

## List of Subjects in 16 CFR Part 435

Advertising, Mail or telephone order Merchandise: Trade Practices.

Based on the foregoing analysis, the Commission makes non-substantive, minor, technical amendments to title 16, part 435 of the Code of Federal Regulations.

**PART 435—MAIL OR TELEPHONE ORDER MERCHANDISE**

1. The authority citation for part 435 continues to read as follows:

Authority: 5 U.S.C. 553; 15 U.S.C. 41 *et seq.*

2. Section 435.2(f) is revised to read as follows:

**§ 435.2 Definitions.**

\* \* \* \* \*

(f) "Prompt refund" shall mean:

(1) Where a refund is made pursuant to paragraph (e) (1) or (2)(iii) of this section, a refund sent to the buyer by first class mail within seven (7) working days of the date on which the buyer's right to refund vests under the provisions of this part;

(2) Where a refund is made pursuant to paragraph (e)(2) (i) or (ii) of this section, a refund sent to the buyer by first class mail within one (1) billing cycle from the date on which the buyer's right to refund vests under the provisions of this part.

\* \* \* \* \*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95-27890 Filed 11-9-95; 8:45 am]

BILLING CODE 6750-01-M

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1952****U.S. Virgin Islands State Plan for Occupational Safety and Health**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Final rule.

**SUMMARY:** This document announces the Occupational Safety and Health Administration's (OSHA) decision to suspend the U.S. Virgin Islands State Plan "final approval" determination under Section 18(e) of the Occupational Safety and Health Act. OSHA is reinstating concurrent Federal enforcement authority over occupational safety issues in the private sector which issues have been solely

covered by the State Plan in the U.S. Virgin Islands since 1984. (OSHA currently exercises authority over occupational health issues in the private sector, which issues are excluded from the State plan.) The scope of the exercise of this concurrent Federal enforcement authority is further defined in this document under "Level of Federal Enforcement."

**EFFECTIVE DATE:** November 13, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Anne Cyr, Acting Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219-8148.

**SUPPLEMENTARY INFORMATION:****A. Background**

The Virgin Islands operates a State Plan to develop and enforce occupational safety standards for private sector employers and occupational safety and health standards for public sector (State and local government) employers, pursuant to the provisions of Section 18 of the Occupational Safety and Health Act of 1970 (the Act). Pursuant to Section 18(e) of the Act, OSHA granted the Virgin Islands "final approval" (which is also referred to as an 18(e) determination) and relinquished concurrent Federal enforcement jurisdiction effective April 17, 1984. As a result of more recent Federal monitoring of the U.S. Virgin Islands State Plan, OSHA has now found that the State plan, in actual operation, is no longer "at least as effective as" Federal OSHA and that other 18(e) requirements are no longer being met. In response to this finding, in August 1995, Lisa Harris-Moorehead, the newly appointed Virgin Islands' Commissioner of Labor, indicated the Virgin Islands' agreement to voluntarily relinquish the State Plan's final approval status under Section 18(e). The Commissioner also agreed to the reassertion of concurrent Federal enforcement jurisdiction. On behalf of the Governor, the Commissioner pledged to accomplish the necessary corrective action to regain final approval status by December, 1995. Subsequently, as a result of the intervening devastation inflicted by Hurricane Marilyn on September 15, 1995, the Virgin Islands, by letter dated September 22, 1995, requested Federal technical assistance and indicated that the necessary corrective action of the State Plan may now be somewhat delayed.

Pursuant to the procedures set forth in 29 CFR 1902.47 *et seq.*, OSHA published notice of its reconsideration of the Virgin Islands' 18(e) determination; proposed reassumption of concurrent Federal enforcement authority; and a request for written comments and opportunity to request an informal hearing on September 11, 1995 (60 FR 47131). That notice also contains a more detailed description of the Virgin Islands' State plan and the identified deficiencies. Similar notice was published in two newspapers in the Virgin Islands on September 25, 1995. The 35 day comment period closed on October 16, 1995, and OSHA received no written comments or requests for a hearing.

