

Section 401.5(f)(2) is being amended to refer to patent application number rather than serial number by replacing the term "serial" with "patent application" in order to conform to the change made by the PTO to the title and paragraph (a) of 37 CFR 1.53 as indicated in the **Federal Register**, 60 FR 20195, April 25, 1995.

Section 401.13(c)(2) has been editorially amended to refer to a patent application rather than just an application.

Finally, current § 401.16 is being redesignated as § 401.17 and the address to where any submissions or inquiries should be sent is being updated since the Federal Technology Management Policy Division is now the Technology Competitiveness Staff which is part of the Office of Technology Policy (OTP)/ Technology Administration.

Pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 553) (APA), the Assistant Secretary of Commerce for Technology Policy finds that there is good cause for waiving, as impracticable, unnecessary, and contrary to public interest, the prior notice of proposed rulemaking and the required 30-day delay in the effective date because: (1) This interim rule provides a contractor or grantee the opportunity to report electronically inventions and respective election of title to the funding agency using an agency-approved electronic system which may result in cost savings to the contractor, grantee and/or the funding agency; (2) These changes are not considered substantive; and (3) This interim rule provides a 30-day comment period and any comments received will be considered prior to finalization of this interim rule.

This interim rule has been determined to be significant for purposes of E.O. 12866 (58 FR 51735, October 4, 1993).

This interim rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the APA (5 U.S.C. 553) or by any other law, under sections 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This interim rule involves a collection of information which has approval under the Paperwork Reduction Act. The control number is 9000-0095.

**List of Subjects in 37 CFR Part 401**

Inventions, Patents, Nonprofit organizations, Small business firms.

For the reasons set forth in the preamble, 37 CFR part 401 is amended as follows:

**PART 401—RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS**

1. The authority citation for 37 CFR part 401 continues to read as follows:

**Authority:** 35 U.S.C. 206 and the delegation of authority by the Secretary of Commerce to the Assistant Secretary of Commerce for Technology Policy at sec. 3(g) of DOO 10-18.

2. Section 401.2 is amended by revising paragraph (j) to read as follows:

**§ 401.2 Definitions.**

\* \* \* \* \*

(j) The term "Secretary" means the Assistant Secretary of Commerce for Technology Policy.

3. New paragraphs (k), (l), (m) and (n) are added to § 401.2 to read as follows:

**§ 401.2 Definitions.**

\* \* \* \* \*

(k) The term *electronically filed* means any submission of information transmitted by an electronic or optical-electronic system.

(l) The term *electronic or optical-electronic system* means a software-based system approved by the agency for the transmission of information.

(m) The term *patent application* or "application for patent" includes a provisional or nonprovisional U.S. national application for patent as defined in 37 CFR 1.9 (a)(2) and (a)(3), respectively, or an application for patent in a foreign country or in an international patent office.

(n) The term *initial patent application* means a nonprovisional U.S. national application for patent as defined in 37 CFR 1.9(a)(3).

**§ 401.5 Modification and tailoring of clauses.**

\* \* \* \* \*

(f) \* \* \*

(2) Provide, upon request, the filing date, patent application number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in

which the contractor has applied for a patent.

\* \* \* \* \*

5. Section 401.13 is amended by revising paragraph (c)(2) to read as follows:

**§ 401.13 Administration of patent rights clauses.**

\* \* \* \* \*

(c) \* \* \*

(2) In accordance with 35 U.S.C. 205, agencies shall not disclose or release for a period of 18 months from the filing date of the patent application to third parties pursuant to requests under the Freedom of Information Act, or otherwise, copies of any document which the agency obtained under this clause which is part of an application for patent with the U.S. Patent and Trademark Office or any foreign patent office filed by the contractor (or its assignees, licensees, or employees) on a subject invention to which the contractor has elected to retain title. This prohibition does not extend to disclosure to other government agencies or contractors of government agencies under an obligation to maintain such information in confidence.

