

Dated: December 30, 1997.

Carol M. Browner,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1535 and 1552

[FRL-5944-3]

Technical Amendments to Acquisition Regulation: Removal of Certification Requirements Regarding Collection, Use, Access, Treatment, and Disclosure of Confidential Business Information (CBI): Correction of Effective Date Under the Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under the CRA.

SUMMARY: On July 18, 1997 (62 FR 38476), the Environmental Protection Agency published in the **Federal Register** a final rule concerning the EPA Acquisition Regulation (EPAAR) to remove certification requirements regarding the collection, use, access, treatment, and disclosure of confidential business information (CBI) which are not specifically imposed by statute, and to amend CBI clauses to remove such certification requirements, which established an effective date of August 18, 1997. This document is to correct the effective date of the rule to December 30, 1997 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act.

EFFECTIVE DATE: December 30, 1997.

FOR FURTHER INFORMATION CONTACT: Judith Koontz at (202) 260-8608.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). The EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated July 18, 1997 by operation of law, the rule did not take effect on August 18, 1997 as stated. After EPA discovered its error, the rule was submitted to both Houses of

Congress and the GAO on December 11, 1997. This document is to amend the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since July 18, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 18, 1997 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit 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; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

48 CFR Parts 1535 and 1552

Environmental protection, Government procurement.

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Therefore, 48 CFR Chapter 15 is amended as set forth below:

PARTS 1535 and 1552—[AMENDED]

1. The authority citations for Parts 1535 and 1552 continue to read as follows:

Authority: Sec. 205(c), 63 stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1552.235-77 is amended by revising the clause heading dates to read "December 1997" and revising the section heading to read as follows:

§ 1552.235-77 Data Security for Federal Insecticide, Fungicide and Rodenticide Act Confidential Business Information (December 1997).

* * * * *

3. Section 1552.235-78 is amended by revising the clause heading dates to read "December 1997" and revising the section heading to read as follows:

§ 1552.235-78 Data Security for Toxic Substances Control Act Confidential Business Information (December 1997).

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Parts 653 and 654

Prevention of Prohibited Drug Use in Transit Operations; Prevention of Alcohol Misuse in Transit Operations

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of random drug and alcohol testing rate.

SUMMARY: This notice announces the random testing rates for employers