

Dated: February 17, 1998.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371.

2. In § 180.222 by amending paragraph (a) by alphabetically adding the following commodity to the table to read as follows:

**§ 180.222 Prometryn; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * * * *	* *
Carrots <sup>1</sup> .....	0.1
* * * * *	* *

<sup>1</sup>There are no U.S. registrations as of February 25, 1998 for use on carrots.

\* \* \* \* \*

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BILLING CODE 6560-50-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**42 CFR Part 50**

**RIN 0930-ZA00**

**Simplification of Grant Appeals Process**

**AGENCY:** HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Pursuant to 42 CFR Part 50, Subpart D, the Indian Health Service (IHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly, the Alcohol, Drug Abuse and Mental Health Administration) have provided an informal level of appeal on those grant related disputes subject to the departmental appeal procedures codified at 45 CFR Part 16.<sup>1</sup> These agencies are proposing by this notice to

amend 42 CFR Part 50, Subpart D, to remove IHS and ADAMHA (now SAMHSA) from the list of agencies to which these informal appeal procedures apply and thus permit aggrieved grantees direct access to the Departmental Grant Appeals Board and that board's original jurisdiction.

**DATES:** Written comment must be received on or before April 27, 1998.

**ADDRESSES:** Written comments on the proposed rule must be sent to Thomas M. Reynolds, Room 13C-20, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** For the Indian Health Service, Ms. M. Kay Carpentier, (301) 443-5204; for the Substance Abuse and Mental Health Services Administration, Thomas M. Reynolds, (301) 443-0179.

**SUPPLEMENTARY INFORMATION:** When the Department first established its Departmental Grant Appeals Board (now the Departmental Appeals Board), there was no provision for the Department's subordinate agencies to first review the disputed actions of officials prior to appeal at the Departmental level. However, it quickly became apparent that a number of disputes could and would, be resolved quickly by informal means if the grantees' complaints were surfaced to management levels within the HHS subordinate agencies. As a result, the regulations at 45 CFR Part 16 were revised to permit subordinate agencies to interpose an "informal" level of appeal prior to submission of an appeal to the Departmental Appeals Board. Various agencies in the Public Health Service (which has since been reorganized) chose to institute an intermediate informal review process as is currently described in 42 CFR Part 50, Subpart D. The intermediate level of appeal provided these agencies with an opportunity to relatively quickly and economically reverse erroneous Federal decisions, or to reassure grantees that a decision adverse to them was indeed an "agency" decision. At the time these regulations were instituted, this informal process was of significant benefit to both grantees and the subordinate agencies. Based on the lessons learned from this process and other means, IHS and SAMHSA instituted a policy of reviewing carefully the adverse determinations of their employees prior to permitting them to be issued so as to avoid erroneous determinations which would be subject to reversal upon appeal at the informal level. These agencies believe that they have reached the point where the adverse determinations being issued

in recent years generally represent their best judgment.

The Department therefore believes that, for these agencies and their grantees, this informal process is no longer of benefit, and the cost in time and expense to the grantee is no longer warranted. Consequently, the Department is proposing to amend 42 CFR part 50, Subpart D, to remove IHS and ADAMHA (now SAMHSA) from the list of Agencies to which the regulations apply. As a result, under this proposal, grantees wishing to appeal IHS's and SAMHSA's eligible adverse determinations would be entitled to appeal such determinations directly to the Departmental Appeals Board. In addition, 42 CFR Part 50, Subpart D, will be revised to reflect organizational changes in the Department, particularly that pertaining to the Public Health Service.

**Economic Impact**

This rule does not have cost implications for the economy of \$100 million or otherwise meet the criteria for a major rule under Executive Order 12291, and therefore does not require a regulation impact analysis. Further, this regulation will not have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

**Regulatory Evaluation**

This Proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order and so has been exempted from review by the Office of Management and Budget under that Order.

**Paperwork Reduction Act**

There are no new paperwork requirements subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1980.

**List of Subjects in 42 CFR Part 50**

Administrative practice and procedure, Grant programs—health, Health care.

Approved: February 18, 1998.

**Donna E. Shalala,**  
*Secretary.*

For the reasons set forth in the preamble, the Department proposes to amend Subpart D of Part 50 of Title 42 of the Code of Federal Regulations as follows:

<sup>1</sup> Section 161 of the ADAMHA Reorganization Act, Pub. L. 102-321 (July 10, 1992), provides that references in any regulations to ADAMHA shall be deemed to refer to SAMHSA and, accordingly, the informal level of appeal is available to SAMHSA's grantees.

