

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 358, 360, 360b, 360gg–360ss, 371, 374, 379e; 42 U.S.C. 216, 241, 262, 264.

2. Section 201.323 is amended by revising the first two sentences of the introductory text of paragraph (c); by redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively; and by adding new paragraph (d) to read as follows:

§ 201.323 Aluminum in large and small volume parenterals used in total parenteral nutrition.

* * * * *

(c) The maximum level of aluminum present at expiry must be stated on the immediate container label of all small volume parenteral (SVP) drug products and pharmacy bulk packages (PBPs) used in the preparation of TPN solutions. Except as provided in paragraph (d) of this section, the aluminum content must be stated as follows: “Contains no more than __ µg/L of aluminum.” * * *

(d) If the maximum level of aluminum is 25 µg/L or less, instead of stating the exact amount of aluminum as required in paragraph (c) of this section, the immediate container label may state: “Contains no more than 25 µg/L of aluminum.” If the SVP or PBP is a lyophilized powder, the immediate container label may state: “When reconstituted in accordance with the package insert instructions, the concentration of aluminum will be no more than 25 µg/L.”

* * * * *

Dated: July 17, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–20300 Filed 8–9–02; 8:45 am]

BILLING CODE 4160–01–S

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1626

RIN 3046–AA54

Procedures—Age Discrimination in Employment Act

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its regulations on the processing of age discrimination charges to provide that it will issue a notice, when it has dismissed or otherwise terminated the processing of an age discrimination charge, that the right to file a lawsuit on the charge under the ADEA will expire in 90 days. These amendments also

delete references to the previously applicable two- or three-year limitations period for filing a civil action. Finally, EEOC is deleting its list of ADEA referral states because the list is obsolete and unnecessary. These changes will conform the Commission’s regulations to the procedures adopted by the Commission to implement section 115 of the Civil Rights Act of 1991.

DATES: Comments must be received by October 11, 2002.

ADDRESSES: Written comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments of six pages or less transmitted by facsimile (“FAX”) machine. The telephone number of the FAX receiver is (202) 663–4114. This is not a toll free number. The six-page limitation is necessary to assure access to the equipment. Receipt of FAX transmissions will not be acknowledged although a sender may request confirmation by calling the Executive Secretariat at (202) 663–4078 (voice) or (202) 663–4077 (TTY). These are not toll free numbers. Copies of comments submitted by the public will be available for review at the Commission’s library, Room 6502, 1801 L Street NW., Washington, DC, between the hours of 9:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Schlageter, Assistant Legal Counsel at (202) 663–4669 (voice) or (202) 663–7026 (TTY). This proposed rule is also available in the following formats: large print, braille, audiocassette and electronic file on computer disk. Requests for this proposed rule in an alternative format should be made to EEOC’s Publication Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking contains EEOC’s proposed revisions to part 1626 of its regulations. These changes are proposed in order to conform the Commission’s regulations to the procedures it adopted for the processing of charges under the Age Discrimination in Employment Act (ADEA) following passage of section 115 of the Civil Rights Act of 1991. Section 7(e) of the ADEA no longer incorporates the two- or three-year statute of limitations on civil actions in section 6 of the Portal to Portal Act nor does it incorporate the exemption to the Portal to Portal Act’s limitations period during EEOC’s conciliation efforts. Instead, upon dismissal or termination of proceedings,

the Commission must notify the aggrieved person that his or her right to file a civil action under the ADEA will expire 90 days after receipt of the notice. This notice is denominated a “Notice of Dismissal or Termination.” The Commission is also taking this opportunity to delete an obsolete and unnecessary list of State Fair Employment Practices Agencies to which EEOC will send copies of ADEA charges.

The current § 1626.7(a) provides that charges will not be rejected as untimely provided that they are not barred by the statute of limitations contained in section 6 of the Portal to Portal Act. This provision recognized the Commission’s authority to file suit within the Portal to Portal Act’s limitation period even if the charging party did not have a private right of action because the charge was filed more than 180 days (or 300 days in a referral jurisdiction) after the discriminatory event took place. Following passage of the Civil Rights Act of 1991, the statute of limitations contained in the Portal to Portal Act is no longer applicable to ADEA lawsuits filed by either the charging party or the Commission. We therefore propose to delete the current § 1626.7(a). The Commission will dismiss ADEA charges filed more than 180 days (or 300 days in a referral jurisdiction) after the discriminatory act, absent waiver, estoppel or equitable tolling.

