

would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 13, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00-18643 Filed 7-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL-OW-6839-7]

RIN 2040-ZA00

Extension of Comment Period and Change to Public Hearing Schedule for the Proposed Rule on Water Quality Standards for Kansas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period and change to public hearing schedule.

SUMMARY: EPA is extending the comment period and rescheduling the public hearing for its July 3, 2000, proposed rule to promulgate water quality standards for the State of Kansas. If promulgated as final standards, they would supersede aspects of Kansas's water quality standards that EPA disapproved in 1998. In furtherance of EPA's 1998 disapproval action, EPA is proposing: that all discharges to stream segments for which continuous flow is sustained primarily through the discharge of treated effluent shall protect the States' designated uses; that 7Q10, 4B3, or other scientifically defensible design flows approved by EPA shall be used to implement the State's chronic aquatic life criteria; that 1Q10, 1B3, or other scientifically defensible design flows approved by EPA shall be used to implement the State's acute aquatic life criteria; implementation procedures for use when applying the States' antidegradation policy to determine whether to allow a lowering of surface

water quality by point sources of pollution where nonpoint sources also contribute the pollutant of concern to that body of water; and, an aquatic life use for one stream segment and a primary contact recreation use for 1,292 stream segments and 164 lakes. In addition, under its discretionary authority to address State standards that the Administrator determines are inconsistent with the Clean Water Act, EPA is proposing: that water quality standards in Kansas apply to all privately owned surface waters in Kansas that are waters of the U.S.; and numeric human health criteria for alpha- and beta-endosulfan.

EPA originally established a deadline of September 1, 2000, for the submission of public comments on this proposed rule. In response to concerns raised by stakeholders, EPA is extending the comment period until October 16, 2000 and is rescheduling the public hearings. It is EPA's intent to provide the public and all stakeholders an adequate period of time to fully analyze the issues, to prepare comprehensive comments and to assemble any available data. Therefore, we are extending the comment period an additional 46 days for a total comment period of 105 days. Furthermore, EPA is rescheduling the public hearings from July 27, 2000 to September 13 and 14, 2000 to provide additional time for interested parties to prepare for the hearings.

DATES: EPA will accept public comments on this proposed rule until October 16, 2000. Comments postmarked after this date may not be considered. On September 13 and 14, 2000, EPA is holding public hearings on proposed water quality standards for Kansas.

ADDRESSES: Persons wishing to submit comments should send an original plus 2 copies, (and, if possible, an electronic version of comments either in WordPerfect or ASCII format), to Ann Jacobs at jacobs.ann@epa.gov or at U.S. EPA Region VII, Water Resources Protection Branch, 901 North 5th Street, Kansas City, Kansas 66101. There will be two public hearings. The first public hearing will be held on Wednesday, September 13, 2000, from 6:30 p.m. to 9:00 p.m. (CDT) in the Museum Classroom of the Kansas Center for Historical Research at 6425 S.W. 6th Avenue in Topeka, Kansas. The telephone number for the Kansas Center for Historical Research is 785-272-8681. The second public hearing will be held on Thursday, September 14, from 6:30 p.m. to 9:00 p.m. (CDT) in the Convention Center of the Best Western Silver Spur at 1510 West Wyatt Earp

Boulevard in Dodge City, Kansas. The telephone number of the Best Western Silver Spur is 316-227-2125. The administrative record for today's proposed rule is available for public inspection at EPA Region VII, Regional Records Center, 901 North 5th Street, Kansas City, Kansas 66101, between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ann Jacobs at jacobs.ann@epa.gov or at U.S. EPA Region VII, Water Resources Protection Branch, 901 North 5th Street, Kansas City, Kansas 66101 (Telephone: 913-551-7930).

Dated: July 17, 2000.

J. Charles Fox,

Assistant Administrator, Office of Water.

[FR Doc. 00-18642 Filed 7-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-30115B; FRL-6594-2]

RIN 2070-AD23

Pesticides; Tolerance Processing Fees for Inert Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; partial reopening of comment period.