\* \* \* \* \*

6. Section § 401.16 is redesignated as § 401.17 and revised to read as follows:

**§ 401.17 Submissions and inquiries.**

All submissions or inquiries should be directed to Director, Technology Competitiveness Staff, Office of Technology Policy, Technology Administration, telephone number 202-482-2100, Room H4418, U.S. Department of Commerce, Washington, D.C. 20230.

7. A new § 401.16 is added to read as follows:

**§ 401.16 Electronic filing.**

Unless otherwise requested or directed by the agency,

(a) the written report required in (c)(1) of the standard clause in § 401.14(a) may be electronically filed;

(b) the written election required in (c)(2) of the standard clause in § 401.14(a) may be electronically filed; and

(c) the close-out report in (f)(1) and the information identified in (f)(2) and (f)(3) of § 401.5 may be electronically filed.

Dated: August 7, 1995.

**Graham Mitchell,**

*Assistant Secretary of Commerce for Technology Policy.*

[FR Doc. 95-20023 Filed 8-11-95; 8:45 am]

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 195**

[FRL-5276-3]

RIN 2060-AF40

**User Fees for Radon Proficiency Programs**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

**SUMMARY:** This technical amendment to the Radon Proficiency Program's User Fee establishes fees for the calendar year 1995. The User Fee Rule requires that individuals and organizations applying to or participating in the National Radon Measurement Proficiency (RMP) or the National Radon Contractor Proficiency (RCP) Programs pay annual fees. This amendment establishes the fee schedule for the calendar year 1995.

In 1994 the Agency began an aggressive effort to streamline operation of the proficiency programs as a way of reducing costs. Because of these streamlining efforts, the cost to operate the proficiency programs in 1994 was reduced by about 34% from 1993. Thus, the 1995 user fees will generally be lower than the 1994 user fees in some areas while the fees for other areas of the program will go up slightly from the 1994 user fees. The Agency remains committed to recovering all of its operating costs over a period of five years. Consistent with the schedule established in the 1994 User Fee Rule, the Agency has increased the level of anticipated cost recovery from 30% in 1994 to 47.5% in 1995.

Upon receipt of an invoice from EPA following the effective date of this technical amendment, organizations offering primary measurement services must pay an annual fee of \$390 per device entered or listed in the RMP program. Organizations offering secondary measurement services must pay an annual fee of \$50 for each business location listed in the program. Participants in the individual proficiency component of the RMP program must pay an annual fee of \$105. Participants in the RCP program must pay an annual fee of \$210. As before, State and local governments are exempted from these fees under section 305(e)(2) of the Indoor Radon Abatement Act of 1988, 15 U.S.C. 2665(e)(2).

EFFECTIVE DATE: September 13, 1995.

FOR FURTHER INFORMATION CONTACT: James W. Long, (202) 233-9433, U.S. EPA, Office of Radiation and Indoor Air,

401 M St. S.W., (6604J), Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:****I. Authority**

Section 305 of the Indoor Radon Abatement Act (IRAA) of 1988, 15 U.S.C. 2661 et seq., authorizes the Administrator of EPA to assess fees to defray the costs associated with operating its radon proficiency programs. The User Fees for Radon Proficiency Programs Final Rule, **Federal Register**, 59 FR 13166, established fees for two proficiency programs: the National Radon Measurement Proficiency Program and the National Radon Contractor Proficiency Program. The funds received by EPA have been authorized to be deposited into a special account in the United States Treasury with amounts in the account to be appropriated for administering the radon proficiency programs. State and local governments, including educational entities, are exempt from paying a fee to participate in the radon proficiency programs.

The final rule is cross-referenced to Title 40 of the Code of Federal Regulations (CFR) chapter I, subchapter R, Part 700 that lists regulations promulgated under the Toxic Substances Control Act (TSCA). Although the IRAA was enacted as Title III of TSCA, the Final User Fee Rule itself is listed under subchapter F of the CFR (40 CFR 195.20 et seq.) because it deals solely with a radiation program.

