may be disclosed publicly by EPA without prior notice.

IX. Public Docket

A record has been established for this rulemaking under docket control number [OPP–300526]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in Addresses at the beginning of this document.

X. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

XI. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 30, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.C.C. 346a and 371

2. Section 180.1181 is added to read as follows:

§ 180.1181 Bacillus cereus strain BP01; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the microbial plant regulator *Bacillus cereus* strain BP01 in or on cottonseed.

[FR Doc. 97–20561 Filed 8-1-97 ; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 74

Miscellaneous Amendments

AGENCY: Department of Health and Human Services, (HHS).

ACTION: Final rule.

SUMMARY: This final rule will remove appendixes I and J, which contain the text of Office Management and Budget (OMB) Circulars A–128 and A–133, from 45 CFR part 74. It will also update several items to conform them to the Federal Acquisition Streamlining Act of 1994 and correct a confusing statement which resulted from two typographical errors in that portion of OMB Circular A–110 upon which this statement is based.

EFFECTIVE DATE: This rule is effective September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Gale, Director, Office of Grants Management, 202–690–6377; for the hearing impaired only: TDD 202–690–6415.

SUPPLEMENTARY INFORMATION: Pursuant to the President's Regulatory Reform Initiative, we have identified appendixes I and J of 45 CFR part 74 as unnecessary. These appendixes are being removed because they simply repeat the texts of Circulars A–133 (an out-of-date version of the Circular) and A–128 respectively. In addition, various references to appendixes I and J are also being removed.

Copies of Circulars A–128 and A–133 are widely available electronically; they may also be obtained from OMB and from the HHS Office of Grants Management.

We are also making the following non-substantive changes and corrections:

1. We are updating the definition of ''small awards'' in section 74.2 and changing ''small purchase'' threshold to ''simplified acquisition'' threshold everywhere that it appears. These actions are to conform these terms to the Federal Acquisition Streamlining Act of 1994 (FASA) (108 Stat. 3243).

2. We are correcting a confusing statement in 45 CFR 74.44(e) which resulted from two typographical errors in the equivalent paragraph OMB Circular A–110 upon which this statement is based. We are accomplishing this correction by removing the work ''and,'' which had erroneously been included between the term ''pre-award review'' and the term ''procurement documents,'' and adding an ''s'' to the work ''request'' in the term ''request for proposals.''

3. We are correcting an erroneous amendment to 45 CFR part 74's implementation of the Copeland ''Anti-Kickback'' Act (18 U.S.C. and 40 U.S.C. 276c) which was published in the final amendments of March 22, 1996 (61 FR 117147). (45 CFR part 74, appendix A)

Regulatory Impact Analyses

Executive Order 12866

This final rule was submitted to OMB.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication and, by approving it, certifies that it will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not include information collection requirements requiring approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35).

Justification for Waiver of Proposed Rulemaking

As a matter of longstanding policy set forth at 36 FR 2532 (Feb. 5, 1971), the Department of Health and Human Services normally follows the notice of proposed rulemaking and public comment (NPRM) procedures set forth in the Administrative Procedure Act (APA), 5 U.S.C. 553, even when it is not required by the APA to do so. The APA, however, provides for an exception to the NPRM procedures when an agency finds that there is good cause for dispensing with such procedures on the grounds that they are impracticable, unnecessary or contrary to the public interest.

We find that the publication of this regulation in proposed form would be unnecessary and contrary to the public interest for the following reasons:

- This final rule removes from 45 CFR part 74 appendixes I and J, both of which are unnecessary since they simply repeat the language of OMB Circulars A–128 and A–133, which Circulars are referenced in the body of the regulation and otherwise readily available to the public. We conclude that public comment on this non-substantive change is unnecessary.
- Also, this regulation makes several non-substantive amendments to update the definition of the term ''small award,'' and to change the term ''small purchase'' threshold to ''simplified acquisition'' threshold, which actions are to conform these terms to those in the Federal Acquisition Streamlining Act of 1994 (FASA). Although we are not specifically required by FASA to make these changes, FASA, along with previous acquisition acts, have generally been used to provide definitions for these terms. Since these changes merely reflect those which are required by law for contracts, we conclude that public comment on them would serve no useful purpose and is unnecessary.
- Further, this regulation corrects a confusing statement in 45 CFR 74.44(e), which resulted from two typographical errors in the equivalent portion of OMB Circular A–110 upon which it is based. It is our view that public comment on these minor, straightforward, non-substantive corrections is unnecessary and is contrary to public interest, since it would only delay making these helpful corrections.
- Finally, this regulation would also correct an erroneous amendment to 45 CFR part 74's implementation of the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c), which we had published in the March 22, 1996 final amendments to 45 CFR part 74. (61 FR 11747). Since this is a non-substantive correction which is required for proper implementation of this provision, we find that public comment is unnecessary and is contrary to the public interest, since it would delay making this helpful correction.

List of Subjects in 45 CFR part 74

Accounting, Administrative practice and procedures, Grants administration, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: February 25, 1997.

Donna E. Shalala,

Secretary.

Accordingly, title 45, part 74, of the Code of Federal Regulations is amended as follows:

PART 74—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS; AND CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS

1. The authority citation for part 74 is revised to read as follows:

Authority: 5 U.S.C. 301; OMB Circular A–110 (58 FR 62992, November 29, 1993).

2. The table of contents is amended by removing appendixes I and J.

§ 74.2 [Amended]

3. In section 74.2 the definition of ''Small awards'' is amended by removing the words ''small purchase threshold fixed at 41 U.S.C. 403(11) (currently $25,000)'' and adding, in their place, the words ''simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently $100,000)''.

§ 74.26 [Amended]

4. Section 74.26(a) is amended by removing the words ''(See appendix I to this part.)''.

5. Section 74.26(c) is amended by removing the words ''(See appendix J to this part.)''.

6. Section 74.44 is amended by revision paragraph (e) to read as follows:

§ 74.44 Procurement procedures.

* * * * *

(e) Recipients shall, on request, make available for HHS awarding agency pre-award review, procurement documents such as requests for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

* * * * *

§§ 74.44, 74.46, 74.48, and appendix A paragraph 8 [Amended]

7. Remove the words ''small purchase threshold'' and add, in their place, the words ''simplified acquisition threshold'' in the following places:

a. Section 74.44(e)(3), (e)(4), and (e)(5);

b. Section 74.46;

c. Section 74.48(a) and (d); and

d. Appendix A, paragraph 8.

Appendix A To Part 74 [Amended]

8. Paragraph 2 of appendix A is amended by removing the amount ''$100,000'' and adding, in its place, the amount ''$2,000''.

Appendix I To Part 74 [Removed]

9. Appendix I is removed.

Appendix J To Part 74 [Removed]

10. 10. Appendix J is removed.

[FR Doc. 97–20402 Filed 8–1–97; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket 95–19; FCC 97–240]

Equipment Authorization for Digital Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this *Memorandum Opinion and Order,* the Commission responds to three Petitions for Reconsideration filed by the Information Technology Industry Council (ITI), Hewlett-Packard Company (HP), and Intel Corporation (Intel) regarding the Declaration of Conformity (DoC) procedure for the authorization of digital devices. This action is intended to clarify and improve the DoC process.

DATES: Effective September 17, 1997.