SUMMARY: The Agency is providing an opportunity for the public and affected parties to submit comments on additional data and information pertaining to tolerance fees as they relate to inert ingredients. In the proposed tolerance fee rule, published on June 9, 1999, EPA outlined its approach to revise its tolerance fee system to fully recover the costs incurred in processing pesticide tolerance actions. Since the proposal, EPA has accumulated better costing data with respect to resource needs and number of actions and is making this improved costing data available. The Agency has also reestimated the fees that would be imposed on tolerance actions for inert ingredients and has reconsidered several key provisions in its proposal that may affect the inert industry. EPA is seeking comment on this new information and revised processes.

DATES: Written comments, identified by the docket number OPP-30115B, must be received on or before August 23, 2000. This date will not be extended.

ADDRESSES: Comments may be submitted by mail, electronically, or in

person. Please follow the detailed instructions for each method as provided in Unit I of the SUPPLEMENTARY INFORMATION section. To ensure proper receipt by EPA, it is essential that you identify docket control number OPP-30115B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Carol Peterson, Office of Pesticide Programs (7506C), U.S. Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW.,

Washington, DC 20460; telephone number: (703) 305-6598; e-mail address: peterson.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This proposed rule may directly affect any person or company who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or any person or company who is interested in obtaining

or retaining a tolerance in the absence of a registration. This group can include pesticide manufacturers or formulators, companies that manufacture inert ingredients, importers of food, grower groups, or any person who seeks a tolerance. Federal, State, local, territorial, or tribal government agencies that petition for, or hold, emergency exemption tolerances are exempt from this rule. The vast majority of potentially affected categories and entities may include, but are not limited to:

Category	NAICS	SIC	Examples of Potentially Affected Entities
Chemical Industry	325320	0286	pesticide chemical manufacturers, formulators
.....	115112	0287	chemical manufacturers of inert ingredients

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above also could potentially be affected by this notice. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this notice applies to certain entities. To determine whether you or your business is regulated by this action, you should carefully examine the applicability provisions in this document (see Unit IV). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register, Environmental Documents." You can also go directly to the "Federal Register" listings at <http://www.epa.gov/homepage/fedrgstr>.

2. *In person.* If you have any questions or need additional information about this action, you may contact the person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established under docket control number OPP-

30115B (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket number (i.e., "OPP-30115B") in your correspondence.

1. *By mail.* Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epamail.epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments as an

ASCII file, avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on standard computer disks in WordPerfect or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP-30115B]. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

D. How Should I Handle Confidential Business Information that I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the "FOR FURTHER INFORMATION CONTACT" section.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the information presented, new approaches to be considered, the potential impacts of the information (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
 - Provide solid technical information and/or data to support your views.
 - If you estimate potential burden or costs, explain how you arrived at the estimate.
 - Tell us what you support, as well as what you disagree with.
 - Provide specific examples to illustrate your concerns.
 - Offer alternative ways to improve the rule or collection activity.
 - Make sure to submit your comments by the deadline in this notice.
 - At the beginning of your comments (e.g., as part of the "Subject" heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket number assigned to the notice, along with the name, date, and **Federal Register** citation.

II. Terminology

Pesticide products contain both "active" and "inert" ingredients. These two terms are defined in Federal law as part of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). An inert ingredient is defined as any ingredient in a pesticide product that is not intended to affect the target pest. Because of the potential to mislead the public into assuming that all inert ingredients are non-toxic or harmless, EPA has asked formulators to use the term "other ingredients" instead of "inert ingredient" on their label ingredient statements. As a result both terms are now used to identify ingredients used in pesticide products in addition to active ingredients. To avoid any regulatory confusion, however, throughout this document and all subsequent documents relating to tolerance processing fees, EPA will to use the term "inert ingredients" to describe these non-active chemicals.

