

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 946

[Docket No. FV05-946-2 PR]

#### Irish Potatoes Grown in Washington; Modification of Special Purpose Shipment Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on modifications to the special purpose shipment regulations currently prescribed under the Washington potato marketing order. The marketing order regulates the handling of Irish potatoes grown in Washington, and is administered locally by the State of Washington Potato Committee (Committee). This rule would modify the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments. Under the marketing order, such special purpose shipments may be exempted from the quality, assessment, or inspection requirements. The changes include removal of the special purpose exemption for exported potatoes, clarify the reporting procedures for potatoes diverted to processing, and add safeguard provisions for shipments of seed potatoes and shipments to charitable organizations. These changes would help facilitate special purpose shipments, while enhancing the Committee's compliance program.

**DATES:** Comments must be received by June 15, 2005.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov); or

Internet: <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:**

Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, Oregon 97204; telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or e-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Agreement No. 113 and Marketing Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any

handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule invites comments on modifications to the special purpose shipment regulations currently prescribed under the order. This rule would modify the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments. Under the marketing order, such special purpose shipments may be exempt from the quality, assessment, or inspection requirements. The modifications were recommended unanimously by the Committee at a meeting on February 3, 2005.

Section 946.52 of the order authorizes the establishment of grade, size, quality, maturity, and pack regulations for any variety or varieties of potatoes grown in the production area. Section 946.51 further authorizes the modification, suspension, or termination of regulations issued under § 946.52. Section 946.60 provides that whenever potatoes are regulated pursuant to § 946.52 such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations. Section 946.54 authorizes the modification, suspension, or termination of any or all regulations to facilitate shipments of potatoes for specified purposes. Section 946.55 authorizes safeguard requirements for shipments authorized pursuant to § 946.54.

Section 946.120 of the order's administrative rules specifies the application process required when potatoes are shipped for special purposes pursuant to § 946.54. Section 946.336 of the order's administrative rules prescribes the quality, maturity,

cleanness, pack, special purpose shipments, safeguards, minimum quantity exemption, and inspection requirements for all fresh market Washington potatoes, except for blue or purple flesh varieties of potatoes. Section 946.336(d) lists the types of special purpose shipments and the minimum grade, size, cleanness, maturity, pack, assessment, and inspection requirements from which such shipments are exempted. Finally, § 946.336(e) prescribes the safeguard requirements that handlers must meet to make the special purpose shipments specified under § 946.336(d).

At its meeting on June 17, 2004, the Committee appointed a subcommittee to review the order's handling regulations. The subcommittee subsequently met on November 22, 2004, and while reviewing the regulations, identified several potential changes to the special purpose shipment procedures, safeguard requirements, and reporting requirements. These proposed changes were further discussed and ratified at an Executive Committee meeting on January 20, 2005, and subsequently recommended to the full Committee at its February 3, 2005, meeting in Moses Lake, Washington.

At this meeting, the Committee unanimously adopted the subcommittee recommendations which entailed modifications to § 946.120 *Application*, § 946.336(d) *Special Purpose Shipments*, and § 946.336(e) *Safeguards*. To conform to the proposed regulatory modifications, as well as to ensure consistency in the administration of the special purpose procedures, the Committee also recommended that the "Shippers Application for Special Purpose Certificate" (Application) and "Special Purpose Certificate Report" (Report) forms be updated.

The current procedures require that each handler apply annually to the Committee for a Special Purpose Shipment Certificate if planning to make special purpose shipments. In addition, based on the current provisions under each of the special purpose shipment requirements, each handler and receiver of special purpose potatoes may be required to submit a Report to the Committee for each such shipment.

Under current procedures, for example, any handler desiring to divert potatoes for livestock feed must apply for a Special Purpose Shipment Certificate, but would not be required to follow up with a report to the committee indicating the actual quantity diverted. Similarly, a handler opting to take advantage of the provisions that allow uninspected bulk potatoes to leave the

State of Washington for grading or storing in Morrow or Umatilla Counties in Oregon, must complete and submit the Committee's Application for a Special Purpose Shipment Certificate to the Committee. If these potatoes were later diverted to processing, a Report would be required from both the handler and the processor. If, however, the potatoes were inspected and shipped into the fresh market, a Report would not be required because the Committee is apprised of the shipment via the inspection certificate received from the Federal-State Inspection Service.

