

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5862-4]

**Air Pollution Control; Proposed Action on Clean Air Act Grant to the Sacramento Metropolitan Air Quality Management District****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed determination with request for comments and notice of opportunity for public hearing.

**SUMMARY:** The U.S. EPA has made a proposed determination that reductions in expenditures of non-Federal funds for the Sacramento Metropolitan Air Quality Management District (SMAQMD) in Sacramento, California are a result of non-selective reductions in expenditures. This determination, when final, will permit the SMAQMD to keep the financial assistance awarded to it by EPA for FY-96 and to be awarded financial assistance for FY-97 by EPA under section 105(c) of the Clean Air Act (CAA).

**DATES:** Comments and/or requests for a public hearing must be received by EPA at the address stated below by August 22, 1997.

**ADDRESSES:** All comments and/or requests for a public hearing should be mailed to: Valerie Cooper, Grants and Program Integration Office AIR-8, Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901; FAX (415)744-1076.

**FOR FURTHER INFORMATION CONTACT:** Valerie Cooper, Grants and Program Integration Office AIR-8, Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901 at (415) 744-1237.

**SUPPLEMENTARY INFORMATION:** Under the authority of section 105 of the CAA, EPA provides financial assistance to the SMAQMD, whose jurisdiction includes Sacramento County in California, to aid in the operation of its air pollution control programs. In FY-95, EPA awarded the SMAQMD \$1,272,403 which represented approximately 14% of the SMAQMD's budget, and in FY-96 \$1,581,581 which represented approximately 16% of the SMAQMD's budget.

Section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), provides that "[n]o agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such

programs during the preceding fiscal year. In order for [EPA] to award grants under this section in a timely manner each fiscal year, [EPA] shall compare an agency's prospective expenditure level to that of its second preceding year." EPA may still award financial assistance to an agency not meeting this requirement, however, if EPA, "after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government." CAA section 105(c)(2). These statutory requirements are repeated in EPA's implementing regulations at 40 CFR 35.210(a).

The SMAQMD is a single-purpose agency whose source of funding originates from several different sources as described below. It is the "unit of Government" for section 105 (c)(2) purposes. In its FY-96 section 105 application, the SMAQMD projected non-recurrent non-Federal expenditures (or its maintenance of effort (MOE)) of \$8,132,074 which included fees collected by SMAQMD for permits it issues under Title V of the CAA.<sup>1</sup> In January of 1997, however, the SMAQMD submitted to EPA documentation which shows that its actual FY-96 MOE was \$6,980,263 which is exclusive of Title V. This amount represents a shortfall of \$1,084,267 from the MOE of the preceding fiscal year (FY-95). In order for the SMAQMD to be eligible to keep its FY-96 grant and to be awarded an FY-97 grant, EPA must make a determination under section 105(c)(2).

In FY-96, the SMAQMD determined that its MOE would decrease because: (1) Revenue from Title V permit fees are not available for MOE purposes, (2) revenue from the Department of Motor Vehicles (DMV) decreased, (3) contributions from Sacramento, County are no longer available, (4) the Small Business Assistance Center is providing less funding to the District as well as to other State agencies.

The SMAQMD's MOE reductions resulted from circumstances beyond the District's control. EPA proposes to determine that the SMAQMD's lower FY-96 MOE level meets the section 105(c)(2) criteria as resulting from a non-selective reduction of expenditures. Pursuant to 40 CFR 35.210, this determination will allow the SMAQMD to keep the funds received from EPA for

<sup>1</sup> A CAA section 105 grantee's MOE may be reduced to reflect the transfer of activities to an EPA approved Title V program previously funded through section 105 grants. See 60 FR 366, 368 (January 4, 1995) and 40 CFR 35.205(b).

FY-96 and to be eligible for an FY-97 award.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by August 22, 1997 on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by August 22, 1997. If no written request for a hearing is received, EPA will proceed to a final determination.

Dated: July 10, 1997.

**David P. Howekamp,**

*Director, Air Division.*

[FR Doc. 97-19395 Filed 7-22-97; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5862-3]

**Notice of Meeting, Board of Scientific Counselors (BOSC), Subcommittee Review of the National Health and Environmental Effects Research Laboratory (NHEERL)****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Board of Scientific Counselors (BOSC) of the Office of Research and Development (ORD) will conduct a meeting on August 4 and 5, 1997. The Committee will review the activities of the National Health and Environmental Effects Research Laboratory (NHEERL) of the ORD. The focus of the session will be to assess the adequacy of the organization's scientific and technical efforts. The meeting will be held at the U.S. EPA's Environmental Research Center, Classroom number 3 starting at 9 am, on August 4 and 5, and ending no later than 5 pm on either day. The main laboratory telephone number is (919) 541-2282.