**II. Background**

On March 18, 1994, EPA issued a final rule in the **Federal Register**, 59 FR 13166, that established an initial fee schedule of \$375 per device entered or listed in the RMP program for organizations offering primary measurement services, \$75 per business location for organizations offering secondary measurement services, \$150 for participants in the individual proficiency component of the RMP program, and \$200 for participants in the RCP program.

The fees that the Agency established in the 1994 final rule were set to recover 30% of the total costs of administering the proficiency programs. As stated in the 1994 rule, the Agency intends to adjust its fees annually to recover ever increasing percentages of its program costs according to the following schedule: 1994 (30%), 1995 (47.5%), 1996 (65%), 1997 (82.5%) and 1998 (100%). For Fiscal Year (FY) 1994, total Agency costs to operate the radon proficiency programs were \$1.7 million.

EPA expects similar costs for fiscal year 1995. Based on a projected cost recovery percentage of 47.5%, the Agency expects to collect approximately \$750,000 from user fees during 1995. EPA shall continue to review and adjust the fees over the next three years (as necessary) to recover ultimately the full annual costs of the proficiency programs. Fees may also be adjusted to account for other factors such as inflation and changes in programs costs. As it adjusts fees in the future, EPA will assess the potential effects of its fee adjustments on the radon industry and the regional impacts.

The Agency has determined that the Paperwork Reduction Act of 1980 (PRA) requirements do not apply to this technical amendment. This action was not classified by the Agency as a significant regulatory action, however, the Office of Management and Budget did request to review this action. The technical amendment cleared review on May 4, 1995 with no comments from OMB.

**III. Provisions of the Amendment****A. National Radon Measurement Proficiency Program**

EPA's total costs for the organizational component of the RMP Program for Fiscal Year 1994 were about \$960,000 (a more detailed description of costs and how they were calculated is presented in the Technical Support Document for the 1995 User Fee Calculation in Support of the Radon Proficiency Program User Fee Final Rule, U.S. EPA/Office of Radiation and Indoor Air, January 24, 1995.). As of October 1, 1994, EPA had approximately 985 primary devices and approximately 1,485 secondary organizations listed or seeking to be listed in the program. If the RMP Program fees had been set at a full cost recovery level (100%) the annual fee for 1995 for a primary device would be about \$825 per application or listing, and a fee of \$100 would be assessed for each secondary firm applying to or listed in the RMP program. The difference between the fees for primary devices and secondary firms reflects differences in EPA's costs to process and maintain each type of applicant or participant in the organizational component of the RMP Program.

In this technical amendment to the 1994 Final Rule we have clarified the text in Section 195.20(a)(2) to reflect the fact that organizations listed or seeking to be listed for secondary measurement services in the RMP Program must pay an annual fee of \$50 for each business location. Since the inception of the RMP

Program in 1989, EPA has required secondary organizations to submit applications and be listed separately for each business location they operate. In the 1994 user fee billing cycle, EPA invoiced and collected fees for organizations listed for or seeking listing for secondary measurement services based on separate business locations. To clarify this aspect of the program's operation, EPA has added the phrase, "a fee for each business location listed" at appropriate places in Section 195.20(a)(2) of the final rule.

**B. Individual Measurement Proficiency**

The total costs of the individual proficiency component of the RMP program in Fiscal Year 1994 were about \$459,400. As of October 1, 1994, approximately 2,075 individuals were listed or in the process of being listed in the individual proficiency program. If the individual component of the RMP Program fees had been set at a full cost recovery level (100%) the annual fee for 1995 would be about \$220 per individual.

**C. National Radon Contractor Proficiency Program**

The total costs for the RCP program were about \$305,400 in fiscal year 1994. Approximately 686 individuals were listed or in the process of being listed in the RCP Program as of October 1, 1994. If the RCP Program fee had been set at a full cost recovery level (100%) the annual fee for 1995 would be about \$445 per individual.

**D. Fee Schedule—1995**

**1. Fee Amounts**

The 1995 user fee schedule for applicants to and participants in the RMP and RCP programs is, apart from some minor editorial changes, essentially unchanged from 1994. That schedule appears as a revised 40 CFR section 195.20, which follows this preamble.

