

Class and mailing	CIN	Human-readable content line
<b>STANDARD MAIL (A)</b>		
STD Letters—Presorted (Basic Preparation)		
[Revise the following CIN and human-readable content lines:]		
5-digit trays .....	550	STD LTRS 5D NON BC
3-digit trays .....	553	STD LTRS 3D NON BC
ADC trays .....	556	STD LTRS ADC NON BC
mixed ADC trays .....	559	STD LTRS NON BC WKG
<b>[Add a new category:]</b>		
STD Letters—Presorted (Nonautomation Processing)		
5-digit trays .....	604	STD LTRS 5D MANUAL
all other required trays .....	605	STD LTRS MANUAL ONLY

\* \* \* \* \*

**M130 Presorted First-Class Mail**

1.0 BASIC STANDARDS

\* \* \* \* \*

1.5 Processing Instructions

[Revise 1.5 to read as follows:]

If a mailer prefers that the USPS not automate letter-size pieces presented at Presorted rates, then the mailer must use the Line 2 tray label information in 2.4. The mailer must prepare all required trays in 2.2.

\* \* \* \* \*

2.0 REQUIRED PREPARATION—LETTER-AND CARD-SIZED PIECES

\* \* \* \* \*

[Revise 2.3 to read as follows:]

**2.3 Tray Line 2**

Line 2:

- a. 5-digit: "FCM LTRS 5D NON BC."
- b. 3-digit: "FCM LTRS NON BC."
- c. ADC: "FCM LTRS ADC NON BC."
- d. Mixed ADC: "FCM LTRS NON BC WKG."

[Add new 2.4 to read as follows:]

**2.4 Optional Tray Line 2**

For trays that mailers do not want automated under 1.5:

- a. 5-digit: "FCM LTRS 5D MANUAL."
- b. All other required trays: "FCM LTRS MANUAL ONLY."

\* \* \* \* \*

**M610 PRESORTED STANDARD MAIL (A)**

1.0 BASIC STANDARDS

\* \* \* \* \*

**1.4 Processing Instructions**

[Revise 1.4 to read as follows:]

If a mailer prefers that the USPS not automate letter-size pieces presented at Presorted rates, then the mailer must use the Line 2 tray label information in 2.4. The mailer must prepare all required trays in 2.2.

\* \* \* \* \*

[Revise 2.3 to read as follows:]

**2.3 Tray Line 2**

Line 2:

- a. 5-digit: "STD LTRS 5D NON BC."
- b. 3-digit: "STD LTRS NON BC."
- c. ADC: "STD LTRS ADC NON BC."
- d. Mixed ADC: "STD LTRS NON BC WKG."

[Add new 2.4 to read as follows:]

**2.4 Optional Tray Line 2**

For trays that mailers do not want automated under 1.5:

- a. 5-digit: "STD LTRS 5D MANUAL."
- b. All other required trays: "STD LTRS MANUAL ONLY."

\* \* \* \* \*

An amendment to 39 CFR 111.3 will be published to reflect these changes if the proposal is adopted.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 99-27679 Filed 10-22-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 2**

[FRL-6463-1]

**Elimination of Special Treatment for Category of Confidential Business Information**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to amend its regulations to eliminate the special treatment given to a category of confidential business information (CBI) received by EPA. This category of information includes comments received from businesses to substantiate their claims of confidentiality for previously submitted information ("a substantiation"). Under EPA's existing regulations, EPA automatically regards a substantiation as entitled to confidential treatment if it is not otherwise

possessed by EPA and is properly marked as confidential when received by EPA. EPA proposes to eliminate this provision because special treatment of substantiations is no longer necessary to support the original purpose of the regulation, and elimination of this provision will bring EPA into conformity with how substantiations are treated by other federal agencies.

**DATES:** Comments on this proposed rule must be submitted by December 27, 1999. EPA does not intend to hold a public hearing on this proposed rule, unless it receives a request for such a hearing. If a request is submitted by November 24, 1999, EPA will hold a public hearing. If EPA holds such a hearing, comments must be submitted within 30 days of the date of the hearing.

**ADDRESSES:** Written comments on this proposed rule should be addressed to Oscar Morales, Environmental Protection Agency, Office of Environmental Information (2151), 401 M Street, SW., Washington, DC 20460. Documents related to this proposed rule will be available for public inspection and viewing by appointment. If you wish to request a public hearing on this proposed rule, please notify Mr. Morales at the address shown above.

**FOR FURTHER INFORMATION CONTACT:** Oscar Morales, (202) 260-3759.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Currently, when EPA receives a Freedom of Information Act (FOIA) request for information in EPA's control that was originally claimed as confidential by the submitter of the information, EPA follows the procedures in 40 CFR 2.204(e). EPA provides the submitter with notice of the FOIA request and an opportunity to comment and provide a substantiation. Once EPA receives the submitter's substantiation, it evaluates the information and makes a determination as to the confidentiality of the requested information. If EPA determines that the

requested information is not entitled to confidential treatment, EPA notifies the submitter of its right to seek judicial review of EPA's determination prior to the release of the information.

