3. SC 23.1199—Add the requirements of § 23.1199 while deleting the phrase, ''For commuter category airplanes.''

23.1199, Extinguishing Agent Containers

The following applies:

(a) Each extinguishing agent container must have a pressure relief to prevent bursting of the container by excessive internal pressures.

(b) The discharge end of each discharge line from a pressure relief connection must be located so that discharge of the fire-extinguishing agent would not damage the airplane. The line must also be located or protected to prevent clogging caused by ice or other foreign matter.

(c) A means must be provided for each fire extinguishing agent container to indicate that the container has discharged or that the charging pressure is below the established minimum necessary for proper functioning.

(d) The temperature of each container must be maintained, under intended operating conditions, to prevent the pressure in the container from—

(1) Falling below that necessary to provide an adequate rate of discharge; or

(2) Rising high enough to cause premature discharge.

(e) If a pyrotechnic capsule is used to discharge the fire extinguishing agent, each container must be installed so that temperature conditions will not cause hazardous deterioration of the pyrotechnic capsule.

4. SC 23.1201—Add the requirements of § 23.1201 while deleting the phrase, ''For commuter category airplanes.''

23.1201, Fire Extinguishing System Materials

The following apply:

(a) No material in any fire extinguishing system may react chemically with any extinguishing agent so as to create a hazard.

(b) Each system component in an engine compartment must be fireproof.

Issued in Kansas City, Missouri on January 7, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–849 Filed 1–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1271

Human Cells, Tissues, and Cellular and Tissue-Based Products

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 800 to 1299, revised as of April 1, 2007, in part 1271, on page 718, § 1271.22 is reinstated to read as follows:

§ 1271.22 How and where do I register and submit an HCT/P list?

(a) You must use Form FDA 3356 for:

(1) Establishment registration,

(2) HCT/P listings, and

(3) Updates of registration and HCT/P listing.

(b) You may obtain Form FDA 3356:

(1) By writing to the Center for Biologics Evaluation and Research (HFM–775), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, Attention: Tissue Establishment Registration Coordinator;

(2) By contacting any Food and Drug Administration district office;

(3) By calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800; or

(4) By connecting to *http://www.fda.gov/opacom/morechoices/fdaforms/cber.html* on the Internet.

(c)(1) You may submit Form FDA 3356 to the Center for Biologics Evaluation and Research (HFM–775), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, Attention: Tissue Establishment Registration Coordinator; or

(2) You may submit Form FDA 3356 electronically through a secure web server at *http://www.fda.gov/cber/tissue/tisreg.htm*.

[69 FR 68681, Nov. 24, 2004]

[FR Doc. 08–55500 Filed 1–17–08; 8:45 am]

BILLING CODE 1505–01–D

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

RIN 3046–AA83

Procedural Regulations Under Title VII and ADA

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission is eliminating three bases for dismissal of charges in its procedural regulations because they are no longer needed to accomplish the Commission's case management goals.

DATES: *Effective Date:* February 19, 2008

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, or Mona Papillon, Senior General Attorney, at (202) 663–4640 (voice) or (202) 663–7026 (TTY). Copies of this final rule are also available in the following alternate formats: Large print, braille, audiotape and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publication Center at 1–800–669–3362 (voice) or 1–800–800–3302 (TTY).

SUPPLEMENTARY INFORMATION: Prior to 1977, the Commission's procedural regulations only authorized dismissal when the Commission issued a no cause determination, a charge was untimely, or a charge failed to state a claim. In 1977, the Commission adopted three additional bases for dismissal in order to resolve charges that were timely and stated a claim, but where the Commission was unable to issue a determination on the merits for various reasons. These three bases are currently set out in § 1601.18(b) through (d). Paragraph (b) permits dismissal when the charging party fails to cooperate. Paragraph (c) permits dismissal when the charging party cannot be located. Paragraph (d) permits dismissal when the charging party refuses to accept an offer of full relief for the harm alleged in the charge.

In 1995, the Commission adopted Priority Charge Handling Procedures (PCHP) to facilitate flexibility and permit more strategic use of resources. Among other things, PCHP authorized field offices to issue final determinations when further investigation was not likely to lead to evidence establishing a violation of the employment discrimination statutes. Thus, § 1601.18(b) through (d) are no longer needed to accomplish the Commission's case management goals. Their elimination is also consistent with EEOC's procedural regulations governing the Age Discrimination in Employment Act and the Equal Pay Act which do not contain the dismissal bases of failure to cooperate, to locate, and to accept full relief.