The current § 1626.9(b) and (c) contain a list of states to which the Commission refers charges under section 14(b) of the ADEA. These lists were created when there were relatively few such agencies. Since almost all states now have laws prohibiting age discrimination, the lists are being deleted as obsolete and unnecessary. The regulation continues to provide that the Commission will refer age charges to appropriate state agencies.

Section 7(d) of the ADEA requires that, upon receipt of a charge, the Commission shall promptly attempt to eliminate any alleged unlawful practice by informal methods of conciliation, conference and persuasion. Under current § 1626.12, EEOC issues a notice if this attempt at conciliation fails. To eliminate any possible confusion between this failure of conciliation notice and the new Notice of Dismissal or Termination (NDT), we propose to add a sentence to § 1626.12 stating that notice under this section is not a Notice of Dismissal or Termination under § 1626.20.

The second sentence and last two sentences of the current § 1626.15(b) concern the tolling of the ADEA’s statute of limitations during EEOC

conciliation. Because this tolling provision no longer applies, we propose to delete these sentences. An editorial change is proposed to the third sentence, eliminating a reference to the current second sentence that we are proposing to delete.

The Commission is also proposing to add three new sections. Proposed § 1626.17 is modeled on 29 CFR 1601.28 and provides for issuance of a Notice of Dismissal or Termination to an aggrieved person when EEOC dismisses or otherwise terminates its processing of an ADEA charge. Notification will be made by issuing a Notice of Dismissal or Termination to each aggrieved person. In the case of a charge concerning more than one aggrieved person, Notices of Dismissal or Termination will only be issued when the charge is dismissed or EEOC's proceedings are terminated as to all aggrieved persons.

Proposed § 1626.18 concerns the institution of private civil actions. Paragraph (a) states that a civil action may be filed by an aggrieved person in either federal or state court under section 7 of the ADEA. Paragraph (b) makes clear that an aggrieved person need not wait for a Notice of Dismissal or Termination to be issued in order to file a civil action, but can file suit on a pending charge any time after 60 days have elapsed from the filing of the charge. Paragraph (c) provides that the right to file a private suit under the ADEA expires 90 days after receipt of a Notice of Dismissal or Termination. Paragraph (d) provides that when the Commission becomes aware that an aggrieved person has filed a private lawsuit under the ADEA against the respondent named in the charge, the Commission may terminate further processing of the charge or the portion of the charge affecting that person unless it is determined that further proceedings will effectuate the purposes of the ADEA.

Proposed § 1626.19 clarifies that, unlike Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, and Title I of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, the ADEA does not require the filing of a charge before the Commission has authority to investigate and litigate a possible violation of the ADEA. In addition, the termination of proceedings on an age discrimination charge and the issuance of a Notice of Dismissal or Termination does not prevent the Commission from investigating or litigating a matter that may have been the subject of or related to a charge on which a Notice of Dismissal or Termination was issued.

Regulatory Procedures

Executive Order 12866

Pursuant to Executive Order 12866, EEOC has coordinated this proposed rule with the Office of Management and Budget. Under section 3(f)(1) of Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local tribal governments or communities. Therefore, a detailed cost-benefit assessment of the regulation is not required.

Paperwork Reduction Act

This proposal 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 proposed rule will not have a significant economic impact on a substantial number of small entities, because it implements a statutory change in the time limits for filing suit. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This proposed 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.

List of Subjects in 29 CFR Part 1626

Administrative practice and procedure, aged, equal employment opportunity.

For the Commission,
Cari M. Dominguez,
Chair.

For the reasons set forth in the preamble, EEOC proposes to amend 29 CFR part 1626 as follows:

PART 1626—PROCEDURES—AGE DISCRIMINATION IN EMPLOYMENT ACT

1. The authority citation for Part 1626 continues to read as follows:

Authority: Sec. 9, 81 Stat. 605, 29 U.S.C. 628; sec. 2, Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

§ 1626.7 [Amended]

2. Section 1626.7 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b).

§ 1626.9 [Amended]

3. Section 1626.9 is amended by removing the paragraph designation (a) and by removing paragraphs (b) and (c).

4. Section 1626.12 is amended by adding a sentence at the end of the section to read as follows:

§ 1626.12 Conciliation efforts pursuant to section 7(d) of the Act.

* * * Notification under this section is not a Notice of Dismissal or Termination under § 1626.17.

§ 1626.15 [Amended]

5. Paragraph (b) of § 1626.15 is amended by:

- a. removing the second sentence;
- b. removing the words "Such notice will" and adding in their place, the words "Notice of commencement of conciliation will"; and
- c. removing the last two sentences.

