administrator.* Any final decision by an administrative law judge which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part of the Act, shall promptly be transmitted to the Administrator personally, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

* * * * *

(g) *Post termination proceedings.* * * *

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible agency official determines that those requirements have been satisfied, the official shall restore such eligibility.

* * * * *

§ 18.13 [Amended]

8. Section 18.13 is amended by removing the word "his" in paragraph (c).

9. Appendix A to Part 18, Subpart A, is revised to read as follows:

Appendix A to Subpart A—Statutory Provisions to Which This Subpart Applies

1. Payments to State homes (38 U.S.C. 641–643).
2. State home facilities for furnishing domiciliary, nursing home, and hospital care (38 U.S.C. 5031–5037).
3. Space and office facilities for representatives of recognized national organizations (38 U.S.C. 3402(a)(2)).
4. All-volunteer force educational assistance, vocational rehabilitation, post-Vietnam era veterans' educational assistance, survivors' and dependents' educational assistance, and administration of educational benefits (38 U.S.C. chs. 30, 31, 32, 34, 35 and 36, respectively).
5. Sharing of medical facilities, equipment, and information (38 U.S.C. 5051–5057).
6. Approval of educational institutions (38 U.S.C. 104).
7. Space and office facilities for representatives of State employment services (38 U.S.C. 244(1)).
8. Medical care for survivors and dependents of certain veterans (38 U.S.C. 613).
9. Transfers for nursing home care; adult day health care (38 U.S.C. 620).
10. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities (38 U.S.C. 620A).
11. Aid to States for establishment, expansion, and improvement of veterans cemeteries (38 U.S.C. 1008).
12. Assistance in establishing new medical schools; grants to affiliated medical schools; assistance to health manpower training institutions (38 U.S.C. Ch. 82).
13. Veterans Administration health professional scholarship program (38 U.S.C. 4141–4146).
14. Emergency veterans job training (Pub. L. 98–77, 97 Stat. 443–452).

§ 18.405 [Amended]

10. Section 18.405 is amended by changing "he or she considers" to "considered" in paragraph (d)(3).

§ 18.412 [Amended]

11. Section 18.412 is amended by changing "him or her" to "that person" in paragraph (a).

§ 18.433 [Amended]

12. In § 18.433, paragraph (c) is amended by changing "or to his or her" to "," in paragraphs (c)(1), (2) and (3); and by changing "his or her" to "a" in paragraph (c)(2).

§ 18.454 [Amended]

13. Section 18.454 is amended by changing the cite "§ 18.433(d)" to § 18.433(b)".

14. Appendix A to Part 18, Subpart D, is amended by revising provisions 3, 10 and 12 and by adding new provisions 13 and 14 to read as follows:

Appendix A to Subpart D—Statutory Provisions To Which This Subpart Applies

* * * * *

3. Transfers for nursing home care; adult day health care (38 U.S.C. 620).

* * * * *

10. All-volunteer force educational assistance, vocational rehabilitation post-Vietnam era veterans educational assistance; veterans educational assistance, survivors' and dependents' educational assistance, and administration of educational benefits (38 U.S.C. chs. 30, 31, 32, 34, 35 and 36 respectively).
11. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities (38 U.S.C. 620A).
12. Aid to States for establishment, expansion, and improvement of veterans cemeteries (38 U.S.C. 1008).
13. Veterans Administration health professional scholarship program (38 U.S.C. 4141–4146).
14. Emergency veterans job training (Pub. L. 98–77, 97 Stat. 443–452).

PART 18a—[AMENDED]

38 CFR Part 18a, Delegation of Responsibility in Connection With Title VI, Civil Rights Act of 1964 is amended as follows:

15. The table of contents to Part 18a is amended by revising the title of § 18a.1 to "Delegations of responsibility between the Administrator and the Secretary, Department of Health and Human Services and the Secretary, Department of Education."

16. In § 18a.1 the section heading, introductory text of paragraph (b) and paragraph (b)(2) are amended by changing the title "Secretary, Department of Health, Education and Welfare" to "Secretary, Department of Health and Human Services and the Secretary, Department of Education"; paragraph (b)(2)(iii), the paragraph following, and paragraphs (c), (d) and (e) are amended by changing the title "Department of Health, Education and Welfare" to Department of Health and Human Services or the Department of Education"; and paragraph (a) is revised to read as follows:

§ 18a.1 Delegations of responsibility between the Administrator and the Secretary, Department of Health and Human Services and the Secretary, Department of Education.