III. Background

Legislative changes included in the Food Quality Protection Act of 1996 (FQPA) put a greater emphasis on inert ingredients and clarified that these chemicals are covered by the definition of a pesticide chemical under the Food, Drug, and Cosmetic Act. Subsequently, on June 9, 1999 EPA issued a proposed rule to revise its existing tolerance fee regulations to account for new provisions affecting tolerance reviews for all pesticide chemicals, including inerts. At the same time, the Agency updated the fee amounts to reflect the increase in processing costs since the

last time tolerance fees were amended 15 years ago. In its proposed rule, EPA outlined a regulatory scheme to make, to the extent possible, the tolerance processing system self-supporting as directed by statute. While the Agency historically has not charged a fee for tolerance actions for inert ingredients, the increased costs of reviews coupled with the statutory mandate to fully cover the cost of processing tolerances via fees has resulted in EPA proposing tolerance fees for them.

IV. Data/Information Available for Comments

A. Why is EPA Seeking Comment on this Additional Data and Information?

In response to its proposed rule, EPA received 27 comments from industry stakeholders—24 of them were from the inerts industry. These commentors expressed their view that the tolerance fee rule, as proposed, would result in severe consequences to both their industry and the pesticide industry as a whole. Many commentors pointed out that inert ingredients are low profit products and that companies that manufacture these products derived limited profits from their sales in pesticide formulations. A number of comments also were received on the mechanism for collecting fees for the reassessment of inert ingredient tolerances or exemptions. Commentors expressed concern that unlike registrants of active ingredients, the identities of the parties that may be subject to an inert tolerance reassessment fee are not public information. Not knowing who else holds responsibility for the required fee would impede attempts to enter into arrangements to share in the costs of fees. In response to these concerns, EPA has revisited this issue and has refined its analysis and proposed process. The approach outlined in this document is an effort to ease the regulatory and economic impact to this sector of the pesticide industry. The Agency is seeking comment on whether these measures are appropriate.

Since the close of the comment period for the proposed rule, EPA has carefully considered the concerns raised. First, the Agency has revised its resource estimates for inert tolerance actions which has resulted in lower fees. Second, EPA divided the inerts tolerance exemption category into those chemicals that require a full review from those that need only a minimal scientific review. The resulting fees for inerts tolerance actions are substantially reduced and more accurately reflect actual costs than the fees that were

initially proposed. Third, for inert tolerances requiring reassessment, EPA is clarifying the notification process. The Agency could put into place a comprehensive process aimed at expanding cost sharing opportunities and reducing the economic impact.

Finally, EPA is introducing changes designed to address a company's size and ability to pay. For example, the Agency is revising its definition of a small business for the purpose of determining eligibility of fee waivers. A business will be considered small, and therefore eligible for a fee waiver, if it has 500 or fewer employees and an average annual gross revenue from global pesticide sales of less than \$60 million over the most recent 3 year-period. Further, for a business entity with one or more affiliates, the gross revenue limit shall apply to the total global pesticide sales for the entity and all of its affiliates, including the parent and subsidiaries. EPA also intends to decrease the proposed fee for requesting a fee waiver because the majority of companies that qualify for a fee waiver are likely to be companies that can least afford the waiver request fee. These two allowances to small businesses should reduce the number of unsupported tolerances and exemptions, and minimize the loss of chemicals available to pesticide formulators and growers.

B. What Additional Data and Information is EPA Making Available?

The Agency is seeking comment on reestimates of the cost incurred in processing several types of tolerance actions of inert ingredients, as well as an overall approach to the collection of tolerance fees for them.

1. *Fee estimates.* In its recalculations, EPA brought its 1997 cost estimates up to date with the latest data and labor rate figures. The 1999 rate of \$89,000 per Full-time Equivalent (FTE) was incorporated into the calculations, and the adjustment factor, which accounts for the activities EPA has proposed to waive, has also changed slightly from 1.48 to 1.24 for petitioned actions and from 1.23 to 1.29 for reassessment actions. Total annual costs for the Agency to process all inert tolerance actions are now estimated to be \$11,393,254 based on actual data from fiscal years 1997, 1998, and 1999.