Although it varies from one special purpose shipment to another, in most cases handlers of special purpose potatoes are the producers of the potatoes and most receivers are the processors.

In recent years, about 85 percent of the Washington potato crop is produced for processing. Most of this amount is produced specifically for the frozen French fry market, with the processing taking place locally within the state. This has been a steadily increasing trend ever since the fast-food restaurant business began requiring an ever increasing portion of the potato crop. Because a majority of the Washington potato crop is diverted to a special purpose category, the Committee believes it needs to reduce the paperwork burden on handlers and receivers by obtaining the information it needs to ensure compliance with the order from alternative sources.

The Committee contracts with the Washington State Potato Commission (Commission) for its administrative services. Each processor within the State of Washington provides reports to the Commission indicating the quantity of potatoes received and processed, per producer. By entering into an agreement with the Commission, the Committee could receive all of the information it needs on the processor generated report and would not require processors to complete and return the Committee's processor form. This would significantly reduce the paperwork burden on any person or entity currently required to submit reports on the volume of processing potatoes shipped, received, and processed.

To achieve this, the Committee recommended changing the safeguard procedures for shipments of canning, freezing, or "other processing" potatoes so that handlers may provide shipment information in a format other than through the conventional Committee report form. Under this proposal, this would be accomplished by changing § 946.336(e)(3)(iii) from "Upon request

by the Committee, furnish reports of each shipment pursuant to the applicable Special Purpose Certificate", to "Upon request by the Committee, furnish reports, or cause reports to be furnished, of each shipment pursuant to the applicable Special Purpose Certificate". The Committee believes that the proposed language change would streamline the reporting procedures while clarifying its ability to obtain the information it needs from alternative sources to verify compliance and proper disposition.

The Committee also recommended changing § 946.336(d)(vi) and § 946.336(e)(iii), which detail the procedures and reporting requirements for potatoes shipped to locations other than the immediate area of production for grading or temporary storage prior to marketing. The current regulations require that handlers shipping potatoes for the purposes of grading or storing to Morrow or Umatilla Counties in Oregon, or to District No. 5 or to Spokane County in District No. 1 (part of the regulated production area), submit an annual Application form and to subsequently report each shipment that is diverted to one of the other special purposes (or to cause an inspection certificate to be issued if shipped into the fresh market). Potatoes shipped under this provision are exempt from the quality and inspection requirements until such potatoes are subsequently sold in the fresh market or diverted for any special purpose shipment.

Section 946.7 of the order authorizes, free of regulation, the transportation of ungraded potatoes within the production area for the purpose of having such potatoes prepared for market or stored. Since § 946.7 already provides the necessary authority for transporting potatoes within the production area free from regulation, the Committee recommended that the reference to "District No. 5" and to "Spokane County in District No. 1" be removed from §§ 946.336(d)(1)(vi) and 946.336(e)(2). Reference to these two districts was already absent from the language that refers to this special purpose in § 946.120. The specific authority for shipping potatoes to Umatilla and Morrow Counties in Oregon is in § 946.54.

The Committee also reviewed the current special purpose procedures for handling potatoes for export. Currently, potatoes for export are exempt from the quality and inspection requirements of the order, except that potatoes packed in cartons must be U.S. No. 1 grade or better. Largely because most importing countries require a quality product, it has been common industry practice to

have potatoes for export inspected for quality. The Committee believes that all Washington potatoes entering the export market should meet the minimum quality, cleanness, maturity, pack, and inspection requirements of the order, and that the regulations conform with industry practice. Therefore, the Committee recommended that potatoes for export no longer be included as a special purpose shipment exemption.