**B. Decision**

Pursuant to the procedures set forth in 29 CFR 1902.47 *et seq.*, the Assistant Secretary for Occupational Safety and Health has made a final decision to suspend the 18(e) final approval status of the Virgin Islands' State Plan and to reinstate concurrent Federal enforcement authority over occupational safety issues in the U.S. Virgin Islands pending the necessary corrective action by the State Plan to again meet the criteria for an 18(e) final approval determination. Concurrent Federal enforcement authority will be exercised in the U.S. Virgin Islands effective November 13, 1995.

The Assistant Secretary's decision is based upon the facts determined by OSHA in the monitoring of the State Plan and after opportunity for public comment. OSHA did not receive any written comments. The applicable evaluation reports and the State's letters and Corrective Action Plan may be inspected and copied during normal business hours at the OSHA Technical Data Center (TDC), Room N2625, 200 Constitution Avenue, NW., Washington, DC [Docket #T030]; at the Office of the Regional Administrator, Occupational Safety and Health Administration, 201 Varick Street, Room 670, New York, New York 10014; Puerto Rico Area Office, Occupational Safety and Health Administration, U.S. Courthouse & FOB, Carlos Chardon Avenue, Room 555, Hato Rey, Puerto Rico, 00918; or at the Virgin Islands Department of Labor, Occupational Safety and Health Division, 3012 Golden Rock, Christiansted, St. Croix, Virgin Islands 00820.

**C. Effect of the Decision**

The Assistant Secretary's decision to suspend the State Plan's final approval under section 18(e) restores the state

Plan to "initial" approval status and permits the resumption of concurrent Federal enforcement activity. The Assistant Secretary's decision does not terminate Federal approval of the State Plan and does not affect the legal authority of the Virgin Islands to carry on enforcement activities under the State Plan. Federal OSHA or joint State and Federal OSHA inspections may result in the issuance of appropriate Federal citations and penalties. Federal OSHA compliance officers may issue citations effective immediately. Contested Federal citations and penalties will be reviewed by the Federal Occupational Safety and Health Review Commission (OSHRC). In addition to enforcement actions, Federal and State OSHA will provide as much technical assistance and voluntary compliance assistance as possible to assure worker protection during the extensive cleanup and rebuilding effort that is occurring on the Virgin Islands as a result of Hurricane Marilyn. (The Virgin Islands suffered significant property damage with most businesses requiring substantial or complete reconstruction.) Joint Federal/State seminars and other training and outreach activities have been and will continue to be conducted to assist employers and employees in understanding their compliance obligations.

Reverting the State Plan's Federal approval status from "final" to "initial" allows Federal OSHA to exercise discretionary concurrent enforcement authority to compensate for the current deficiencies in the State Plan's enforcement, while allowing the Virgin Islands sufficient time and assistance to improve its performance. Federal OSHA will provide technical assistance to the Virgin Islands in the form of staff training for compliance officers and administrative, legal, and operational guidance.

*Immediate Effective Date:* November 13, 1995.

OSHA finds that good cause exists for making this rule effective immediately upon publication in the Federal Register. Monitoring of the State plan indicates the immediate need for supplementary Federal enforcement of safety requirements for the protection of workers in the Virgin Islands. In addition, today's action essentially imposes no new compliance obligations on affected employers since standards enforced under the Virgin Islands State plan are for the most part identical to Federal standards.

#### List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Accordingly, 29 CFR Part 1952 is amended as set forth below.

Signed in Washington, D.C. this 6th day of November, 1995.

Joseph A. Dear,  
*Assistant Secretary.*

#### **PART 1952—[AMENDED]**

1. The authority citation for 29 CFR Part 1952 continues to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902, Secretary of Labor's Order No. 1-90 (55 FR 9033).

#### **Subpart S—Virgin Islands**

2. Section 1952.253 is amended by adding the following sentence to the end of paragraph (a) to read as follows:

#### **§ 1952.253 Final approval determination.**

(a) \* \* \*. *Note:* The Virgin Islands final approval status under Section 18(e) of the Act was suspended and Federal concurrent enforcement authority reinstated on November 13, 1995.