The inerts tolerance fee category also was further subdivided to create a more accurate fee structure. The tolerance exemption actions requiring a minimal science review would be those petitions that are not accompanied by supporting health and safety studies, such as petitions for the establishment of tolerance exemptions for polymers that

are based on conformance with the Office of Pollution Prevention and Toxics' polymer exemption rule criteria.

The proposed fees for inert ingredients are as follows. The complete revised cost estimates and fee

derivations are contained in Unit V of this document.

	Proposed Fee	
	Original	Revised
Tolerance Petition Action.		
Tolerance for an Inert Ingredient	\$62,300	\$70,900
Tolerance Exemption for an Inert Ingredient	59,300	
Tolerance Exemption for an Inert Ingredient requiring science review		25,500
Tolerance Exemption for an Inert Ingredient minimal science review required		\$2,800
Tolerance Reassessment Action.		
Inert Ingredient Tolerance	\$201,400	\$182,500
Inert Ingredient Tolerance Exemption	79,300	
Inert Ingredient Tolerance Exemption with science review		\$62,100
Inert Ingredient Tolerance Exemption minimal science review required		\$3,600

2. *Sharing the costs of reassessment.*

Because many of EPA's records on inerts are old and a number of chemicals were "grandfathered" in when EPA first became responsible for regulating pesticides, a procedure for identifying the original petitioner for the purposes of levying tolerance reassessment fees is not possible. Presently, there are no mechanisms in place to identify all responsible parties on a company-by-company, tolerance-by-tolerance basis. Additionally, it may be extremely difficult to ascertain all of the parties that may utilize the inert tolerance and therefore would be expected to pay (or share in the cost of paying) the fee since these parties may not be exclusively registrants.

To address this problem, EPA could issue a public notice in the **Federal Register** for any person or company who may have an economic interest in the maintenance of the inert tolerance or tolerance exemption. The notice would be published 6 months in advance of initiating the reassessments of the inert tolerances or exemptions and will consist of a list of those inert chemicals that are scheduled for tolerance reassessment in the subsequent 6 month period. At the same time, a separate letter would be sent to all registrants that have one or more of the scheduled inert ingredients in their products, and all known inert producers who are not registrants. The notice and letters would announce the pending tolerance reassessments and issue a call for the required fee to support each inert ingredient. In these letters, EPA will suggest that it may be incumbent upon each registrant to contact and coordinate with their supplier(s), even if the identity of their inert ingredients are not known to them. If a company wishes to protect the identity of its inert product, it may opt to designate a third party to act on its behalf for the purposes of arranging payment. The Agency also

believes that the industry trade associations could assist in this effort to the extent allowed by law.

EPA recognizes that not all current manufacturers of inerts may wish to support the reassessment of the tolerance or tolerance exemption. Based on the notification process outlined above, EPA anticipates that those with an economic stake in the tolerance will pay all or a portion of the appropriate fee. As more companies participate in the cost sharing, the less the fee will be to each individual company. If the revenues received exceed the required amount, EPA will refund an equitable amount to all parties who paid in proportion to the percentage of the total fee and the amount each company submitted. If receipts do not cover the required fee, EPA will contact those parties who have paid to request additional monies. EPA strongly believes that it is clearly within a company's best interest to cost share.

3. *Transition.* Petitioned inerts tolerance actions that are on EPA's published Work Plan for year 2000 and for succeeding years would be subject to new tolerance fees. Tolerance actions for inert chemicals that are currently pending review and not scheduled on the published Work Plan at the time of promulgation of the rule would be subject to the new fees, but not until the Agency has actively scheduled them for review. EPA would not issue notices for fees for all pending inerts tolerance actions at the same time. Instead, it would notify each petitioner in advance of the pending review of the upcoming review and request remittance of the required fee. EPA's Work Plan can be found on the Internet at <http://www.epa.gov/opprd001/workplan>.

