

Protection Cabinet, Commonwealth of Kentucky). The concept of economic benefit relates to any economic gain a violator may have realized as a result of noncompliance regardless of when these gains occur. Although correspondence from Kentucky to EPA addresses the benefit that might accrue after discovery and disclosure (letter dated February 12, 1997 from James E. Bickford, Secretary, Natural Resources and Environmental Protection Cabinet, Commonwealth of Kentucky to John H. Hankinson, Jr., Regional Administrator, EPA Region 4), the relevant time frame for determining economic benefit is the entire period of noncompliance including prior to discovery and disclosure (e.g., facility operates for two years without installing required air emissions control equipment). Because KRS 224.01–040 precludes the Cabinet from recouping economic benefit when the conditions of KRS 224.01–040 are met, Kentucky lacks the legal authority to recover a penalty for “every violation” and therefore no longer meets the requirements for Title V program approval. In subsequent correspondence between Kentucky and EPA, including a letter dated March 27, 1997 from Glenda J. Curry, General Counsel, Natural Resources and Environmental Protection Cabinet, Commonwealth of Kentucky to John H. Hankinson, Jr., Regional Administrator, EPA Region 4; and a letter dated January 12, 1998 from John H. Hankinson, Jr., Regional Administrator, EPA Region 4 to James E. Bickford, Secretary, Natural Resources and Environmental Protection Cabinet, Commonwealth of Kentucky, these issues were discussed and EPA urged Kentucky to remedy them. To date, Kentucky has not effected these changes. To have an approvable Title V program, any Kentucky audit privilege and immunity law must restore full civil penalty authority to the Title V program by allowing for the collection of civil penalties where violations result in significant economic benefit to the violator as a consequence of its noncompliance with Title V.

EPA interprets section 502(b)(8) of the CAA to mean that to have adequate public access authority, Kentucky must assure that the public have access to certain information, including copies of the permit draft, the application, all relevant supporting materials, including those set forth in 40 CFR 70.4(b)(3)(viii), and all other materials available to the permitting authority that are relevant to the permit decision. Kentucky’s audit privilege and immunity law provides that documents, communications, data, reports, or other information required to

be collected, developed, maintained, reported, or made available to a regulatory agency pursuant to this law or any other Federal, state or local law shall not be privileged. KRS 224.01–040(6). This language potentially limits public access to information and renders Kentucky’s legal authority to ensure public access to certain information inadequate. Therefore Kentucky no longer meets the requirements for Title V program approval. To meet the requirements of an approvable part 70 program and the requirements of 40 CFR 70.4(b)(3)(viii) and 40 CFR 70.8(h)(2), any Kentucky audit privilege and immunity law must provide that documents, communications, data, reports, or other information required to be collected, developed, maintained, reported, or made available to a regulatory agency or any other person shall not be privileged. This issue was discussed in a letter, dated January 12, 1998 from John H. Hankinson, Jr., Regional Administrator, EPA Region 4 to James E. Bickford, Secretary, Natural Resources and Environmental Protection Cabinet, Commonwealth of Kentucky, and EPA urged Kentucky in that letter to correct it. To date, Kentucky has not effected these changes. To have an approvable Title V program any Kentucky audit privilege and immunity law must provide the public with access to information available to the Commonwealth that is relevant to a Title V permit decision.

40 CFR 70.4(k), 70.10(b) and 70.10(c) provide that EPA may withdraw a 40 CFR part 70 program approval, in whole or in part, whenever the permitting authority’s legal authority no longer meets the requirements of Part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the document be published in the **Federal Register**. Today’s document satisfies this requirement and constitutes a finding of program deficiency. If Kentucky has not taken significant action to assure adequate administration and enforcement of the program within 90 days after publication of this notice of deficiency, and has not corrected the above-identified deficiencies by June 2, 2001, then EPA will take action to withdraw Kentucky’s Title V program approval, and may apply any of the sanctions specified in section 179(b) of

the Act. 40 CFR 70.4(k) and 70.10(b)(2)–(4).

This notice of deficiency is not itself a proposal to withdraw Kentucky’s Title V program approval. Consistent with 40 CFR 70.10(b)(2), EPA will wait 90 days to determine whether the Commonwealth has taken significant action to correct the above-identified deficiencies. Consistent with 40 CFR 70.4(i)(1) and 70.10(b)(4), EPA will wait until June 2, 2001 to determine whether Kentucky has corrected the deficiencies. Any proposal to withdraw approval of Kentucky’s Title V program will occur after June 2, 2001.