\* \* \* \* \*

3. Section 1952.253 is amended by adding the following sentence to the end of paragraph (b) to read as follows:

#### **§ 1952.253 Final approval determination.**

\* \* \* \* \*

(b) \* \* \*. *Note:* The Virgin Islands final approval status under Section 18(e) of the Act was suspended and Federal concurrent enforcement authority reinstated on November 13, 1995.

\* \* \* \* \*

4. Section 1952.253 is amended by adding paragraph (d) to read as follows:

#### **§ 1952.253 Final approval determination.**

\* \* \* \* \*

(d) As a result of Federal monitoring of the U.S. Virgin Islands State Plan and after opportunity for public comment, the Assistant Secretary for Occupational Safety and Health has determined that the State Plan no longer meets the criteria for final approval under Section 18(e). As a result the final approval status has been suspended and the State Plan reverts to "initial approval" status effective November 13, 1995. Concurrent Federal enforcement authority over occupational safety issues in the U.S. Virgin Islands has been reinstated pending the necessary corrective action by the State Plan to again meet the criteria for an 18(e) final approval determination. Concurrent Federal enforcement authority will be exercised in the U.S. Virgin Islands

effective November 13, 1995, and will continue until further notice.

5. Section 1952.254 is revised to read as follows:

#### **§ 1952.254 Level of Federal enforcement.**

(a) As a result of the Assistant Secretary's determination to suspend the final approval determination under section 18(e) for the Virgin Islands state plan, effective November 13, 1995, Federal occupational safety standards which have been promulgated under section 6 of the Act now apply to all covered employers in the Virgin Islands. Until subsequent determinations are made by Federal OSHA affecting the level of Federal enforcement in the Virgin Islands, discretionary Federal concurrent enforcement authority will be exercised in the following manner. Federal OSHA will exercise the full range of enforcement authority available under the Act, including but not limited to, issuance of citations under section 9 for violations of any requirement of section 5, of any standard, rule or order promulgated pursuant to section 6, or of any regulation prescribed pursuant to the Act; conduct of inspections and investigations under section 8; conduct of enforcement proceedings in contested cases under section 10; institution of proceedings to correct imminent dangers under section 13; and proposal of civil penalties or initiation of criminal proceedings for violations of the Act under section 17 with regard to occupational safety issues in the private sector. The Virgin Islands retains full authority under its approved State plan to continue to adopt and enforce occupational safety standards including issuing citations for violations thereof, proposing penalties and adjudicating contested cases under State law. Where State and Federal compliance officers conduct joint inspections, enforcement actions may be either Federal or State.

(b) Federal OSHA also continues to retain full authority over issues which have not been subject to State enforcement under the Virgin Islands plan. Thus, OSHA retains authority to enforce all provisions of the Act, Federal standards, rules or orders which relate to occupational health in private sector employment in the Virgin Islands. OSHA also retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders and all Federal standards, current or future, specifically directed to maritime employment (e.g., 29 CFR part 1915, shipyard employment; 29 CFR part 1917, marine terminals; 29 CFR part 1918, longshoring; 29 CFR part 1919, gear

certification), as well as provisions of general industry (29 CFR part 1910) standards appropriate to hazards found in these employments. Federal jurisdiction also remains in effect with respect to Federal government employers and employees.

(c) The Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees. Any Federal standards, including any standards promulgated or modified during the period of the Virgin Islands final approval under section 18(e), are now enforceable by Federal OSHA.

(d) The Assistant Secretary also retains authority to continue to conduct investigations and inspections for the purpose of the evaluation of the Virgin Islands State plan under section 18 (e) and (f) of the Act. The Regional Administrator will closely monitor State performance and corrective action and make prompt recommendation to the Assistant Secretary for either reinstatement of the Virgin Islands final approval status or initiation of plan withdrawal action. Federal enforcement authority will continue to be exercised to the extent necessary to assure occupational safety and health protection to employees in the Virgin Islands until further notice.