Organizations or individuals whose proficiency program application has not yet been accepted by EPA on the effective date of this technical amendment (i.e., 30 days after the date of its publication in the **Federal Register**) become subject to the fees described above once their application has been accepted. Their user fees will be prorated quarterly, based on the acceptance date of the application. New applicants will be assessed an annual user fee based on the acceptance date of their application.

**2. Exemptions**

State and local governments, including educational entities, are exempted from these fees under section 305(e)(2) of the IRAA. EPA has determined that exempted organizations or individuals include:

State or local governments (or employees thereof acting in their official capacities) who are listed, or applying to be listed, in the EPA proficiency programs who wish to perform radon measurements and/or mitigations. Specific exempted entities include the following classifications:

- Indian Tribes,
- State and local educational entities, that is, schools and school districts (this includes public universities, colleges and educational agencies), and
- State and local medical institutions and hospitals.

EPA has determined that IRAA does not exempt Federal employees from paying a fee to participate in the EPA proficiency programs.

**3. Determination of Fees**

Participants listed in the RMP and RCP programs on the effective date of this technical amendment will be sent, by EPA, a payment invoice with its fee calculation at least 30 days before the payment is due. Fees will be assessed based on the current information in EPA's proficiency data bases.

Participants who intend to pay the invoiced fee amount must send their payment to EPA following the procedures stated in the invoice. Organizations or individuals who wish to notify EPA of any errors or corrections they wish to make to their listing status must do so by following the instructions on the payment invoice. Corrected payment invoices for both the RMP Program and the RCP Program shall be sent to: Radon Proficiency Programs User Fees, c/o Sanford Cohen and Associates, Inc. (SC&A), 1418 I-85 Parkway, Montgomery, Alabama, 36106. EPA will review any corrections noted on the payment invoice, adjust the payment invoice amount (as appropriate) and issue a new invoice. Participants must pay the amount in the corrected payment invoice within 30 days of the date listed on the corrected invoice.

If the appropriate fee or a revised payment invoice for an individual or organization participating in the RMP or RCP program has not been received by EPA on or before the payment due date, EPA will send, by certified mail, notice that the individual or organization will be delisted from the proficiency program unless he/she pays the fee within 30 days of this second certified notification. If payment still has not been received by EPA on or before 30 days or after of the second certified notification, the organization's or individual's listing will be removed from the proficiency program.

New or initial applicants to the RMP or RCP programs will be assessed a fee at the time of their initial application. EPA will send a payment invoice to the new applicant upon acceptance of the initial application. The applicant will be given at least 30 days from the date on the payment invoice to remit payment. The fee assessed will be prorated quarterly, based on the acceptance date of the application. The prorated fee schedule for 1995 is as follows:

Quarter	1st Jan 1– Mar 31	2nd Apr 1– Jun 30	3rd Jul 1– Sep 30	4th Oct 1– Dec 31
<b>RMP Program:</b>				
Per Primary measurement device .....	1\$390	\$295	\$195	\$95
Per Organization listed for secondary services .....	50	40	25	10
Per Individual listed for measurement services .....	105	80	55	25
<b>RCP Program:</b>				
Per Individual listed for mitigation services .....	210	160	105	50

If the appropriate fee has not been received by EPA on or before the payment due date, the application will be placed in an inactive file with no further action taken by EPA.

**4. Payment Procedures**

Each remittance to EPA under this technical amendment must be in United States currency and must be paid by either certified check, personal or

business check, or money order made payable to the order of the "U.S. ENVIRONMENTAL PROTECTION AGENCY" and sent to: U.S. EPA, Washington Financial Management

Center, Radon Proficiency Program User Fees (IRAA), P.O. Box 952491, St. Louis, Missouri, 63195-2491. The fee payment must include the original copy of the EPA payment invoice. Collection of fees will begin in the calendar year beginning January 1, 1995. Specific guidance on how and when fees must be paid can be found in How to Pay Your Radon Proficiency Programs User Fees, U.S. EPA/Office of Radiation and Indoor Air. Copies of this document can be obtained by contacting the RIS at (334) 272-2797 or by FAX at (334) 260-9051.