(a) Authority has been delegated to the Administrator of Veterans Affairs by the Secretary, Department of Health and Human Services, and the Secretary, Department of Education to perform responsibilities of those Departments and of the responsible Departmental officials under Title VI of the Civil Rights Act of 1964 and the Departments' regulations issued thereunder (45 CFR Part 80 and 34 CFR Part 100) with respect to: proprietary (i.e., other than public or nonprofit) educational institutions, except if operated by a hospital; and post secondary, nonprofit, educational institutions other than colleges and universities, except if operated by a college or university, a hospital, or a unit of State or local government (i.e., those operating such institutions as an elementary or secondary school, an area vocational school, a school for the handicapped, etc.)

(1) The compliance responsibilities so delegated include:

(i) Soliciting, receiving, and determining the adequacy of assurances of compliance under 45 CFR 80.4 and 34 CFR 100.4;

(ii) All actions under 45 CFR 80.6 including mailing, receiving, and evaluating compliance reports under § 80.6(b) and 34 CFR 100.6(b); and

(iii) All other actions related to securing voluntary compliance, or related to investigations, compliance reviews, complaints, determinations of apparent failure to comply, and resolutions of matters by informal means.

(2) The Department of Health and Human Services and the Department of Education specifically reserve to themselves the responsibilities for the effectuation of compliance under 45 CFR 80.8, 80.9, 80.10 and 34 CFR 100.8, 100.9 and 100.10.

* * * * *

§ 18a.2 [Amended]

17. Section 18a.2 is amended by changing the words "him and his" to "the Chief Benefits Director and" and by changing the last words of the section from "under his jurisdiction." to "under jurisdiction of the Chief Benefits Director."

§ 18a.3 [Amended]

18. Section 18a.3 is amended by changing the last words of the section from "under his jurisdiction." to "under jurisdiction of the Chief Medical Director."

§ 18a.4 [Amended]

19. Section 18a.4 is amended by removing the word "his" in the two places it appears in the paragraph following (c).

PART 18b—[AMENDED]

38 CFR Part 18b, Practice and Procedure Under Title VI of the Civil Rights Act of 1964 and Part 18 of this chapter, is amended as follows:

§ 18b.2 [Amended]

20. Section 18b.2 is amended by changing the word "him" to "the Administrator" and by removing the words "by him" in the last sentence.

21. Section 18b.11 is revised to read as follows:

§ 18b.11 Use of number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa.

§ 18b.14 [Amended]

22. Section 18b.14 is amended by removing the word "his".

§ 18b.16 [Amended]

23. Section 18b.16 is amended by changing the word "him" to "that person".

§ 18b.17 [Amended]

24. In § 18b.17, paragraph (a) is amended by changing the word "he" to "the officer"; paragraph (b) is amended by changing the words "His brief" to "The brief", by changing the word "he" to "the amicus curiae" both places it appears, and by removing the word "himself" both places it appears; and paragraph (c) is amended by changing the word "his" to "the officer's" and changing the word "he" to "the officer".

§ 18b.21 [Amended]

25. Section 18b.21 is amended by changing the word "he" to "one of them" and by changing the word "his" to "that person's".

§ 18b.25 [Amended]

26. Section 18b.25 is amended by changing the word "his" to "the party's".

§ 18b.27 [Amended]

27. Section 18b.27 is amended by changing the word "his" to "a" and by changing the word "him" to "the presiding officer".

§§ 18b.31 and 18b.32 [Amended]

28. Sections 18b.31 and 18b.32 are amended by changing the word "his" to "the" wherever it appears.

§ 18b.33 [Amended]

29. Section 18b.33 is amended by changing the first "his" to "the" and by deleting the second occurrence of "his".

§ 18b.35 [Amended]

30. Section 18b.35 is amended by changing the word "him." to "the officer."

§ 18b.37 [Amended]

31. Section 18b.37 is amended by changing the word "his" to "the officer's".

§ 18b.40 [Amended]

32. Section 18b.40 is amended by changing the words "A hearing examiner" to "An administrative law judge".

33. Section 18b.41 is revised to read as follows:

§ 18b.41 Designation of an administrative law judge.

The designation of the administrative law judge as presiding officer shall be in writing, and shall specify whether the administrative law judge is to make an initial decision or to certify the entire record including recommended findings and proposed decision to the reviewing authority, and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating an administrative law judge to preside, and until such administrative law judge makes a decision, motions and petitions shall be submitted to the administrative law judge. In the case of the death, illness, disqualification or unavailability of the designated administrative law judge, another administrative law judge may be designated to take that person's place.

§ 18b.42 [Amended]

34. In § 18b.42, the introductory text is amended by changing "He" to "The presiding officer"; and paragraphs (e) and (i) are amended by changing "him." to "the presiding officer."

§ 18b.51 [Amended]

35. In § 18b.51, paragraph (a) is amended by changing "he" to "the party"; and paragraph (b) is amended by removing the word "his" both times it appears.