For inerts tolerance reassessment actions, the transition provision presented in the proposal still applies. That is, a chemical will not be considered officially reassessed until

the appropriate tolerance fee is paid. Thus, those inert chemical tolerances or exemptions that are reassessed prior to promulgation of the final rule will be subject to the new fee. However, since the majority of existing inert chemicals are not scheduled for tolerance reassessment until 2003 or later, they are virtually unaffected.

4. *Allowances for small companies.* Many parties that commented on the proposed rule felt that small businesses should receive some form of concession based on their ability to pay. Commentors were not in agreement, however, as to the appropriate definition of a small business. Currently, FIFRA defines a small business as one with fewer than 150 employees and 3-year average annual sales of less than \$40 million. This definition, however, may no longer reflect the pesticide industry. Therefore, EPA could consider a business small for the purposes of imposing a tolerance fee, if it has 500 or fewer employees and an average gross revenue from global pesticide sales of less than \$60 million over the most recent 3-year period. For a business entity with one or more affiliates, the gross revenue limit shall apply to the total global pesticide sales for the entity and all of its affiliates including the parent and subsidiaries. While this definition encompasses an increased number of companies, each company would still need to apply for a fee waiver. The Agency will issue a Pesticide Registration (PR) notice in the near future that will outline how a company may apply for a fee waiver, what types of information should be submitted, and other criteria for the Agency to make a determination. The PR notice will be available for public comment before being implemented.

While some companies commented that a fee to request a waiver is useful in deterring frivolous requests and tying up Agency resources, many commentors

cited the increased waiver fee amount itself as serving as a deterrent to deserving companies from requesting a waiver for fear that they would lose this money if the request was not granted. EPA agrees and intends to retain the existing fee waiver request fee of \$1,700 per request and will refund it if the waiver is granted. In addition, if the fee waiver request is denied, EPA will credit this amount toward the appropriate tolerance fee.

V. Tolerance Action Cost Estimates for Inert Ingredients—Derivation of Costs—Notes to Tables 1 and 2

1. *Resource estimates for each division (Columns A, B, C, D and M, N, O, P).* Included in any application for a pesticide registration for a pesticide to be used in or on a food item, a petition to establish or exempt from the requirement of a tolerance must also be submitted. Programmatic estimates were derived from resource needs to process only tolerance petitions and not other aspects of the registration application. The Registration Division (RD), Health Effects Division (HED), Environmental Fate and Effects Division (EFED), and Special Review and Reregistration Division (SRRD) provided individual estimates for the resources necessary to process each type of inert tolerance petitioned actions. These estimates are based on current Agency policy for regulating inert ingredients as outlined in its Policy Statement of April, 1997. It is important to note that the estimates do not reflect costs to the Agency with respect to the possible revisions of the data requirements for these other pesticide ingredients.

Estimates were given in Full-Time Equivalents (FTEs) per Unit. One FTE, which is defined as the number of hours a full time employee works in 1 year, is equal to 2080 hours. Each division within the program provided a best-estimate of burden hours based on its own method of accounting. A "Unit" was defined in the proposed rule as a petition in the case of a new tolerance actions and a chemical for tolerances that need to be reassessed. For a vast majority of cases involving inert tolerances (new or existing), the number of tolerances per petition or tolerances per chemical is one. Hence in the tables presented in this document, one unit equals one tolerance.

The Biopesticides and Pollution Prevention Division provided resource estimates for the small number of biological inert ingredients. Total costs were estimated in a like manner to conventional inert chemicals. The cost to process a tolerance exemption for a

biological other ingredient is estimated at \$45,746 per year. Since the Agency has chosen to waive all tolerance costs associated with biopesticides, this cost is not included in the table, yet is incorporated in the derivation of the adjustment factor (column K).

Other divisions not listed are not directly involved in processing or evaluating tolerance petitions, but may have a supporting role in which the associated costs are contained in the Agency's overhead rate (column G and S).

2. *Programmatic resource estimates (Columns E and Q).* Columns E and Q contain the total resource estimates for the Office of Pesticide Programs. By summing the resource needs for each division within the program (columns A, B, C, D, and M, N, O, P, respectively), the total resources estimated in FTEs per tolerance action are calculated.