This change would require removal of §§ 946.120(a)(2), 946.336(d)(1)(vii), and 946.336(e)(5) from the order's rules and regulations. With export removed as a special purpose exemption, paragraphs (a)(3), (a)(4), and (a)(5) in § 946.120 would be redesignated as paragraphs (a)(2), (a)(3), and (a)(4), respectively. Similarly, paragraphs (d)(1)(viii) and (e)(6) in § 946.336 would be redesignated as §§ 946.336(d)(1)(vii) and 946.336(e)(5), respectively. Finally, § 946.336(d)(2) would be revised to reflect these modifications and to correct an existing typographical error.

Sections 946.336(d)(1)(i) and 946.336(d)(2) of the handling regulations exempt potatoes shipped for livestock feed from the quality, assessment, and inspection requirements of the order. However, there are no corresponding reporting requirements or safeguard provisions specified under §§ 946.120 or 946.336(e) for such shipments, although the Application form contains a check box for livestock feed. Because potatoes that are diverted to livestock feed are generally culls and thus unfit for any other market, the Committee believes such shipments should remain exempt from the quality, inspection, and assessment requirements of the order and that handlers should not be required to submit the Application or Report forms for such shipments.

The Committee thus recommended adding a new paragraph (e)(6) to § 946.336 (*Safeguards*) to clarify that handlers diverting potatoes to livestock feed would not be required to submit the Application and Report forms. This change would also have the potential of reducing the reporting burden on handlers and receivers of such potatoes.

The Committee recommendation also includes proposed changes to the procedures used for tracking potatoes shipped for charity. Currently, potatoes shipped for charity are exempt from the quality, assessment, and inspection requirements. However, there are currently no safeguard or reporting requirements delineated in § 946.336. The Committee believes it is important to have reporting requirements to safeguard such shipments, and thus recommended adding a new paragraph

(e)(7) to § 946.336 (*Safeguards*) to require that handlers shipping potatoes for charity submit both the Application and Report forms. Because the Committee believes that small gifts to charity should be encouraged, the proposed safeguard and reporting requirements would also specify that charitable contributions of 1,000 pounds or less would be exempt from the application and reporting requirements. This would make diverting potatoes a much less burdensome process for handlers. A conforming change noting the 1,000 pound provision would also be made to § 946.120(a)(1).

The proposed additions to the special purpose shipment procedures for charitable contributions would further specify that the handler of potatoes being diverted to charity would inform the recipient that the gift cannot be resold or otherwise placed into commercial market channels.

The Committee also recommended modifications to the special purpose shipment exemption for seed potato shipments. Currently, § 946.336(d)(1)(iii) provides for an exemption from the quality, assessment, and inspection requirements of the order for potatoes handled for seed. Although there are not any safeguard provisions or reporting requirements outlined in either § 946.120 or § 946.336, the current Application form contains a check box for handlers to mark when applying for a Special Purpose Shipment Certificate. However, after discussing the seed potato issue, the subcommittee's recommendation to the full Committee was to require a Report from handlers, but not to require an Application form. The actual recommendation would add a new paragraph (e)(8) to § 946.336 (*Safeguards*) stating that handlers shipping potatoes for seed must furnish, at the request of the Committee, a report from handlers on the total volume of seed potatoes handled.

Seed potato handlers are almost always the producer of such potatoes, and generally only produce potatoes for seed. As such, the Committee does not want to require seed potato handlers to apply for a Special Purpose Certificate, but for statistical purposes, would like to have a procedure in place for the submission of periodic reports. Although potatoes produced for seed are traditionally segregated from potatoes produced for other markets by the very nature of the cultural practices used by farmers and by the various state and federal seed regulations in place, the Committee believes this proposed change would add necessary clarity to the special purpose regulations.

The final change recommended by the Committee relates to § 946.336(g) *Inspection*. Language in this paragraph currently references a form which is no longer issued by the Federal-State Inspection Service. The form had at one time been issued by the inspection service for accompaniment with any bulk-load potato shipments not relieved by any of the special purpose or minimum quantity exemptions of the order. Since such potato shipments require inspection under the order's provisions and thus should be accompanied by a valid inspection certificate, the Committee recommended removing the sentence from § 946.336(g) that refers to the "Shipping Clearance Report" form.