The meeting is open to the public, and seating is limited. Any member of the public wishing further information concerning the meeting should contact Randall C. Bond, Designated Federal Officer at (919) 541-2973. Those individuals requiring a copy of the Agenda should contact Ms. Nancy Fowler at (919) 541-1968. Members of the public wishing to make comments at the sessions should provide those comments to Mr. Bond no later than July 23, 1997. Comments will be limited

to 5 minutes, and the Board expects that such items will not be repetitive of previously submitted materials.

**FOR FURTHER INFORMATION CONTACT:** Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA, (MC8701), 401 M Street, S.W., Washington, D.C. 20460, (202) 260-0468.

Dated: July 14, 1997.

**Henry L. Longest II,**

*Acting Assistant Administrator for Research and Development.*

[FR Doc. 97-19390 Filed 7-22-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[OPP-64034; FRL 5729-8]

### Cancellation of Pesticides for Non-Payment of 1997 Registration Maintenance Fees

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

**ACTION:** Notice.

**SUMMARY:** Since the amendments of October, 1988, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has required payment of an annual maintenance fee to keep pesticide registrations in effect. The fee due last January 15 has gone unpaid for about 1,113 registrations. Section 4(i)(5)(D) of FIFRA provides that the Administrator may cancel these registrations by order and without a hearing; orders to cancel all but a few of them have been issued within the past few days.

**FOR FURTHER INFORMATION CONTACT:** For further information on the maintenance fee program in general, contact by mail: John Jamula, Office of Pesticide Programs (7504C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: Rm. 226, Crystal Mall #2, 1921 Jefferson Davis Highway South, Arlington, VA, (703) 305-6426; e-mail: jamula.john@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

#### I. Introduction

Section 4(i)(5) of FIFRA as amended in October, 1988, and again in December, 1991 requires that all pesticide registrants pay an annual registration maintenance fee, due by January 15 of each year, to keep their registrations in effect. This requirement applies to all registrations granted under section 3 as well as those granted under section 24(c) to meet special local

needs. Registrations for which the fee is not paid are subject to cancellation by order and without a hearing.

The 1990 Farm Bill amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural use pesticides when she determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has waived the fee for 82 minor agricultural use registrations at the request of the registrants.

In late November, 1996, all holders of either section 3 registrations or section 24(c) registrations were sent lists of their active registrations, along with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain in effect, and to calculate and remit the appropriate maintenance fees. Most responses were received by the statutory deadline of January 15.

A notice of intent to cancel was sent in mid-March to companies who did not respond and to companies who responded, but paid for less than all of their registrations. Late payments of the fees were accepted until May 15, when the actual process of cancellation was begun. Since mailing the notices, EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered.

Maintenance fees have been paid for about 16,381 section 3 registrations, or about 94 percent of the registrations on file in November. Fees have been paid for about 2,512 section 24(c) registrations, or about 88 percent of the total on file in November. Cancellations for non-payment of the maintenance fee affect about 849 section 3 registrations and about 264 section 24(c) registrations.

#### II. Product Cancellations not Affecting Status of Active Ingredient

In cases where the active ingredients will remain available in other registered products, we anticipate two types of impact for the bulk of these cancellations. First, some of these disappearing registrations will be survived in the market by substantially identical registrations. These substantially identical products may not, however, be readily available wherever a disappearing product was sold, so there may be local or regional disruptions while distribution patterns are adjusted. We expect these disruptions to be minor and temporary.

The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the canceled products until the due date for the next annual registration maintenance fee,

January 15, 1998. Existing stocks already in the hands of dealers or users, however, can generally be distributed, sold or used legally until they are exhausted. Existing stocks are defined as those stocks of a registered pesticide product which are currently in the U.S. and which have been packaged, labeled and released for shipment prior to the effective date of the action.

The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed, through Special Reviews or other Agency actions. These general provisions for disposition of stocks should serve in most cases to cushion the impact of these cancellations while the market adjusts.

Second, in some cases unique non-agricultural uses will disappear, although the active ingredients will remain available for different uses in other products. When this situation occurs, there may be more serious impacts on users of the canceled products. Once again, existing stocks of the canceled products already in channels of trade will be usable to mitigate these impacts in the short term. For the longer term the mechanisms of section 3 amendments and 24(c) registrations will remain available to obtain replacement registrations.

Neither of these types of impact leaves users without the means to replace lost registrations; neither is considered to justify further deferral of cancellations for non-payment of the maintenance fee. Thus all these registrations for which the active ingredient will remain in other products have been canceled.

#### III. Cancellations Leading to Disappearance of Active Ingredients

A second type of impact arises if an active ingredient that is now or has recently been available for one or more minor agricultural uses disappears from the marketplace. The Agency believes that no active ingredients registered for minor use will disappear because of the cancellation actions described in this notice.

#### IV. Public Docket

Because so many registrations are involved, it would be impractical to list those which have been canceled in this notice. Complete lists of registrations canceled for non-payment of the maintenance fee will, however, be available for reference during normal business hours in the OPP Public Docket, Room 1128, Crystal Mall #2, 1921 Jefferson Davis Highway South, Arlington VA, and at each EPA Regional