5. Failing the RMP Measurement Test

Organizations that fail the initial measurement device performance test or the re-test for a particular device must re-apply to the RMP program if they want to be listed or remain listed for that device. When the organization re-applies, EPA will send a payment invoice for the device(s) to be tested/re-tested. The appropriate user fee must be paid prior the scheduling of the test/re-test. EPA will send written notification of the measurement performance test results and listing status. Any fee paid to EPA in the process of attaining a listing of a particular device will not be refunded if the device fails to meet the RMP program criteria as stated in the Radon Measurement Proficiency (RMP) Program Handbook, EPA 402-B-94-003. Should the organization elect to re-apply to test the failed device, EPA will assess a new fee based on the information provided in the organization's application.

6. Failing the RMP Individual Proficiency and RCP Exams

a. *Biennial Reexamination.* To maintain their listing in the RCP program and/or the individual proficiency component of the RMP program, individuals must take and pass a biennial re-examination. EPA will notify listed participants of this requirement within 120 days of their exam expiration date. If an individual fails the exam, he/she may take the examination as often as he/she wishes during the same calendar year and not have to pay additional processing fees. This is a change from the 1994 final rule. In the final rule each application for retest also required that a \$50.00 processing fee be paid. EPA has determined that it was not cost effective to assess and administer the \$50.00 processing fee for retests.

Fees will not be refunded in the event that a participant fails the re-exam and/or chooses not to re-take the exam. If the same individual wishes to re-enter the program by re-taking the exam, the individual must re-apply. At the time that the application is submitted, EPA will determine whether a user fee will be assessed. Since user fees are paid for an entire year, so long as the original user fee was paid, an individual wishing to re-enter the proficiency programs within the same calendar year that he/she was delisted or failed the exam requirement, will not be assessed an additional user fee.

b. *New Applicants and the Exams.* New applicants to the RCP Program

and/or the individual component of the RMP Program will be assessed a user fee when their application has been accepted. A user fee must be paid whether the individual passes or fails the exam. If an applicant decides not to re-take a failed individual RMP program proficiency exam or RCP exam, no further action is taken by EPA on the individual's application. Fees will not be refunded in the event that an applicant fails the exam and/or chooses not to re-take the exam. If the same individual wishes to re-apply to the program by re-taking the exam, at the time that the application is received, EPA will determine whether a user fee will be assessed. Since user fees are paid for an entire year, so long as the original user fee was paid, an individual wishing to re-enter the proficiency programs by meeting the examination requirement, will not be assessed an additional user fee.

7. Adjustment of Fees

EPA shall adjust the fees over the next three years to a level that will ultimately be sufficient to recover the full annual costs of the radon proficiency programs. Assuming that the Agency's cost of running the proficiency programs remains the same over the next three years and assuming that the level of participation in the proficiency programs remains constant, the fee schedule for the next three years would be as follows:

Program element	Fee year 3	Fee year 4	Fee year 5
RMP Program:			
Per Primary measurement device .....	\$540	\$680	\$825
Per Organization listed for secondary services .....	65	80	100
Per Individual listed for measurement services .....	145	185	220
RCP Program:			
Per Individual listed for mitigation services .....	290	365	445

The above table should only be considered as a guide. Actual fees for each fiscal year will be adjusted based on program costs and participation rates. EPA may also use the three-step process outlined in the 1994 final rule to adjust the fees for years after 1995. If future fee adjustments are made, the Agency will publish new fee schedules in the **Federal Register** as a technical amendment final rule to become effective 30 days or more after publication, as specified in the 1994 final rule.