If the submitter claims the substantiation itself to be confidential and marks it in accordance with the requirements of 40 CFR 2.203(b), and if EPA does not already possess the information in the substantiation, under 40 CFR 2.205(c), the substantiation "will be regarded as entitled to confidential treatment and will not be disclosed by EPA without the [submitter's] consent, unless its disclosure is duly ordered by a Federal court, notwithstanding other provisions of this subpart to the contrary." Thus, if EPA were to receive a FOIA request for a substantiation that conforms to the above requirements, EPA would automatically withhold the substantiation without going through the CBI determination procedures of 40 CFR part 2, subpart B.

The original purpose of 40 CFR 2.205(c) was to encourage businesses, which bear the burden of substantiating their claims of confidentiality, to provide sufficient information to support their claims by automatically regarding their substantiations as entitled to confidential treatment if certain specified conditions were met.

## II. Description of Proposed Rule

EPA proposes to amend its regulations to remove 40 CFR 2.205(c). This amendment will eliminate EPA's separate treatment of substantiations. Instead, EPA will treat substantiations in exactly the same manner as all other information requested under FOIA and claimed to be confidential.

EPA believes that there is no continued need for 40 CFR 2.205(c) for two reasons. First, the special treatment of substantiations under 40 CFR 2.205(c) is no longer necessary to support the original purpose of 40 CFR 2.205(c), which was to encourage businesses to provide sufficient information to support their claims. EPA believes that its CBI determination procedures of 40 CFR part 2, subpart B, provide adequate safeguards and protections to prevent the improper release of additional confidential business information contained in a submitter's substantiation.

Second, EPA believes that removing 40 CFR 2.205(c) will bring EPA into conformity with how substantiations are treated by other federal agencies, which do not provide special treatment for substantiations.

## III. Statutory Authority

EPA is proposing this rule under the authority of 5 U.S.C. 301, 552 (as amended), and 553.

## IV. Economic Impact

This proposed rule is expected to have little or no economic impact on parties affected by EPA's regulations at 40 CFR part 2, subpart B. The removal of 40 CFR 2.205(c) will result in EPA's treatment of substantiations in exactly the same manner as all other information requested under FOIA and claimed to be confidential. Businesses will continue to be required to comply with the marking requirements of 40 CFR 2.203(b) when submitting substantiations. Only after EPA receives a FOIA request for a substantiation and notifies the submitter, pursuant to 40 CFR 2.204(e), will the submitter have to provide comments to substantiate its original substantiation.

## V. Paperwork Reduction Act

The information collection requirements in this proposed rule have not been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An amendment to the current Information Collection Request (ICR), (OMB Control No. 2020-0003) will be prepared by EPA. Once it is prepared, it will be announced in the **Federal Register** for public comment.

## VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant economic impact on a substantial number of small entities because it is not expected to result in any significant additional costs to entities asserting a claim of confidentiality for their information submitted to EPA. Any cost of providing comments on a substantiation are likely to be incidental, and most often will simply document a basis for confidentiality that has already been developed. Therefore, under 5 U.S.C. 605(b), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

## VII. Environmental Impact

This proposed rule is expected to have no environmental impact. It pertains solely to the collection and dissemination of information.

## VIII. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to interagency review under the Executive Order.

## IX. Executive Orders 12875, 13132, and 12612 on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful

and timely input in the development of regulatory proposals containing significant unfunded mandates." This proposed rule does not create a mandate on State, local or tribal governments.

The rule does not impose any enforceable duties on these entities. This rule applies to businesses, not government entities, submitting comments to substantiate CBI. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)], which will take effect on November 2, 1999. In the interim, the current executive order on federalism, Executive Order 12612 [52 FR 41685 (October 30, 1987)] still applies. This proposed rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612.

#### **X. Executive Order 13084 on Consultation With Indian Tribal Governments**

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This rule applies to businesses, not government entities, submitting comments to substantiate

CBI. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### **XI. Unfunded Mandates**

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under Section 205, for any rule subject to Section 202, EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that this proposed rule does not include a federal mandate as defined in UMRA. The rule does not include a federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of \$100 million or more, and does not establish regulatory requirements that may significantly or uniquely affect small governments.

#### **XII. Executive Order 13045**

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR19885, April 23, 1997), applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

EPA believes Executive Order 13045 applies only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it does not establish an

environmental standard intended to mitigate health or safety risks.

#### **XIII. National Technology Transfer and Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when EPA decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve any technical standards, and EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments and specifically invites the public to identify any potentially-applicable voluntary consensus standards and explain why such standards should be used in this rule.

#### **List of Subjects in 40 CFR Part 2**

Environmental protection, Administrative practice and procedure, Confidential business information, Freedom of information, Government employees.

Dated: October 19, 1999.