FOR FURTHER INFORMATION CONTACT: Office of Engineering and Technology, Anthony Serafini at (202) 418–2456 or Neal McNeil (202) 418–2408.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* ET Docket 95–19, FCC 97–240, adopted July 3, 1997 and released July 18, 1997. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

1. In the *Report and Order,* of this proceeding, 61 FR 31044, June 19, 1996, the Commission adopted rules to streamline the equipment authorization requirements for personal computers and personal computer peripherals. Specifically, the Commission established the DoC procedure which allows digital devices to be authorized based on a manufacturer's or supplier's declaration that the device complies with the FCC requirements for controlling radio frequency interference. The DoC procedure requires laboratories performing compliance testing to be accredited under the National Voluntary Laboratory Accreditation Program (NVLAP) developed by the National Institute of Standards and Technology (NIST) or by the American Association for Laboratory Accreditation (A2LA). In the *Report and Order,* the Commission delegated to the Chief of the Office of Engineering and Technology authority to recognize additional accrediting organizations and to make determinations regarding the continued acceptability of individual accrediting organizations and accredited laboratories. Further, in the interest of fair trade the rules specify that laboratories located outside of the United States or its possessions will be accredited only if there is a mutual recognition agreement (MRA) between that country and the United States that permits similar accreditation of U.S. facilities to perform testing for products marketed in that country.

2. The *Report and Order* also adopted rules to permit the marketing, without further testing, of personal computers assembled from separate components that have themselves been authorized under a DoC. The Commission found that this approach would provide both flexibility for manufacturers and system integrators and adequate assurance that such modular computers will comply with the FCC technical standards. Testing procedures were adopted for CPU boards and power supplies. However, due to the difficulties associated with determining the shielding effectiveness of enclosures, the Commission did not adopt rules to authorize enclosures. To ensure that systems assembled from modular components would comply with the technical standards, the Commission adopted a two step test procedure for authorizing CPU boards. The CPU board must first be tested installed in a typical enclosure but with the enclosure's cover removed so that the internal circuitry is exposed at the top and at least two sides. Additional components, including a power supply, peripheral devices, and subassemblies, shall be added, as needed, to result in a complete personal computer system. Under this test, radiated emissions from the system under test may be no more than 3 dB above the limits specified in section 15.109 of this chapter. If the initial test demonstrates that the system is within 3 dB of the limits, a second test is performed using the same configuration but with the cover installed on the enclosure. Under the latter test conditions, the system under test shall not exceed the radiated emission limits specified in section 15.109 of this chapter. If, however, the initial test demonstrates compliance with the radiated emission standards in section 15.109 of this chapter, the second test is not required to be performed. The system must also be tested to comply with the AC power line conducted limits specified in section 15.107 of this chapter in accordance with the procedures specified in section 15.31 of this chapter.

3. On July 16, 1996, the Commission's Office of Engineering and Technology (OET) issued a Public Notice taking steps to encourage the use of the new DoC procedure. The Public Notice addressed concerns that use of the DoC procedure would be hindered by the ability of NVLAP and A2LA to timely process the initial demand for accreditation by adopting a provisional transition period of one year for obtaining such accreditation. The Public Notice also addressed issues concerning the recognition of accreditors located outside of the United States. A laboratory would be permitted to submit documentation to OET's Equipment Authorization Division stating that it has filed an application for accreditation with an approved laboratory accreditation body and provide evidence that it meets all aspects of ISO/IEC Guide 25. Such labs will be provisionally accepted by the FCC for a period of one year, until August 19, 1997, or until the application for accreditation has been acted upon, whichever is sooner. A laboratory that is denied accreditation by an approved accreditation body will lose its provisional acceptance. However, any DoCs that were issued will remain valid.

4. Petitions for Reconsideration were filed on July 19, 1996, by the ITI, HP, and Intel. ITI requests reconsideration of the laboratory accreditation requirement for manufacturers' and foreign test laboratories to use the new DoC procedure. ITI feels that manufacturers' laboratories should not be required to be accredited before using the DoC process. Additionally, ITI argues that the accreditation requirement should not apply to foreign trading partners in countries that currently do not have similar accreditation requirements. The Commission believes that laboratory accreditation is a vital component of the DoC procedure and denies the ITI Petition for Reconsideration. HP requests reconsideration or clarification of the rules regarding use of the DoC procedure by laboratories outside the United States. HP feels that the mutual recognition agreement (MRA) requirement unreasonably discriminates against test labs located in foreign countries. The Commission finds that the rules do not adequately address the requirements for foreign laboratories