VI. Rulemaking Record

EPA has established a public record for this rulemaking (docket control

number A-90-09). The record for this rulemaking is available to the public in the Clean Air Act Docket, located on the first floor Waterside Mall, room M1500, U.S. Environmental Protection Agency, 401 M St., SW, Mail Stop 6102, Washington, DC, 20460, open from 8:30 a.m. to 12 p.m. and 1:30 p.m. to 3:30 p.m., Monday through Friday, excluding legal holidays, (202) 260-7548.

The record includes information considered by EPA in developing this technical amendment. The record contains the following categories of information: (1) **Federal Register** notices: "Fees for Radon Proficiency Programs and Training," Proposed Rule, FR vol. 55, No. 235, Thursday,

December 6, 1990; "User Fees for Radon Proficiency Program," Final Rule, FR vol. 59, No. 53, Friday, March 18, 1994; (2) Support Documents: "Economic Impact Analysis of Radon Proficiency Program User Fee Rule—Final Report." U.S. EPA/Office of Radiation and Indoor Air, November 17, 1993; "Technical Support Document for the 1995 User Fee Calculation in Support of the Radon Proficiency Programs User Fee Final Rule," U.S. EPA/Office of Radiation and Indoor Air, January 24, 1995; and, "Operating Policies and Procedures for the User Fees for Radon Proficiency Programs Final Rule—Fee Collection Process," U.S. EPA/Office of Radiation and Indoor Air, June 19, 1995; (3) Public

Comments received during the proposed rule notice and comment period and those received by the Agency following publication of the 1994 final rule.

#### List of Subjects

##### 40 CFR Part 195

Environmental protection, Radon, Proficiency programs, User fees.

##### 40 CFR Part 700

Environmental protection, Radon, Proficiency programs, User fees.

Dated: August 7, 1995.

**Carol M. Browner,**  
Administrator.

Therefore, 40 CFR part 195 is amended as follows:

#### PART 195—RADON PROFICIENCY PROGRAMS

1. The authority citation for part 195 continues to read as follows:

**Authority:** 15 U.S.C. 2665.

#### Subpart B—Fees

2. Section 195.20 is revised to read as follows:

##### § 195.20 Fee payments.

(a) *Fee Amounts.* Applicants to and participants in the RMP and RCP programs shall pay fees according to the following fee schedule:

##### (1) *Organizations Listed for or Seeking Listing for Primary Measurement Services in the RMP Program.*

(i) In order to remain a listed participant, each organization that is listed for primary measurement services in the RMP program on the effective date of this section shall pay an annual fee of \$390 for each device.

(ii) Each organization seeking listing for primary measurement services that submits an initial application after the effective date of this section shall pay an annual fee of \$390 per device. This fee will be prorated quarterly, based on the acceptance date of an organization's application.

(iii) Organizations that have or are seeking a listing for secondary measurement services for their primary devices will not be required to pay the additional \$50 fee applicable to secondary organizations.

##### (2) *Organizations Listed for or Seeking Listing for Secondary Measurement Services in the RMP Program.*

(i) In order to remain a listed participant, each organization that is listed for secondary measurement services in the RMP program on the effective date of this section shall pay an annual fee of \$50 for each business location listed.

(ii) Each organization seeking listing for secondary measurement services that submits an initial application after the effective date of this section shall pay an annual fee of \$50 for each business location listed. This fee will be prorated quarterly, based on the acceptance date of an organization's application.

(iii) Primary organizations that have or are seeking secondary listings for methods other than those for which they are listed as a primary, are subject to the fees.

##### (3) *Individual Proficiency Component of the RMP Program.*

(i) In order to remain a listed participant, each individual listed in the RMP individual proficiency program on the effective date of this section shall pay an annual fee of \$105.

(ii) Each individual who submits an initial application after the effective date of this section shall pay an annual fee of \$105. This fee will be prorated quarterly, based on the acceptance date of an individual's application.

(iii) Individuals who have or are seeking listing status as an RMP primary or secondary organization are subject to the applicable fees under paragraphs (a)(1) and (2) of this section.

##### (4) *RCP Program.*

(i)(A) In order to remain a listed participant, each individual listed in the RCP program on the effective date of this section shall pay an annual fee of \$210.