§ 18b.52 [Amended]

36. Section 18b.52 is amended by changing the word "his" to "the officer's".

§ 18b.54 [Amended]

37. Section 18b.54 is amended by changing the words "he believes it" to "it is believed".

§ 18b.56 [Amended]

38. Section 18b.56 is amended by changing the word "he" and the words "him" to "the party".

§ 18b.61 [Amended]

39. Section 18b.61 is amended by changing the word "he" to "the party" and by changing the word "his" to "the party's" both places it appears.

§ 18b.65 [Amended]

40. Section 18b.65 is amended by removing the word "his" and by changing the words "he" and "him" to "the reviewing authority".

§ 18b.71 [Amended]

41. Section 18b.71 is amended by removing the words "his" and "he".

§ 18b.72 [Amended]

42. Section 18b.72 is amended by removing the word "his".

43. In § 18b.73, paragraph (b) is revised to read as follows:

§ 18b.73 Final decisions.

* * * * *

(b) Where the hearing is conducted by an administrative law judge who makes a recommended decision or upon the filing of exceptions to an administrative law judge's initial decision, the reviewing authority shall review the recommended or initial decision and shall issue a decision thereon, which shall become the final decision of the VA, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly sec. 10(c) of the Administrative Procedures Act), subject to the provisions of § 18b.75.

* * * * *

§ 18b.74 [Amended]

44. Section 18b.74 is amended by changing "he shall make" to "the party shall make"; by changing "his" to "his or her"; and by changing "he will serve" to "the reviewing authority will serve".

§ 18b.75 [Amended]

45. Section 18b.75 is amended by removing the first "his"; by removing "his own" twice and by changing "or if he serves" to "or serves".

§ 18b.77 [Amended]

46. Section 18b.77 is amended by changing the words "hearing examiner" to "administrative law judge"; and changing the words "Senate Committee on Labor and Public Welfare" to "Senate Veterans Affairs Committee".

§ 18b.90 [Amended]

47. Section 18b.90 is amended by removing "his" and by changing "his principal" to "the principal represented".

§ 18b.91 [Amended]

48. Section 18b.91 is amended by changing "him" to "the reviewing authority"; by removing "his" wherever it appears.

§ 18b.95 [Amended]

49. In § 18b.95 the last line is amended by changing the words "he considers the memorandum" to "the memorandum is considered".

[FR Doc. 86-6569 Filed 3-25-86; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2990-3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final rulemaking disapproving the 1982 carbon monoxide (CO) SIP attainment demonstration and rescission of the attainment date extension. The revision pertains to Cleveland CO SIP revision. USEPA's action is based upon a revision which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on April 25, 1986.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Anne E. Tenner at (312) 886–6036, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

FOR FURTHER INFORMATION CONTACT: Anne. E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under Section 107 of the Act, USEPA has designated certain areas in each State as not attaining National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), and nitrogen dioxide (NO_2). See 43 FR 8982 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982 (in certain cases, by December 31, 1987 for O_3 and/or CO). These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979) 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979) and, 44 FR 67182 (November 23, 1979).

In a February 3, 1983, **Federal Register** notice (48 FR 5118), the USEPA proposed to approve the CO SIP for the Cleveland urban area. This plan appeared to demonstrate attainment of the CO National Ambient Air Quality Standards (NAAQS) by December 31, 1982, at all monitoring sites in Cuyahoga County. After the publication of the February 3, 1983, notice of proposed rulemaking, USEPA noted that three exceedances of the right hour CO standard had occurred in March 1983, at the 8907 Carnegie Avenue monitoring site. The NAAQS for CO allows only one eight hour standard exceedance of the 10 milligrams per cubic meter (mg/m^3) standard in a year. Therefore, it was apparent that a violation of the CO NAAQS had occurred in 1983 after the plan's demonstrated attainment deadline.

In telephone conversations with the State of Ohio in November 1983, USEPA discussed the issue of the observed CO standard violation. On December 5, 1983, the State forwarded a letter from the City of Cleveland explaining that the observed CO standard exceedances were probably due to a tire-fire near North Bloomfield, Ohio.

All three of the eight-hour CO standard exceedances [14.2 mg/m^3, 11.8 mg/m^3, and 11.3 mg/m^3] observed in March 1983, occurred over a three day span (from approximately March 2nd through March 4th). This period coincides with the period of intermittent tire-fires in North Bloomfield. The City of Cleveland recommended that the 1983 exceedances not be considered in future control analyses or as a justification for calling the Cleveland area nonattainment for CO because the tire-fire could be regarded as an unusual occurrence.

During telephone conservations between the State of Ohio and USEPA in December 1983, USEPA recommended that the State conduct dispersion modeling analyses to demonstrate that the tire-fire was the probable cause of the observed CO standard exceedances. USEPA observed that the distance (North Bloomfield is approximately 61 kilometers from the Carnegie Avenue monitoring site) between the tire-fire and the CO monitor was so great that one would not expect a significant impact on the monitored CO concentrations, even from a large fire.