For petitioned actions: $E=A+B+C+D$.

For reassessment actions: $Q=M+N+O+P$.

3. *Annual salary for a full-time equivalent (Columns F and R).* Columns F and R contain figures for the average annual salary (including benefits) of an Agency employee during fiscal year 1999. The \$89,000 includes the two cost of living increases in the government GS pay scale that occurred since the proposed rule. In 1997 the average annual Agency salary and the figure used in the fee calculations was \$78,000 per FTE.

4. *Overhead rate (Columns G and S).* Overhead rates for both new tolerance processing activities and existing tolerance reassessments (columns G and S, respectively) were calculated as a percentage of overall Agency activities that directly and indirectly support EPA's mandate to set and maintain pesticide residue tolerances on food. The overhead rate used in this document is the same as was used in the proposed rule. The methodology used to derive each rate is explained in section 2.1.1 of the Economic Analysis to the Proposed Rule. Further explanation was also provided during the comment period of the proposal as part of supplementary materials. Both of these documents are in the official docket for this rulemaking (OPP-30115).

5. *Total cost per tolerance (Columns H and T).* The figures provided in columns H and T reflect the Agency's estimation of how much it costs to process a single new or old tolerance. The total cost per tolerance is derived by summing the direct FTE costs with indirect FTE costs and converting this into dollars. This is illustrated by the following equations:

Direct costs = Total FTEs per Tolerance e.g., (columns E and Q)

Indirect costs = Total FTEs per Tolerance * Overhead rate (columns G and S) e.g., indirect costs = $(E*G)$ and $(Q*S)$

Total FTE costs per Tolerance = Direct costs + Indirect costs e.g., total FTE costs = $[E + (E*G)]$ and $[Q + (Q*S)]$ Total dollar costs per Tolerance = Total FTE costs * Annual salary of an FTE (columns F and R) e.g., $H=[E + (E*G)]*F$ and $T=[Q + (Q*S)]*R$

6. *Number of tolerances per year and the total annual cost (Columns I, J and U, V).* Columns I and J, and U and V, are included in the tables for illustrative purposes only and do not enter into the final fee calculations. However, the total annual costs of processing tolerances for all chemicals is used to calculate the overall adjustment factors which appears in columns K and W of the tables in this document.

7. *Recovering costs of waived actions (Columns K and W).* Columns K and W contain the adjustment factor which is applied to the total cost per tolerance action to recover the costs of tolerance actions for which the Agency chose to waive the fee. It is not specific to other ingredients (inerts). It is derived from the estimated cost for tolerances for all pesticide chemicals. For all petitioned tolerance actions, waived actions total \$2,450,224. Out of a total annual costs of \$13,641,457, \$892,047 is theoretically paid through registration fees leaving a balance of \$12,749,410 to be collected via new tolerance fees. The adjustment factor, or amount which fees must be raised to recover these costs is 1.24. For tolerance reassessment actions, waived actions total \$6,291,789, and total costs to be collected via tolerances fees is \$27,751,995. Hence the adjustment factor for tolerance reassessment fees is 1.29. The following equations are applicable to both new and reassessed tolerance actions:

Total cost—Portion of the cost paid through other fees = Balance (cost to be recovered from tolerance fees)

Waived cost/(Balance of total cost—Waived costs) * 100 = Percent increase or Adjustment factor

8. *Derivation of tolerance fee (Columns L and X).* The calculated tolerance fee is derived by multiplying the total cost per tolerance by the adjustment factor, i.e., $(H*K)$ and $(T*W)$. The actual fee that will be imposed per tolerance type is the calculated fee rounded off to the nearest hundred dollars.