(B) Each individual who is not a listed participant in the RCP program on the effective date of this section and submits an initial application after the effective date of this section shall pay an annual fee of \$210. This fee will be prorated quarterly, based on the acceptance date of an individual's application.

(ii) An organization or individual who is not a listed participant in EPA's radon proficiency programs on the effective date of this section and/or whose proficiency program application has not yet been accepted by EPA becomes subject to the fees described above once its application has been accepted by EPA. Fees for such organizations or individuals will be prorated quarterly, based on the acceptance date of the application. To remain listed, each participant in the RMP or RCP programs, whether individual or organization, shall submit the appropriate annual fee to EPA each year.

(b) *Exemptions.* State and local governments are exempted from these fees under section 305(e)(2) of TSCA, 15 U.S.C. 2665.

(c) *Determination of Fees.* (1) Participants listed in the RMP and RCP

programs on the effective date of this section will be sent, by EPA, a payment invoice with its fee calculation at least 30 days before the payment is due. Fees will be assessed based on the current information in EPA's proficiency data bases. Participants who intend to pay the invoiced fee amount must send their payment to EPA following the procedures in the invoice. Organizations or individuals who wish to notify EPA of any errors or corrections they wish to make to their listing status must do so by following the instructions on the payment invoice. Corrected payment invoices for both the RMP Program and the RCP Program shall be sent to: Radon Proficiency Programs User Fees, c/o Sanford Cohen and Associates, Inc. (SC&A), 1418 I-85 Parkway, Montgomery, Alabama, 36106. EPA will review the corrections noted on the payment invoice, adjust the payment invoice amount (as appropriate) and issue a new invoice. Participants must pay the amount in the corrected payment invoice within 30 days of the date listed on the corrected invoice.

(2) If the appropriate fee or a revised payment invoice for an individual or organization participating in the RMP or RCP program has not been received by EPA on or before the payment due date, EPA will send, by certified mail, notice that the individual or organization will be delisted from the proficiency program unless he/she pays the fee within 30 days of this second certified notification. If payment still has not been received by EPA after 30 days of the second certified notification, the organization's or individual's listing shall be removed from the proficiency program.

(3) New or initial applicants to the RMP or RCP programs will be assessed a fee at the time of their initial application. EPA will send a payment invoice to the new applicant upon acceptance of the initial application. The applicant will be given at least 30 days from the date on the payment invoice to remit payment. The fee assessed will be prorated quarterly, based on the acceptance date of the application. If the appropriate fee has not been received by EPA by the payment due date, the application will be placed in an inactive file with no further action taken by EPA.

(d) *Payment Procedures.* Each remittance to EPA under this section shall be in United States currency and shall be paid by certified check, personal or business check, or money order made payable to the order of the "U.S. ENVIRONMENTAL PROTECTION AGENCY" and sent to: U.S. EPA, Washington Financial Management

Center, Radon Proficiency Program User Fees (IRAA), P.O. Box 952491, St. Louis, Missouri, 63195-2491. The fee payment shall include the original copy of the EPA payment invoice. Collection of fees will begin in the calendar year beginning January 1, 1995. Specific guidance on how and when fees must be

paid can be found in How to Pay Your Radon Proficiency Programs User Fees, U.S. EPA/Office of Radiation and Indoor Air. Copies of this document can be obtained by contacting the RIS at (334) 272-2797 or by FAX at (334) 260-9051. (e) *Adjustment of Fees.* (1) EPA shall collect 100 percent of its operating costs

associated with its radon proficiency programs by calendar year 1998. As necessary, EPA shall adjust the fees established by this subpart each year over the next four years to collect the following percentages of program costs:

Year 1	Year 2	Year 3	Year 4	Year 5
30%	47.5%	65%	82.5%	100%

Actual fees for each fiscal year will be calculated based on program costs and participation rates. New fee schedules will be published in the **Federal Register** as a technical amendment final rule to this part to become effective 30 days or more after publication.