In an effort to support a connection between the tire-fire and the monitored CO exceedances, the City of Cleveland performed two analyses as an alternative to the requested dispersion modeling analysis. First, complaints of odors on the days of the tire-fire were investigated and the location of odor complaints were plotted as an area map. The complaints appeared to fall in an area that one could describe as a large, wide plume pattern. The Carnegie Avenue monitoring site was located within, and near the edge of the plotted complaint/plume area. It was also noted that North Bloomfield fell near the center of the "upwind" (source) end of the plotted plume area.

The second analysis was of wind directions during the times of high CO concentrations. It was noted that the highest CO concentrations (in excess of 10 mg/m^3) occurred when the wind directions recorded at the Cleveland Hopkins International Airport were from the east. As a result, the City of Cleveland believes this places the Carnegie Avenue site downwind of the tire-fire during the high CO concentration hours. The City further assumed that a persistent low level temperature inversion restricted pollutant dispersion resulting in significant pollutant impacts far downwind from the tire-fire. The City of Cleveland believes that the above results provide the necessary evidence that the tire-fire was the cause of the observed CO standard exceedances.

Even if USEPA were to accept the City of Cleveland's assertion that odors from the tire-fire were observed in the vicinity of the CO monitor, the odor study does not adequately support the City's assertion that significant quantities of CO were transported to the monitors to cause CO NAAQS exceedances. A person's sensitivity to odors is subjective and variable and the reporting of such odors may also vary. Moreover, the use of reported odors provides no quantitative connection between CO emissions from the fire and CO concentrations at the monitor. As a result, the detection of odors may not equate to high concentrations of other pollutants produced or released during the combustion of rubber. In addition, it is possible that the meteorological conditions which would have led to the detection of burning rubber odor from the fire far downwind in Cleveland could also have led to CO standard exceedances resulting primarily from local emissions rather than from the tire-fire.

Indeed, the 1979 Cleveland CO SIP and its 1982 revision (under consideration here) submitted by the State indicated that there is a significant connection between high CO concentrations in the Cleveland area and the mobile (local and areawide) source CO emissions. However, in its analysis of 1983 data, the State has failed to assess the potential impact of traffic based emissions, especially those occurring near (generally within one mile of) the Carnegie Avenue monitor.

USEPA believes that the best means to establish a quantitative connection between CO emissions from a source and monitored concentrations is the use of dispersion models. Despite USEPA's request for such modeling from the State, Ohio did not submit the requested analyses. The State, however, sent a letter from the City of Cleveland to USEPA giving additional data on the tire-fire, (such as the horizontal size of the tire pile.)

Because Ohio failed to submit the requested analysis, the Agency decided to conduct a screening analysis using the gaussian point source dispersion model, PTDIS. CO concentrations were computed for a source-to-receptor distance of 50 kilometers. This receptor distance was selected because USEPA does not recommend the use of gaussian dispersion models at receptor distances exceeding 50 kilometers. Because the actual source-to-receptor distance exceeds 50 kilometers, it can be assumed that the computed CO concentrations are conservative. Additional pollutant dispersion may be expected between the source-to-receptor distances of the modeled 50 kilometers and the actual 61 kilometers.

USEPA made a number of other conservative assumptions (leading to higher computed CO concentrations) in addition to choosing a conservative source-to-receptor distance. USEPA assumed constant wind speeds and wind direction for an eight hour period and a plume centerline position for the monitor/receptor. However, fluctuations in the wind direction and wind speed did occur as evidenced by data submitted by the City of Cleveland. Such fluctuations would result in reduced CO transport from the tire-fire. Furthermore, there is no concrete data demonstrating that tire-fire plume(s) reached the Carnegie Avenue monitor. Assuming odor complaint locations mark the average plume location, it may be concluded that the monitor was within the plume, but, on the average, the monitor was not located at the centerline of the plume. On the average, CO concentrations will decrease with increasing distance from the plume centerline. In all possible and reasonable ways, USEPA has attempted to compute conservative CO concentrations in this analysis.

The tire-fire's maximum CO concentration computed from the PTDIS model for the Carnegie Avenue vicinity was .64 mg/m^3. The maximum computed CO concentrations which are due to the tire-fire are significantly smaller than the difference (1.8 mg/m^3) between the second high eight hour 1983 CO concentration (11.8 mg/m^3) and the standard (10.0 mg/m^3). The peak possible concentration from the tire-fire was not of sufficient magnitude to have caused the observed CO standard violation. As a result, USEPA concluded that the CO attainment demonstration submitted by the State of Ohio on June 9, 1982, (and amended on March 8, 1983; March 18, 1983 and November 9, 1983), does not support the State's contention that the Cleveland area attained the CO standard by December 31, 1982. USEPA proposed to disapprove the State's CO attainment demonstration for the Cleveland nonattainment area (Cuyahoga County) on March 13, 1985 (50 FR 10076). In addition, USEPA proposed to disapprove the State's request to rescind the five year extension for meeting the CO NAAQS in the area. During the 30 day public comment period of the March 13, 1985, notice, USEPA received four sets of comments.