To ensure conformity with § 946.336, § 946.120 would be updated by removing reference to the special purpose use "export", and adding reference to the special purpose use "canning, freezing, and other processing". Furthermore, as previously noted, a proviso would be added to paragraph (1) of § 946.120 stating that charitable shipments of 1,000 pounds or less would be exempt from the application process. Also, as noted earlier, minor conforming changes would be made to the Committee's Application and Report forms.

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 51 handlers of Washington potatoes who are subject to regulation under the marketing order and approximately 272 potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$6,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

During the 2003–2004 marketing year 10,652,495 hundredweight of

Washington potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of \$7.45 per hundredweight, the Committee estimates that 48 handlers, or about 94 percent, had annual receipts of less than \$6,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for the 2003 marketing year (the most recent period that final statistics are available) was \$5.25 per hundredweight. The average annual producer revenue for each of the 272 Washington potato producers is therefore calculated to be approximately \$205,609. In view of the foregoing, the majority of the Washington potato producers and handlers may be classified as small entities.

This rule would modify the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments as prescribed under §§ 946.120, 946.336(d) and 946.336(e) of the order. The Committee recommended several changes to the order's special purpose regulations, and conforming changes to the Application and Report forms. These changes would help facilitate the marketing of certain types of potato shipments, while also enhancing the Committee's compliance efforts. The authority for the special purpose shipments and safeguard requirements is provided in §§ 946.54 and 946.55, respectively, of the order.

The Committee believes that these proposed changes would, at the most, minimally impact handlers and producers in terms of cost. While there are some changes that could require a few handlers of exported potatoes to undergo inspections when they may not have previously, most of the changes would actually lessen the regulatory and reporting burden on the industry while clarifying the special purpose shipment reporting and safeguard requirements.

During its review of the handling regulations, the subcommittee discussed alternatives to these proposed changes, and felt that its recommended changes adequately met the Committee's originally stated goals of reviewing and, if necessary, fine tuning the special purpose regulations. The Committee reviewed the subcommittee's recommendation carefully and unanimously concurred that, to facilitate the handling of special purpose shipments and to enhance its compliance program specific to such shipments, the changes proposed herein would effectively improve its administration of the special purpose shipment exemptions.

This proposed rule would modify the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments.

Under the marketing order, such special purpose shipments may be exempt from the quality, assessment, or inspection requirements. Modifying these regulations would clarify and update the procedures handlers must follow to qualify for the special purpose exemptions. Minor conforming changes would subsequently be made to two of the Committee's forms, the "Shippers Application for Special Purpose Certificate", and the "Special Purpose Shipment Report". Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large potato handlers. This information collection burden has been previously approved by the Office of Management and Budget (OMB) under OMB No. 0581-0178, Vegetable and Specialty Crops Marketing Orders. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee's meeting was widely publicized throughout the Washington potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 3, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because: (1) Any changes resulting from this proposed rule should be effective at the beginning of the Washington potato shipping season (July 1); (2) the Committee unanimously recommended these changes at a public meeting and all interested parties had an opportunity to provide input; and (3) handlers are aware of this action and

want to take advantage of these improvements as soon as possible. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is proposed to be amended as follows:

#### PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

**Authority:** 7 U.S.C. 601-674

2. In § 946.120, paragraph (a) is revised to read as follows:

##### § 946.120 Application.

(a) Whenever shipments for special purposes pursuant to § 946.54 are relieved in whole or in part from regulations issued under § 946.52, each handler desiring to make shipments of potatoes for the following purposes shall submit an application to the committee, prior to initiating such shipments, for a special purpose certificate permitting such shipments:

(1) Charity: *Provided*, That handlers making shipments for charity of 1,000 pounds or less are exempt from these application requirements;

(2) Prepeeling;

(3) Canning, freezing, and "other processing";

(4) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon; and

(5) Experimentation.