**Carol M. Browner,**  
*Administrator.*

For the reasons set out above, EPA proposes to amend 40 CFR part 2 as follows:

#### **PART 2—PUBLIC INFORMATION**

1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552 (as amended), 553; secs. 114, 205, 208, 301, and 307, Clean Air Act, as amended (42 U.S.C. 7414, 7525, 7542, 7601, 7607); secs. 308, 501 and 509(a), Clean Water Act, as amended (33 U.S.C. 1318, 1361, 1369(a)); sec. 13, Noise Control Act of 1972 (42 U.S.C. 4912); secs. 1445 and 1450, Safe Drinking Water Act (42 U.S.C. 300j-4, 300j-9); secs. 2002, 3007, and 9005, Solid Waste Disposal Act, as amended (42 U.S.C. 6912, 6927, 6995); secs. 8(c), 11, and 14, Toxic Substances Control Act (15 U.S.C. 2607(c), 2610, 2613); secs. 10, 12, and 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136h, 136j, 136w); sec. 408(f), Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 346(f)); secs. 104(f) and 108, Marine Protection Research and Sanctuaries Act of

1972 (33 U.S.C. 1414(f), 1418); secs. 104 and 115, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9604 and 9615); sec. 505, Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2005).

2. Section 2.205(c) is removed and reserved.

[FR Doc. 99-27798 Filed 10-22-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 50

[FRL-6463-8]

#### Rescinding Findings That the 1-Hour Ozone Standard No Longer Applies in Certain Areas

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

**ACTION:** Proposed rule.

**SUMMARY:** Today, EPA is proposing to rescind its prior findings that the 1-hour ozone national ambient air quality standard (NAAQS) and its accompanying designations and classifications no longer apply in certain areas. The EPA had previously taken final action regarding the applicability of the 1-hour standard for various areas on June 5, 1998, July 22, 1998, and June 9, 1999. A recent ruling of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) has undermined the basis for EPA's previous determinations on applicability of the 1-hour ozone standard. In the ruling, the court remanded the 8-hour NAAQS for ozone and curtailed EPA's authority to enforce it. The effectiveness of the 8-hour standard served as the underlying basis for EPA's regulations governing these applicability determinations and thus for EPA's finding that the 1-hour standard no longer applied in areas that EPA determined were attaining the 1-hour standard. Since the court has ruled that EPA cannot fully implement the 8-hour standard, and it may be some time before EPA is able to take steps to secure the public health protection afforded by an 8-hour standard, EPA is today proposing to rescind the findings that the 1-hour standard no longer applies, and thereby reinstate the applicability of the 1-hour standard. Under this proposal, the designations and classifications that previously applied in such areas with respect to the 1-hour standard would be reinstated. Furthermore, in today's action, EPA is proposing to amend 40 CFR 50.9(b) to provide by rule that the 1-hour ozone

standard will continue to apply to all areas notwithstanding promulgation of the 8-hour standard.

**DATES:** Your comments must be submitted on or before December 1, 1999 in order to be considered.

**ADDRESSES:** You may comment in various ways:

*On paper.* Send paper comments (in duplicate, if possible) to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-99-22, U.S. Environmental Protection Agency, 401 M St., SW, Room M-1500, Washington, DC 20460, telephone (202) 260-7548.

*Electronically.* Send electronic comments to EPA at: A-and-R-Docket@epamail.epa.gov. Avoid sending confidential business information. We accept comments as e-mail attachments or on disk. Either way, they must be in WordPerfect 5.1 or 6.0 or ASCII file format. Avoid the use of special characters and any form of encryption. You may file your comments on this proposed rule online at many Federal Depository Libraries. Be sure to identify all comments and data by Docket number A-99-22.

*Public inspection.* You may read the proposed rule (including paper copies of comments and data submitted electronically, minus anything claimed as confidential business information) at the Docket and Information Center. They are available for public inspection from 8:00 a.m. to 5:30 p.m., Monday through Wednesday, excluding legal holidays. We may charge a reasonable fee for copying.

#### FOR FURTHER INFORMATION CONTACT:

Questions about this proposal should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5246/5238 or e-mail to nikbakht.annie@epamail.epa.gov or gilbert.barry@epamail.epa.gov. To ask about policy matters or monitoring data for a specific geographic area, call one of these contacts:

Region I—Richard P. Burkhart (617) 918-1664,

Region II—Ray Werner (212) 637-3706,  
Region III—Marcia Spink (215) 814-2104,

Region IV—Kay Prince (404) 562-9026,  
Region V—Todd Nettesheim (312) 353-9153,

Region VI—Lt. Mick Cote (214) 665-7219,

Region VII—Royan Teter (913) 551-7609,

Region VIII—Tim Russ (303) 312-6479,  
Region IX—Morris Goldberg (415) 744-1296,

Region X—William Puckett (206) 553-1702

**SUPPLEMENTARY INFORMATION:** The Agency is asking for your comments on whether EPA should rescind findings that the 1-hour standard no longer applies, and on the effects of such a rescission. See section IV of this proposal for specific issues open for comment.

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#### I. Background

*A. What was the basis for EPA's previous rulemaking actions finding that the 1-hour ozone standard no longer applied in certain areas?*

On July 18, 1997 (62 FR 38856), we issued a regulation replacing the 1-hour 0.12 parts per million (ppm) ozone NAAQS with an 8-hour standard at a level of 0.08 ppm. An area's compliance with the 8-hour standard is measured by the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The new primary standard, which became effective on September 16, 1997, provides increased protection to the public, especially children, the elderly, and other at-risk populations.