The Agency's evaluation of public comments on the March 13, 1985, proposed disapproval is summarized below:

Comment: All four of the commentors note that the CO standard has not been violated in the past five to seven years. The State of Ohio and the City of Cleveland claim that the CO standard was not violated in 1978, 1979, 1980, 1981, 1982, and 1984. The commentors consider USEPA's action to be inappropriate considering the March 1983 violations were the only ones over such a long period.

Response: Review of CO data on file in USEPA's National Aerometric Data Bank show that the following frequencies of eight-hour standard exceedances have occurred at the 8907 Carnegie Avenue monitoring site: nine exceedances in 1978, one exceedance in 1979, three exceedances in 1980, three exceedances in 1981, one exceedance in 1982, and three exceedances in 1983. Therefore, violations of the eight-hour standard were recorded in 1978, 1981, and 1983; with single exceedances in 1979 and 1982. It can be seen from this that the 1983 standard violation was not a singular event as implied by the commentors. It is apparent that violations of the eight-hour standard continue to occur on a periodic basis in the Cleveland area.

Comment: The State of Ohio and the City of Cleveland believe that the Cleveland area has attained the CO NAAQS, based on the most recent eight quarters of CO data. These commentors believe that it is appropriate for USEPA to proceed with the approval of the SIP pursuant to the February 1983 proposed approval, while concurrently withdrawing the March 1985 proposed disapproval.

Response: The revision of the Cleveland 1979 CO plan currently before the USEPA was developed to demonstrate attainment by December 1982. USEPA's March 1985 proposed disapproval is based upon March 1983 exceedances, which occurred after USEPA's February 1983 proposed approval. The exceedances in 1983 themselves indicate that the plan was inadequate to assure the attainment and maintenance of the standard by December 1982. As discussed elsewhere in today's notice, the commentors have not demonstrated that the March 1983 exceedances were due to an exceptional event. Also, the commentors have presented no reasonable explanation (e.g., sources out of compliance) demonstrating that the plan itself was adequate to assure by the December 1982 deadline attainment and maintenance of the CO NAAQS in this area. Therefore, disapproval of the plan is appropriate because no demonstration has been provided that the plan was adequate to assure attainment by the 1982 deadline.

The fact that recent monitoring data show no violation of the CO NAAQS does not require a different result. Even assuming that no violations are occurring that does not necessarily mean that the plan was adequate to produce attainment by the end of 1982.

Further, eight quarters of violation-free data have not been collected at the Carnegie Avenue site. In fact, monitoring at this site was terminated in early February 1984 due to concerns over ventilation of the monitoring room and vandalism of the monitor probe. Therefore, only three quarters of data with no CO standard exceedances were collected at this site. (5 additional quarters of data were collected at a site near, but not at the Carnegie Avenue site.) No demonstration has been made showing that no violations of the standard will again occur at the Carnegie Avenue site.

In a separate request for rulemaking action, the State of Ohio has requested the redesignation of Cuyahoga County to attainment for the CO NAAQS, based on these same most recent eight quarters of monitored data. USEPA will address in a separate, future rulemaking: (1) the Cuyahoga County CO nonattainment area redesignation request and (2) the eight quarters of quality assured data subsequent to the March 1983 exceedance.

Comment: The City of Cleveland objects to USEPA "waiting" more than two years to take final action on the CO SIP. The commentor believes USEPA's failure to act in a timely manner has placed the City of Cleveland in a precarious position.

Response: USEPA first became aware of a possible 1983 violation of the CO NAAQS in Cleveland during the public comment period for the February 3, 1983, notice of proposed rulemaking. Because, the revised SIP attempted to demonstrate attainment of the CO NAAQS by the end of 1982, USEPA did not consider it to be appropriate to give final approval to the SIP until the quality of the verbally reported, draft March 1983 data could be confirmed. This did not occur until the third quarter of 1983. USEPA requested the State of Ohio to study the nature and possible causes of the observed standard violations. The State was given every opportunity to conduct modeling analyses of these violations. USEPA conducted its own modeling analysis when it became apparent that the State would not provide the modeling analyses requested by USEPA. USEPA believes that it acted in a timely manner given the facts on this issue.

USEPA altered its course of action to address the standard violation reported to have occurred in early 1983. Even if USEPA's supposed delay to take final action was considered to be unreasonable, there is no authority in the Clean Air Act for USEPA to remedy the delay by approving a plan it knows or believes is technically unapprovable.