(2) EPA will use a three-step process to adjust the fees annually. First, EPA will estimate the costs of providing each of the proficiency programs for the upcoming year. EPA will account for future additional fixed costs (e.g., updating examinations) and increases/decreases in variable costs due to inflation and other factors. In order to calculate increases/decreases in costs due to inflation, EPA may use one of the three following indices: the Federal General Schedule (GS) pay scale, the Consumer Price Index (CPI), and/or a component of the CPI, such as services. Second, EPA will estimate the number of participants for each program. At a minimum, these participation rates will be based on past and current program participation rates. Third, EPA shall calculate the per capita costs that individuals and organizations should pay to enable it to recover its fixed and variable costs each year for each program. EPA shall also consider potential industry impacts as it adjusts to levels to ultimately achieve full cost recovery over the period of five years.

[FR Doc. 95-20008 Filed 8-11-95; 8:45 am]  
BILLING CODE 6560-50-P

**40 CFR Part 261**

[FRL-5276-3]

**Hazardous Waste Management System: Carbamate Production, Identification and Listing of Hazardous Waste**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Interpretative rule.

**SUMMARY:** The Environmental Protection Agency is today announcing a change in the Agency's interpretation of its rule

that lists wastes from carbamate production as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). Under this new interpretation, wastes from the production of non-carbamate intermediates that are used exclusively in the production of carbamates but are not produced at the ultimate site of manufacture of the carbamates will not be subject to the rule. These wastes are among those given the RCRA waste code designations K-156 and K-157 in the rule.

**EFFECTIVE DATE:** August 8, 1995.

**ADDRESSES:** The official record for this interpretative rule is identified as Docket number F-95-CPLF-FFFFF and is located in the RCRA Docket, Room M2616 (5305), 401 M Street, SW, Washington, DC, 20460. The public may make an appointment in order to review docket materials by calling (202) 260-9327. The docket is open for inspection from 9 AM to 4 PM, Monday through Friday, excluding Federal holidays. The public may copy material from any regulatory docket at a cost of \$0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information contact the RCRA/Superfund Hotline, toll free, at (800) 424-9346, or at (703) 920-9810. For technical information concerning this notice, contact Mr. John Austin, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, (202) 260-4789.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On February 9, 1995 (60 FR 7824), EPA promulgated regulations under RCRA that listed as hazardous wastes six wastes generated during the production of carbamates and 58 commercial chemical products that become hazardous wastes when they are discarded or intended to be discarded. This rule becomes effective on August 9, 1995.

Among the six wastes subject to the rule are those designated by EPA as K-

156 and K-157. The K-156 listing consists of "[o]rganic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes" (60 FR 7849, to be codified at 40 CFR 261.32). This waste was listed because it contains one or more of the following hazardous constituents of concern: formaldehyde, methylene chloride, triethylamine, carbofuran, benomyl, carbendazim, carbaryl, or carbosulfan (60 FR 7853, to be codified in Appendix VII to 40 CFR Part 261).

The K-157 listing consists of "[w]astewaters (including scrubber waters, condenser waters, washwaters and separation waters) from the production of carbamates and carbamoyl oximes" (60 FR 7849, to be codified at 40 CFR 261.32). This waste was listed because it contained one or more of the following hazardous constituents of concern—carbon tetrachloride, formaldehyde, methyl chloride, methylene chloride, pyridine, or triethylamine (60 FR 7853, to be codified in Appendix VII to 40 CFR Part 261).

Public comments on the proposed rule requested that EPA clarify the definition of carbamate "production," principally to ensure that production would not include operations that isolate non-carbamate product for which there is otherwise a commercial market. In response to these comments, EPA set out its interpretation of the definition of production for purposes of the carbamate listing rule in the preamble to the final rule at 60 FR 7830.

After considering the comments and examining the industry, EPA concluded that carbamate production for purposes of the rule begins with the synthesis of non-carbamate chemicals that have no other use except for the production of a carbamate product. These non-carbamate chemicals are known as chemical "intermediates" in the industry. The consequence of this interpretation is that wastes generated from the manufacture of these