9. The complete revised cost estimates and fee derivations are shown in the following tables 1 and 2.

TABLE 1.—COST ESTIMATES FOR INERT INGREDIENTS TOLERANCE PETITIONED ACTIONS

	A	B	C	D	E	F	G	H	I	J	K	L
	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	OPP Total FTEs/Tol.	\$/FTE	Overhead rate	Total Cost/Tol.	Tols. per year	Total Annual Cost	Adjm't factor	Calculated Fee
	RD	HED	EFED	SRRD								
Inert Tolerance	0.08	0.13	0.04	0.00	0.25	89,000	1.57	\$57,182.00	1	\$57,182.00	1.24	\$70,905.68
Inert Exemption w/ Science rev.	0.04	0.04	0.01	0.00	0.09	89,000	1.57	\$20,585.70	2	\$41,171.40	1.24	\$25,526.27
Inert Exemption w/min. Science rev.	0.01	0.00	0.00	0.00	0.01	89,000	1.57	\$2,287.30	6	\$13,723.80	1.24	\$2,836.25
TOTAL ...									9	\$112,077.20		

TABLE 2.—COSTS ESTIMATES FOR INERT INGREDIENT TOLERANCE REASSESSMENT ACTIONS

	M	N	O	P	Q	R	S	T	U	V	W	X
	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	OPP Total FTEs/Tol.	\$/FTE	Overhead rate	Total Cost/Tol.	Tols. per year ¹	Total Annual Cost	Adjm't factor	Calculated Fee
	RD	HED	EFED	SRRD								
Inert Tolerance	0.06	0.12	0.02	0.30	0.50	89,000	2.18	\$141,510.00	1	\$141,510.00	1.29	\$182,547.90
Inert Exemption w/ Science rev.	0.04	0.04	0.01	0.08	0.17	89,000	2.18	\$48,113.40	230	\$11,066,082.00	1.29	\$62,066.29
Inert Exemption w/min. Science rev.	0.01	0.00	0.00	0.00	0.01	89,000	2.18	\$2,830.20	26	73,585.20	1.29	\$3,650.95
TOTAL									257	\$11,281,177.20		

¹ Projected estimates for the years 2003 through 2006.

VI. Do Any Regulatory Assessment Requirements Apply to this Action?

Yes. This action discusses and requests comments on additional data and/or information related to a proposed rule that was previously published in the **Federal Register** on June 9, 1999 (64 FR 31039) (FRL-6028-2). For information about the applicability of the regulatory assessment requirements to the proposed rule and this supplemental proposal, please refer to the discussion in Unit VII of that document.

List of Subjects in 40 CFR Part 180

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

Dated: July 17, 2000.

Susan H. Wayland,

Acting Assistant Administrator Office of Prevention, Pesticides and Toxic Substances.
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DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 2000-D018]

Defense Federal Acquisition Regulation Supplement; Changes to Profit Policy

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to make changes to DoD profit policy that would reduce and eventually eliminate emphasis on facilities investment, increase emphasis on performance risk, and encourage contractor cost efficiency.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before September 22, 2000, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax (703) 602-0350.

E-mail comments submitted via the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 2000-D018 in all correspondence related to this proposed rule. E-mail correspondence should cite DFARS Case 2000-D018 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0288.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the profit policy in DFARS Subpart 215.4. The existing structure of DoD profit policy was established as a result of the report published in 1985 on the Defense Financial and Investment Review (DFAIR). Since 1985, the defense industry has downsized and consolidated due to substantial reductions in the defense budget. While a key DFAIR objective was to encourage defense contractors to invest in productivity-enhancing facilities, the defense industry now has excess capacity and under-utilized facilities. In this environment, rewarding contractors for investing is counter-productive and acts as a disincentive to the further rationalization of the defense industry.

The primary purpose of this rule is to reduce and, over time, eliminate facilities investment as a factor in establishing profit objectives on sole-source, negotiated contracts. The changes in the rule include—

- Adding general and administrative expense to the cost base used to establish profit objectives.
- Reducing the values assigned to facilities capital investment by 50 percent.
- Offsetting these changes by increasing the values for performance risk by 1 percentage point and decreasing the values for contract type risk by 0.5 percentage point.