In addition, the continued inclusion of these dismissal bases in the regulations is causing unnecessary confusion. There is a split in the courts regarding the proper interpretation of paragraphs (b) through (d). *Compare*

McBride v. *Citgo Petroleum Corp.,* 281 F.3d 1099 (10th Cir. 2002) (dismissing a private plaintiff's claim under the Americans with Disabilities Act (ADA) on the ground that she had failed to exhaust her administrative remedies before the EEOC where the Commission dismissed plaintiff's charge for ''failure to cooperate'' as set forth in section 1601.18(b)) and *Shikles* v. *Sprint/United Management Company,* 426 F.3d 1304 (10th Cir. 2005) (extending the holding of *McBride* to the Age Discrimination in Employment Act (ADEA)), *with Doe* v. *Oberweis Dairy,* 456 F.3d 704 (7th Cir. 2006) (disagreeing with the Tenth Circuit and holding that the exhaustion requirement under Title VII does not impose a duty to cooperate with the EEOC).

The Commission did not anticipate that dismissals of charges under section 1601.18(b) through (d) would lead to dismissals of suits filed in Federal court. Nor did the Commission intend to impose on charging parties any obligations beyond the two statutory prerequisites recognized by Supreme Court precedent for charges filed under Title VII and the Americans with Disabilities Act [1]: the filing of a timely charge and receipt of a notice of right to sue. *See Alexander* v. *Garner-Denver,* 415 U.S. 36, 47 (1974) and *McDonnell Douglas Corp.* v. *Green,* 411 U.S. 792, 798 (1973). Rather, the Commission intended dismissals under sections 1601.18(b) through (d) as mechanisms to terminate further administrative processing of the charge and to permit the charging party to exercise his or her rights to *de novo* judicial review.

The Supreme Court long ago established the principle that plaintiffs in employment discrimination suits are entitled to a trial *de novo. McDonnell Douglas Corp.* v. *Green,* 411 U.S. 792 (1973). At issue in that case was whether an individual could sue an employer under Title VII where ''the Commission made no finding on respondent's allegation of racial bias.'' *Id.* at 797–798. The Court unequivocally stated:

> [Charging party] satisfied the jurisdictional prerequisites to a federal action (i) by filing timely charges of employment discrimination with the Commission and (ii) by receiving and acting upon the Commission's statutory notice of the right to sue, 42 U.S.C. § § 2000e–5(a) and 2000e–5(e). The Act does not restrict a complainant's right to sue to those charges as to which the Commission has made findings of reasonable cause, and we will not engraft on the statute a requirement which may inhibit the review of claims of employment discrimination in the federal courts. * * * [T]he courts of appeal have held that, in view of the large volume of complaints before the Commission and the nonadversary character of many of its proceedings, ''court actions under Title VII are de novo proceedings and * * * a Commission 'no reasonable cause' finding does not bar a lawsuit in the case.

411 U.S. at 798–799 (citations omitted). See also *University of Tennessee* v. *Elliott,* 478 U.S. 788, 793 (1986) (citing with approval the Sixth Circuit's statement in the case that ''[I]t is settled that decisions by the EEOC do not preclude a trial *de novo* in federal court * * *.''); *Chandler* v. *Roudebush,* 425 U.S. 840, 844–845 (1976) (''It is well established that § 706 of the Civil Rights Act of 1964 accords private-sector employees the right to *de novo* consideration of their Title VII claims''). The Supreme Court has determined that Congress granted the right to a trial *de novo* to private plaintiffs suing under Title VII regardless of what action EEOC may take on the charge.

The overwhelming majority of charging parties cooperate fully with EEOC during its investigation because cooperation is in their self-interest. They cooperated before the regulation was promulgated and will continue to do so after the regulation is withdrawn. The Commission did not adopt this regulation to increase or encourage cooperation. The regulation was adopted simply as a case management tool. Now, it has outlived its usefulness.

As explained above, we are eliminating 1601.18(b) through (d) because they are no longer necessary and because the Commission did not intend to affect charging parties' rights to *de novo* judicial review when adopting them. The regulation will no longer provide for dismissals based upon ''failure to cooperate'' (29 CFR 1601.18(b)), ''failure to locate'' (29 CFR 1601.18(c)), or ''failure to accept full relief'' (29 CFR 1601.18(d)).