II. Administrative Requirements

As noted above, publication of this Notice of Deficiency does not effect a withdrawal of the Commonwealth of Kentucky’s Title V program. Program withdrawal, if necessary, will be accomplished through a subsequent notice-and-comment rulemaking. This action does not: (1) Impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4); (2) require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998); or (3) involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). The Office of Management and Budget has exempted this action from review under Executive Order 12866 (58 FR 51735, October 4, 1993). 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.*).

Furthermore, this action does not contain any information collections subject to Office of Management and Budget approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). And because this action is a Notice of Deficiency and does not constitute a rule, Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks does not apply. For the same reason, Executive Order 13132: Federalism and section 112(d) of the National Technology Transfer Advancement Act of 1995 do not apply.

Dated: November 29, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-004391; FRL-6757-1]

Pesticide Program Dialogue Committee (PPDC); Notice of Invitation for Nominations of Qualified Candidates to be Considered for Appointment to EPA's PPDC**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA's Office of Pesticide Programs (OPP) is inviting nominations of qualified candidates to consider for appointment to the Pesticide Program Dialogue Committee (PPDC). EPA renewed the Charter for the PPDC in November 1999 for a two-year term. EPA intends to seek renewal of the PPDC Charter for another two-year term in November 2001 in accordance with the Federal Advisory Committee Act, 5 U.S.C., App.2 section 9(c).

DATES: Nominations will be accepted until 5 p.m. on December 29, 2000.

ADDRESSES: Nominations should be submitted in writing to Margie Fehrenbach, Designated Federal Officer for PPDC, Office of Pesticide Programs, (7501C), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC; e-mail address: fehrenbach.margie@epa.gov.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach, Designated Federal Officer for PPDC, Office of Pesticide Programs, (7501C), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-4775 or (703) 305-7090; fax number: (703) 308-4776; e-mail address: Fehrenbach.Margie@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Does this Action Apply to Me?**

This action is directed to the public in general. This action may, however, be of interest to persons who are concerned about implementation of the Food Quality Protection Act (Public Law 104-170) which was passed in 1996 to strengthen the nation's system for regulating pesticides on food; the Federal Insecticide, Fungicide, and Rodenticide Act; and the Federal Food, Drug, and Cosmetic Act. PPDC was established in 1995 to provide a forum for a diverse group of stakeholders to provide advice and recommendations to EPA regarding pesticide regulatory and policy issues. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this

action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," 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/fedrgstr/>. To access information regarding PPDC, go directly to the Home Page for EPA's Office of Pesticide Programs at <http://www.epa.gov/pesticides/> and select ppdc.

2. *In person.* The Agency has established an administrative record for all PPDC meetings and workgroups under docket control number OPP-00439. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the Pesticide Program Dialogue Committee and its workgroups, including any information claimed as Confidential Business Information (CBI). This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

III. Background

The Office of Pesticide Programs is entrusted with the responsibility of ensuring the safety of the American food supply, the protection and education of those who apply or are exposed to pesticides occupationally or through use of products from unreasonable risk, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Pesticide Program Dialogue Committee (PPDC) is a federal advisory committee under the Federal Advisory Committee Act (FACA), Public Law 92-463. It was established in September 1995 for a two-year term and renewed in November 1997 and November 1999. PPDC provides advice and recommendations to the Office of Pesticide Programs on a broad range of pesticide regulatory, policy and program implementation issues that are associated with evaluating and reducing risks from use of pesticides.

EPA intends to appoint members to one- or two-year terms. An important consideration in EPA's selection of members will be to maintain balance and diversity of experience and expertise. EPA also intends to seek broad geographic representation from the following sectors: environmental/public interest and consumer groups; farm worker organizations; pesticide industry and trade associations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Potential candidates should submit the following information: name, occupation, organization, position, address, telephone number and a brief resume containing their background, experience, qualifications and other relevant information as part of the consideration process. Any interested person and/or organization may submit the name(s) of qualified persons.

Copies of the PPDC charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

List of Subjects

Environmental protection, Pesticides, Inerts, PPDC.

Dated: November 28, 2000.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

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