[FR Doc. 95-27915 Filed 11-9-95; 8:45 am]

BILLING CODE 4510-26-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 264, 265, and 271

[FRL-5328-4]

RIN 2060-AB94

### Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of postponed effective date.

**SUMMARY:** This document postpones the effective date of the final rule on Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous

Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers until June 6, 1996.

**EFFECTIVE DATE:** The final rule will be effective as of June 6, 1996. The EPA specified in the final rule a schedule that established the compliance dates by which different requirements of the final rule must be met. These compliance dates and requirements are explained further in the final rule (59 FR 62896, December 6, 1994) under **SUPPLEMENTARY INFORMATION.** This document changes only the effective date of the standards. The effective date will be June 6, 1996 for all provisions of the standards, including the applicability of 40 CFR part 265 subparts AA, BB, and CC to 90-day accumulation units at hazardous waste generators, the applicability of 40 CFR part 265 subparts AA, BB, and CC to Resource Conservation and Recovery ACT (RCRA) permitted units, and the applicability of the final standards to tanks in which waste stabilization activities are performed. All other compliance dates for the final rule remain as published in the final rule (59 FR 62896.)

**ADDRESSES:** Docket. The supporting information used for the final rule is available for public inspection and copying in the RCRA docket. The RCRA docket numbers pertaining to the final rule are F-91-CESP-FFFFF, F-92-CESA-FFFFF, F-94-CESF-FFFFF, F-94-CE2A-FFFFF, and F-95-CE3A-FFFFF. The docket is available for inspection at the EPA RCRA Docket Office (5305), Room 2616, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 260-9327.

**FOR FURTHER INFORMATION CONTACT:** For information about this postponement contact the RCRA Hotline at (800) 424-9346 toll-free, or (703) 920-9810.

#### SUPPLEMENTARY INFORMATION:

##### 1. Postponement of December 6, 1995 Effective Date

This notice announces the postponement of the effective date for the final Air Emission Standards published under the RCRA. These final standards were published on December 6, 1994 (59 FR 62896) and were originally scheduled to become effective as of June 5, 1995. On May 19, 1995 (60 FR 26828) the EPA postponed the effective date until December 6, 1995 to allow time for the EPA to identify provisions of the final standards that require clarification, and to publish a Federal Register notice to clarify such

provisions. The EPA expects to publish that notice in the near future.

Subsequently, on August 14, 1995 the EPA published a Federal Register document entitled, "Proposed rule; data availability" (60 FR 41870) and opened RCRA docket F-95-CE3A-FFFFF to accept comments on revisions that the EPA is considering for the final standards. The provisions of the final rule that these revisions would affect are the waste determination procedures, the standards for containers, and the applicability of the final standards to units that operate air emission controls in accordance with certain Clean Air Act standards. In addition, these revisions would reduce the monitoring, record keeping, and reporting requirements for affected tanks, surface impoundments, and containers.

The EPA accepted public comments on the appropriateness of these revisions through October 13, 1995. The EPA is now reviewing the comments received by the docket and will determine whether to revise the final rule to incorporate the described revisions. The incorporation of these revisions would provide certain compliance options for waste determination procedures and for container standards that are not currently available in the published final rule. By January of 1996, the EPA expects to complete its review of the public comments, and publish a Federal Register notice explaining the EPA's decision if and how to amend the rule.

Given that the EPA intends to clarify provisions of the rule and is actively considering amending the rule in ways that would increase compliance flexibility and possibly reduce certain regulatory requirements, the EPA considers it appropriate to delay the December 6, 1995 effective date for six months. This delay will both allow the ongoing administrative review process to be completed successfully, and allow ample time for facilities to make any necessary alterations to their compliance plans before the effective date of the standards.

The EPA has received a request that it stay the rule, from a party that has brought a judicial challenge to the published rule. In taking this action to postpone the rule's effective date, the EPA is not concurring that the criteria for a stay (such as likelihood of irreparable harm or likelihood that these parties will ultimately prevail should the rule be litigated) are met. Rather, as a prudential matter, the EPA believes that a six month delay is appropriate for the reasons explained above.