Regulatory Procedures

Executive Order 12866

This is not a ''significant regulatory action'' within the meaning of section 3 of Executive Order 12866.

Paperwork Reduction Act

This regulation contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it does not affect any small business entities. The regulation affects only federal sector employment. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action concerns agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal Employment Opportunity.

For the Commission.

Naomi C. Earp,

Chair.

■ Accordingly, for the reasons set forth in the preamble, 29 CFR part 1601 is amended as follows:

PART 1601—PROCEDURAL REGULATIONS

■ 1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117.

§ 1601.18 [Amended]

■ 2. Section 1601.18 is amended by: Removing paragraphs (b), (c), and (d); redesignating paragraphs (e) and (f) as paragraphs (b) and (c); and removing the words ''paragraphs (a), (b), (c) or (d) of''

[1] The Age Discrimination in Employment Act and the Equal Pay Act do not have these same requirements. The ADEA only requires (1) a timely charge, and (2) a 60-day waiting period after filing the charge. *See Gilmer* v. *Interstate/Johnson Lane Corp.,* 500 U.S. 20, 27 (1991). ADEA plaintiffs are not required to obtain a right-to-sue notice. Additionally, the EPA allows an individual to bring a suit in court without even filing a charge. *See Ledbetter* v. *Goodyear Tire & Rubber Co., Inc.,* 127 S.Ct. 2162 (2007); *Washington County* v. *Gunther,* 452 U.S. 161, 175 n.14 (1981).

from the first sentence of redesignated paragraph (b).

[FR Doc. E8–826 Filed 1–17–08; 8:45 am]

BILLING CODE 6570–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–1079; FRL–8509–2]

Approval and Promulgation of Air Quality Implementation Plans; Nevada; Washoe County 8-Hour Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Washoe County portion of the Nevada State Implementation Plan. Submitted by the State of Nevada on May 30, 2007, this plan revision consists of a maintenance plan prepared for the purpose of providing for continued attainment of the 8-hour ozone standard in Washoe County through the year 2014 and thereby satisfying the related requirements under section 110(a)(1) of the Clean Air Act and EPA's phase 1 rule implementing the 8-hour ozone national ambient air quality standard. EPA is taking this action pursuant to those provisions of the Clean Air Act that obligate the Agency to take action on submittals of state implementation plans and plan revisions.

DATES: This rule is effective on *March 18, 2008* without further notice, unless EPA receives relevant adverse comment by February 19, 2008. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by EPA–RO9–OAR–2007–1079, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- E-mail: Eleanor Kaplan at *kaplan.eleanor@epa.gov*. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Eleanor Kaplan, Planning Office (AIR–2), at fax number (415) 947–4147.
- Mail or deliver: Eleanor Kaplan, Air Planning Office, (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Hand or courier deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Eleanor Kaplan, Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, telephone (415) 947–4147; fax (415) 947–4147; e-mail address *kaplan.eleanor@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA. This supplementary information is organized as follows:

Table of Contents

I. Summary of Action

On May 30, 2007, the Governor's designee, the Nevada Division of Environmental Protection (NDEP), submitted the *Maintenance Plan for the Washoe County 8-Hour Ozone Attainment Area (April 2007)* (''Washoe County Ozone Maintenance Plan'' or ''Ozone Maintenance Plan'') to EPA for approval as a revision to the Washoe County portion of the Nevada State Implementation Plan (SIP). The Washoe County Ozone Maintenance Plan was developed by the Washoe County District Health Department, Air Quality Management Division (Washoe County AQMD) and adopted by the Washoe County District Board of Health (District Board of Health) on April 26, 2007. Washoe County AQMD prepared the plan to provide for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) through 2014 and to thereby satisfy the requirements of section 110(a)(1) of the Clean Air Act (CAA or ''Act'') and EPA's phase 1 rule implementing the 8-hour ozone NAAQS. The May 30, 2007 SIP revision submittal includes the maintenance plan and related technical appendices, as well as documentation of notice, public hearing, and adoption by the District Board of Health.

For the reasons set forth in this document, and pursuant to section 110(k) of the Act, we are approving the Washoe County Ozone Maintenance Plan as a revision to the Washoe County portion of the Nevada SIP. In so doing, we find that the submitted ozone