Comment: All of the commentors contend that a tire-fire in North Bloomfield is well documented and is the probable cause of the CO NAAQS violation observed at the Carnegie Avenue site. Therefore, the 1983 violations should be dismissed as an unusual event.

Response: USEPA remains unconvinced that a tire-fire in North Bloomfield, approximately 61 kilometers from the monitors, could cause exceedances of the NAAQS at the Carnegie Avenue site. USEPA's model analysis which used conservative input assumptions showed that the maximum CO contribution from the tire-fire at the monitor was negligible.

Responses to specific comments on USEPA's analysis are given below:

Comment: The City of Cleveland • argues that USEPA's sole justification for proposing to disapprove the Cleveland CO SIP was the result of its modeling analysis of the March 1983 CO standard violation. The commentor argues that (1) USEPA based its conclusions on the use of a model, PTDIS, that was not designed to produce absolute values and (2) that the data entered into the model were simply assumptions and not verifiable facts. The commentor argued that it is no wonder that the model failed to predict the monitored concentrations.

Response: The City of Cleveland and the State have attempted to convince the USEPA that the March 1983 CO standard violations were due to an unusual source and, therefore, excludable. The burden of proof is upon these agencies themselves to demonstrate that the tire-fire was responsible for the monitored standard exceedances, or a significant portion thereof. As an alternative, it could be demonstrated that all other sources did not contribute significantly to the monitored exceedances. USEPA asked on several occasions for the State to conduct such analyses. None were conducted by the State.

Therefore, USEPA decided to utilize a screening model to obtain an upper estimate of the possible impact of the tire-fire on CO concentrations at the Carnegie Avenue site. There was no intention to predict the monitored concentrations themselves, but simply to determine the impact of a single source.

PTDIS was selected because the amount and type of input data did not warrant the use of a more sophisticated model and because PTDIS is believed to give conservatively high concentration estimates. Critics of USEPA's recommended screening models, which include PTDIS, argue that these models do tend to give concentrations which are relatively high. USEPA made every effort to assume conservative values. These inputs are based on best engineering judgment. Despite the use of a conservative approach, the modeling predicted low and relatively negligible CO contribution from the tire-fire at the monitoring site

It should be noted that the commentor did not specifically address USEPA's model input assumptions. If the commentor believed the inputs were incorrect, the commentor should have provided better input values or should have provided technical evidence demonstrating USEPA's assumptions to be significantly incorrect. No such attempt on the part of the commentor was made. USEPA sees no evidence, at this time, to make it believe that its modeling analysis gave unrealistically low results. Due to the conservative assumptions made, it is more probable that the model overpredicted the concentrations at the monitoring site resulting from the tire-fire.

Comment: The City of Cleveland states that all modeling must be calibrated using monitoring data. Therefore, monitoring data must take precedence over modeling data. The commentor, in this case, believes that the monitoring data and meteorological data presented to support the tire-fire hypothesis must be given more weight than USEPA's modeling results.

Response: It should be noted that USEPA has not approved any calibration of short-term modeling results using monitoring data. As stated on page 42 of the "Guideline on Air Quality Models" (EPA-450/2-78-027), calibration of modeling results is severely limited by uncertainties in source and meteorological data and thus one's ability to precisely estimate the concentration of an exact location for a specific increment of time. These uncertainties make attempts to calibrate a short-term model questionable. This, however, does not mean that short-term models should not be used to calculate conservatively impacts from various sources.

Comment: The City of Cleveland disputes whether the March 1983 CO standard exceedances are due to traffic related emissions. The City indicates that the exceedances occurred on a weekend, a period not associated with peak traffic conditions. In addition, the City contends that the two monitors in use in 1983 in the Cleveland area were located in areas with different land use, leading one to expect different concentration patterns at the two due to difference in traffic patterns if traffic related emissions were the cause of the violations. However, the City continues, the two monitors do show a similar concentrations pattern, thus casting doubt on the hypothesis that traffic related emissions were responsible. Because, the two monitors are both within the boundary of the complaints of smoke and odor from the tire-fire, one would expect similar concentration patterns if the tire-fire were the cause of the observed exceedances and elevated concentrations monitored at both sites. Finally, it is stated that the residential site (147th Street site) has several hourly concentrations over 9 ppm in an area where there is no significant traffic.

Response: There are a number of responses to this comment:

1. USEPA does not claim that traffic related emissions are the sole cause of the March 1983 exceedances, but that they, rather than the tire fire, are far more likely to have caused the exceedances. CO concentrations are a combined effect of local and area emissions under the influence of meterological factors. Under conditions of low mixing heights and/or wind speeds, areawide sources, as well as local emission sources, can contribute significantly to CO concentrations monitored at microscale sites. It is only through modeling that a more precise conclusion can be drawn concerning the relative contributions from various sources. The State of Ohio and the City of Cleveland have provided insufficient data to allow a thorough modeling analysis and total isolation of relative source impacts.