\* \* \* \* \*

3. Section 946.336 is amended by:

A. Revising paragraph (d)(1)(vi);

B. Removing paragraph (d)(1)(vii);

C. Redesignating paragraph (d)(1)(viii) as paragraph (d)(1)(vii);

D. Revising paragraph (d)(2);

E. Revising the introductory text of paragraph (e)(2);

F. Revising paragraph (e)(3)(iii);

G. Removing paragraph (e)(5);

H. Redesignating paragraph (e)(6) as paragraph (e)(5);

I. Adding a new paragraph (e)(6), (e)(7), and (e)(8); and

J. Revising paragraph (g)(1) to read as follows:

##### § 946.336 Handling regulation.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(vi) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon; or

\* \* \* \* \*

(2) Shipments of potatoes for the purposes specified in paragraphs (d)(1)(i) through (vii) of this section shall be exempt from the inspection requirements specified in paragraph (g) of this section, except that shipments pursuant to paragraph (d)(1)(vi) of this section shall comply with the inspection requirements of paragraph (e)(2) of this section. Shipments specified in paragraphs (d)(1)(i), (ii), (iii), (v) and (vii) of this section shall be exempt from assessment requirements as specified in § 946.248 and established pursuant to § 946.41.

(e) \* \* \*

(2) Handlers desiring to ship potatoes for grading or storing to any specified location in Morrow or Umatilla Counties in the State of Oregon shall:

\* \* \* \* \*

(3) \* \* \*

(iii) Upon request by the committee, furnish reports, or cause reports to be furnished, for each shipment pursuant to the applicable Special Purpose Certificate;

\* \* \* \* \*

(6) Handlers diverting potatoes to livestock feed are not required to apply for a Special Purpose Certificate nor report such shipments to the committee.

(7) Each handler desiring to make shipments of potatoes for charity shall:

(i) First apply to the committee for, and obtain, a Special Purpose Certificate for the purpose of making shipments for charity: *Provided*, That shipments for charity of 1,000 pounds or less are exempt from the application and reporting requirements: *And provided further*, That potatoes previously graded, assessed, and inspected in preparation for shipment to the fresh market are exempt from the application and reporting requirements.

(ii) Each handler shipping potatoes to charity must inform the recipient that the potatoes cannot be resold or otherwise placed in commercial market channels.

(8) Each handler making shipments of seed potatoes shall furnish, at the request of the committee, reports on the total volume of seed potatoes handled.

\* \* \* \* \*

(g) \* \* \*

(1) Except when relieved by paragraphs (d) or (f) of this section, no person may handle any potatoes unless a Federal-State Inspection Notesheet or certificate covering them has been issued by an authorized representative of the Federal-State Inspection Service

and the document is valid at the time of shipment.

\* \* \* \* \*

Dated: May 11, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05-9696 Filed 5-13-05; 8:45 am]

**BILLING CODE 3410-02-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0009; FRL-7912-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Texas; Clean Air Action Plan and Attainment Demonstration for the Northeast Texas Early Action Compact Area; Agreed Orders Regarding Control of Air Pollution for the Northeast Texas Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve Texas State Implementation Plan (SIP) revisions submitted by the State on July 18, 2002 and December 6, 2004. Approval will incorporate the following changes into the SIP: The Clean Air Action Plan (CAAP) and the related attainment demonstration of the 8-hour ozone standard for the Northeast Texas Early Action Compact (EAC) area and Agreed Orders regarding control of air pollution for the Northeast Texas area. We are proposing approval pursuant to sections 110 and 116 of the Federal Clean Air Act (CAA). The revisions will contribute to improvement in air quality and continued attainment of the national ambient air quality standards (NAAQS) for ozone in Northeast Texas.

**DATES:** Written comments should be received on or before June 15, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Materials in EDocket (RME) ID No. R06-OAR-2005-TX-0009, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://docket.epa.gov/rmepub/>. Regional Materials in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the

online instructions for submitting comments.

- EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such 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:* Direct your comments to RME ID No. R06-OAR-2005-TX-0009. EPA's policy is that all comments received will be included in the public file without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Materials in EDocket (RME), [regulations.gov](http://regulations.gov) or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file 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.