§§ 1626.17, 1626.18, 1626.19 [Redesignated as §§ 1626.20, 1626.21, 1626.22]

6. Sections 1626.17, 1626.18 and 1626.19 are redesignated as §§ 1626.20, 1626.21 and 1626.22.

7. A new § 1626.17 is added to read as follows:

§ 1626.17 Notice of Dismissal or Termination.

(a) *Issuance of Notice of Dismissal or Termination.* (1) Where a charge filed with the Commission under the ADEA is dismissed or the Commission's proceedings are otherwise terminated, the Commission will issue a Notice of Dismissal or Termination on the charge as described in paragraph (c) of this section to the person(s) claiming to be aggrieved. In the case of a charge concerning more than one aggrieved person, the Commission will only issue a Notice of Dismissal or Termination when the charge is dismissed or proceedings are otherwise terminated as to all aggrieved persons.

(2) Where the charge has been filed under the ADEA and Title VII or the Americans with Disabilities Act (ADA), the Commission will issue a Notice of Dismissal or Termination under the ADEA at the same time it issues the Notice of Right to Sue under Title VII or the ADA.

(3) The issuance of a Notice of Dismissal or Termination does not

preclude the Commission from offering such assistance to a person receiving the notice as the Commission deems necessary or appropriate. The issuance does not preclude or interfere with the Commission's continuing right to investigate and litigate the same matter or any ADEA matter under its enforcement authority.

(b) *Delegation of authority to issue Notices of Dismissal or Termination.* The Commission hereby delegates authority to issue Notices of Dismissal or Termination, in accordance with this section, to: District Directors; Area Directors; Local Directors; the Director of the Office of Field Programs; the Associate General Counsel for Systemic Investigations and Review Programs; the Director of Field Management Programs, Office of Field Programs; or their designees.

(c) *Contents of the Notice of Dismissal or Termination.* The Notice of Dismissal or Termination shall include:

- (1) A copy of the charge;
- (2) Notification that the proceedings of the Commission have been dismissed or otherwise terminated; and
- (3) Notification that the aggrieved person's right to file a civil action against the respondent on the subject charge under the ADEA will expire 90 days after receipt of such notice.

8. A new § 1626.18 is added to read as follows:

§ 1626.18 Filing of private lawsuit.

(a) An aggrieved person may file a civil action against the respondent named in the charge in either federal or state court under section 7 of the ADEA.

(b) An aggrieved person whose claims are the subject of a timely pending charge may file a civil action at any time after 60 days have elapsed from the filing of the charge with the Commission without waiting for a Notice of Dismissal or Termination to be issued.

(c) The right of an aggrieved person to file suit expires 90 days after receipt of the Notice of Dismissal or Termination.

(d) If the Commission becomes aware that the aggrieved person whose claim is the subject of a pending ADEA charge has filed an ADEA lawsuit against the respondent named in the charge, it may terminate further processing of the charge or portion of the charge affecting that person unless the District Director; Area Director; Local Director; Director of the Office of Field Programs; the Associate General Counsel for Systemic Investigation and Review Programs; the Director of Field Management Programs; or their designees determine at that time or at a later time that it would effectuate

the purpose of the ADEA to further process the charge.

9. A new § 1626.19 is added to read as follows:

§ 1626.19 Filing of Commission lawsuit.

The right of the Commission to file a civil action under the ADEA is not dependent on the filing of a charge and is not affected by the issuance of a Notice of Dismissal or Termination to any aggrieved person.

[FR Doc. 02-20126 Filed 8-9-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 112-0052b; FRL-7253-6]

Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are proposing to approve a local rule that regulates open outdoor fires.

DATE: Any comments on this proposal must arrive by September 11, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North central Avenue, Suite 201, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office(AIR-4),

U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local MCESD Rule 314. In the Rules section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 16, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02-20224 Filed 8-9-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ-106-0062; FRL-7257-6]

Approval and Promulgation of Implementation Plans; Arizona; Motor Vehicle Inspection and Maintenance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve two State Implementation Plan (SIP) revisions submitted by the Arizona Department of Environmental Quality (ADEQ). These revisions consist of several changes that have been made to Arizona's Basic and Enhanced Vehicle Emissions Inspection Programs since the programs were originally approved by EPA. Arizona's Basic Vehicle Emissions Inspection (VEI) Program is implemented in the Tucson Air Planning Area carbon monoxide (CO) nonattainment area (Area B). The Enhanced VEI Program is implemented in the Maricopa County ozone and (CO) nonattainment area (the Phoenix area or Area A). These revisions include a modeling demonstration that shows that the VEI program implemented in Area A meets EPA's high enhanced performance standard for inspection and maintenance (I/M) programs. Also included in these revisions are various program changes including the