Although traffic related emissions in the Cleveland area may not be the sole cause of the high observed CO concentrations, USEPA continues to believe that they are the major contributing source. In most urban areas, mobile sources emit in excess of 50 percent of the entire area's CO emissions. *See* e.g., Chicago, Milwaukee, Detroit, Cleveland, and Cincinnati, 1979 and 1982 CO SIPS. The 1979 Cleveland CO SIP and its 1982 revision submitted by the State, themselves, indicate that mobile source CO emissions were the dominant cause of high CO concentrations at the Cleveland CO monitoring sites.

The late timing of some of the observed CO standard exceedances should not rule out mobile sources as the most significant contributor to these exceedances. Late night CO standard exceedances have been observed in a number of urban areas, such as Miami, Memphis, and Milwaukee where the most likely source category remains mobile sources. Low mixing heights can lead to an areawide CO buildup from CO emissions from relatively low traffic levels.

2. USEPA's review of a calendar shows that March 2–4, 1983, was a weekday period, Wednesday through Friday.

3. The commentor has provided no data to prove the traffic patterns are different near the two monitoring sites.

4. A third monitoring site at Willoughby, Ohio (Lake County) is also located within the boundary of the odor complaint as mapped by the City of Cleveland. Consequently, this site would be expected to observe a similar impact from the tire-fire as the other two sites. However, the concentrations at this site often differs substantially from concentrations at the other two sites.

5. Comparison of the Carnegie Avenue data with the 147th Street data during a period of elevated concentrations when the North Bloomfield tire-fire was not burning, November 14–17, 1981, shows that the tire-fire need not be present to produce similar CO concentration patterns at both sites. Therefore, other sources or factors may be present which causes a similarity in CO concentrations at these two sites.

6. High hourly CO concentrations exceeding approximately 10.4 mg/m ^{3} have been monitored during several periods at the 147th Street monitoring sites. The data show that eight hours with concentrations exceeding 10 mg/m ^{3} were monitored at this site during the period of November 14–17, 1981. Data on file in the National Aerometric Data Bank show that hourly concentrations above 10 mg/m ^{3} were recorded at this site in 1981, 1982, and 1984 as well as in 1983. In addition, it should be noted that the peak 1981 hourly CO concentration at this site exceeds that in 1983. This directly contradicts the comments made by the commentor.

Comment: The City of Cleveland has incorporated a previous submittal as part of the public comment. This submittal notes a high correlation between easterly winds and high CO concentrations at the Carnegie Avenue site. Since, the tire-fire was east of the monitor, it was concluded that the tire-fire must have caused the monitored standard exceedances.

Response: The distance between the tire-fire and the monitor is such that a number of hours of transport would be required to transport an air parcel between the fire and the monitor. This time would allow substantial dispersion of a tire-fire plume which would minimize the impact a change in wind directions would have on concentrations. However, as noted during the period of 1400–2100 on March 4, 1983, a shift in winds from the south/southwest to the east caused a rapid change in concentrations. Furthermore, the Willoughby monitor should have received a greater contribution from the tire-fire than the Carnegie Avenue monitor during this period. The Carnegie Avenue monitor, however, as shown by the data, recorded significantly higher CO concentrations. These observations point to the probable insignificance of the impact of the tire-fire to the Carnegie Avenue monitoring site.

Conclusion: USEPA's review of available data and public comments indicates that its position at the time of proposed rulemaking remains valid. That is, that violations of the CO standard occured after December 31, 1982, and that, therefore, the demonstration of attainment contained in the November 9, 1982, proposed revision to the Cleveland CO SIP is not supportable. Therefore, USEPA is taking final action to disapprove the State's November 9, 1982, submittal, which was submitted as a replacement to its earlier "1979" SIP and which purported to demonstrate that the CO NAAQS were attained in Cleveland by 1982.

Additionally, USEPA is disapproving the State's request to rescind USEPA's approval of a final attainment date for the Cleveland area of 1987. As a result of today's disapprovals, the part D CO SID which was approved by USEPA on October 31, 1980 (45 FR 72122) remains in effect. For this reason, the State must continue to meet the requirements of the Clean Air Act for areas where an extension beyond 1982 was requested to achieve the standard for CO. USEPA's policy on implementing these requirements is contained in the January 22, 1981 (46 FR 7182) **Federal Register**. As required by this policy, a "1982" revised plan [1] which meets these requirements and uses the most recent three years of data must be expeditiously prepared and submitted by the State.

Under Executive Order 12291, today's action is "Major". It has been submitted

[1] Section 172(c) requires that a "1982" plan must be submitted for all ozone and carbon monoxide nonattainment areas where an extension of the final attainment date to beyond 1982 has been requested and granted.

to the Office of Management and Budget (OMB) for review.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: March 15, 1986.

Lee M. Thomas,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

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

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1887 is amended by adding new paragraph (d) as follows:

§ 52.1887 Control Strategy: Carbon Monoxide.

* * * * *

(d) Disapproval—On June 9, 1982, (draft) and November 9, 1982, (final), The State of Ohio submitted a revised demonstration that attempts to show attainment by December 31, 1982, of the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) for the Cleveland urban area. Supplemental information was submitted on March 8, 1983, March 16, 1983, December 5, 1983, and May 9, 1985. The June 9, 1982, and March 8, 1983, submittals also requested that the 5-year extension for meeting the NAAQS requested on July 29, 1979, and granted by USEPA on October 31, 1980, and June 18, 1981, be rescinded for this area. The attainment demonstration and rescission request are disapproved by USEPA because they do not meet the requirements of § 51.10(b).

[FR Doc. 86-6503 Filed 3-25-86; 8:45 am]

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40 CFR Part 154

[OPP-30083C; PH FRL-2989-6]

Special Review of Pesticides; Criteria and Procedures; Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification of rule.

SUMMARY: This notice clarifies the Environmental Protection Agency's interpretation of provisions pertaining to establishment of public dockets and meetings with Agency officials in the rule concerning Special Review of pesticides which was published in the **Federal Register** of November 27, 1985 (50 FR 49003), codified at 40 CFR Part 154.

DATE: This clarification is effective March 26, 1986.

FOR FURTHER INFORMATION CONTACT: By mail; Joan Warshawsky, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number; Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-5778).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency recently issued new regulations establishing revised criteria and procedures for Special Reviews of pesticides which may not satisfy the standard for registration under the Federal Insecticide, Fungicide, and Rodenticide Act. Those regulations were published in the **Federal Register** of Novmeber 27, 1985 (50 FR 49003) and are codified at 40 CFR Part 154. Among other things, the regulations include provisions concerning public access to and participation in the Special Review process which implement a September 19, 1984 settlement agreement between the parties in *NRDC and AFL-CIO* v. *EPA, et al.*, Civil No. 83-1509, U.S. District Court for the District of Columbia. The plaintiffs in that action have suggested that certain provisions of the rule could be interpreted in a manner inconsistent with the corresponding provisions of the September 19, 1984 settlement agreement. Accordingly, the Agency is publishing this notice to eliminate any potential ambiguity and to assure the plaintiffs that the Agency will interpret and implement the provisions in question in a manner consistent with the settlement agreement.

Under § 154.15(a) of the new regulations, the Agency must establish a Special Review docket for a particular pesticide when it " first notifies registrants privately that it is considering issuance of a Notice of Special Review" for that pesticide. Before initiating a Special Review, § 154.21 requires the Agency to send written notice to affected registrants and to afford such registrants a private opportunity to submit information in response to the notification. Although communications between the Agency and affected registrants during this pre-Special Review period will be confidential, the Agency will incorporate all written pre-Special Review submissions, as well as memoranda summarizing any meetings with registrants during this period, in the docket established pursuant to § 154.15(a). The Agency will then make the contents of the docket available to the public when it decides either to initiate a Special Review or to publish a proposed decision not to initiate a Special Review.

If the Agency determines that a pesticide may satisfy one or more of the criteria for initiation of Special Review set forth in § 154.7, the Agency expects that it will generally notify affected registrants of that determination by issuance of a preliminary notification pursuant to § 154.21(a). In that event, the creation of a docket pursuant to § 154.15(a) will be coincident with issuance of the preliminary notification. However, the Agency will not exclude communications with registrants concerning a potential Special Review from the docket even if such communications occur prior to issuance of a preliminary notification under § 154.21(a). In the event that the Agency elects to communicate with registrants regarding its concern that a pesticide may satisfy one of the criteria for Special Review prior to issuance of a formal preliminary notification, the Agency interprets § 154.15(a) to require that the Agency establish a Special Review docket for that pesticide at the time of the first such communication.

The docketing requirements set forth in § 154.15 will enable interested members of the public to obtain prompt notice of the occurrence and substance of meetings between the Agency and interested persons or parties outside government. However, the Agency recognizes that disclosure of communications with outside parties is not sufficient by itself to assure meaningful public participation in the Special Review process. If the Agency meets with one interested person or party to discuss a pending Special Review decision, the Agency must also afford responsible individuals or groups with divergent views a reasonable opportunity to respond.

Section 154.27(c) explicitly states that "any interested person" may request a meeting with Agency officials "to respond to presentations by other persons" and § 154.7(a) provides that "no person or party outside of government will be afforded special or