**PART 50—[AMENDED]**

1. The authority citation for part 42 continues to read as follows:

**Authority:** Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3(c).

2. Section 50.401 is revised to read as follows:

**§ 50.401 What is the purpose of this subpart?**

This subpart establishes an informal procedure for the resolution of certain postaward grant and cooperative agreement disputes within the agencies and offices identified in § 50.402.

3. Section 50.402 is revised to read as follows:

**§ 50.402 To what programs do these regulations apply?**

This subpart applies to all grant and cooperative agreement programs, except block grants, which are administered by the National Institutes of Health; the Health Resources and Services Administration; The Centers for Disease Control and Prevention; the Agency for Toxic Substances and Disease Registry; the Food and Drug Administration; and the Office of the Assistant Secretary for Public Health and Science. For purposes of this subpart, these entities are hereinafter referred to as "agencies."

4. The third sentence of § 50.403 is revised to read as follows:

**§ 50.403 What is the policy basis for these procedures?**

\* \* \* This subpart provides such an informal preliminary procedure for resolution of disputes in order to preclude submission of cases to the Departmental Appeals Board before an agency identified in § 50.402 has had an opportunity to review decisions of its officials and to settle disputes with grantees.

5. In § 50.404, paragraph (a) introductory text and the first sentence of paragraph (b) are revised to read as follows:

**§ 50.404 What disputes are covered by these procedures?**

(a) These procedures are applicable to the following adverse determinations under discretionary project grants and cooperative agreements (both referred to in this subpart as grants) issued by the agencies identified at § 50.402:

\* \* \* \* \*

(b) A determination subject to this subpart may not be reviewed by the review committee described in § 50.405 unless an officer or employee of the agency has notified the grantee in writing of the adverse determination.

\* \* \*

6. In § 50.405 the second sentence is removed and the first sentence is revised to read as follows:

**§ 50.405 What is the structure of the review committees?**

The head of the agency, or his or her designee, shall appoint review committees to review adverse determinations made by officials for programs under this jurisdiction. \* \* \*

7. In § 50.406, paragraphs (a), (c), (d) and (g), and the first sentence of (e) are revised to read as follows:

**§ 50.406 What are the steps in the process?**

(a) A grantee with respect to whom an adverse determination described in § 50.404(a) has been made and who desires a review of that determination must submit a request for such review to the head of the appropriate agency or his or her designee no later than 30 days after the written notification of the determination is received, except that if the grantee shows good cause why an extension of time should be granted, the head of the appropriate agency or his or her designee may grant an extension of time.

\* \* \* \* \*

(c) When a request for review has been filed under this subpart with respect to an adverse determination, no action may be taken by the awarding agency pursuant to such determination until the request has been disposed of, except that the filing of the request shall not affect any authority which the agency may have to suspend assistance or otherwise to withhold or defer payments under the grant during proceedings under this subpart. This paragraph does not require the awarding agency to provide continuation funding during the appeal process to a grantee whose noncompeting continuation award has been denied.

(d) Upon receipt of a request for review, the head of the agency or his or her designee will make a decision as to whether the dispute is reviewable under this subpart and will promptly notify the grantee and the office responsible for the adverse determination of this decision. If the head of the agency or his or her designee determines that the dispute is reviewable, he or she will forward the matter to the review committee appointed under § 50.405.

(e) The agency involved will provide the review committee appointed under § 50.405 with copies of all relevant background materials (including applications(s), award(s), summary statement(s), and correspondence) and

any additional pertinent information available. \* \* \*

\* \* \* \* \*

(g) The review committee may, at its discretion, invite the grantee and/or the agency staff to discuss the pertinent issues with the committee and to submit such additional information as the committee deems appropriate.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[I.D. 021798A]

**Fisheries of the Northeastern United States; Northeast Multispecies; Atlantic Sea Scallops; Atlantic Salmon**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of intent to prepare supplemental environmental impact statements (SEISs) and request for scoping comments.

**SUMMARY:** The New England Fishery Management Council (Council) announces its intention to prepare, in cooperation with NMFS, environmental impact statements to assess the potential effects on the human environment of management measures to bring the fishery management plans for Northeast Multispecies, Atlantic Sea Scallops, and Atlantic Salmon (FMPs) into compliance with the Magnuson-Stevens Fishery Conservation and Management Act as amended by the Sustainable Fisheries Act (SFA).

The Council plans to amend these FMPs to possibly include, but not be limited to, the following: Revise overfishing definitions based on achieving maximum sustainable yield (MSY), stock rebuilding targets and programs, designations and recommendations for preserving essential fish habitat (EFH), and measures to monitor and to minimize, to the extent practicable, bycatch and bycatch mortality.

The Council will develop the amendments through a series of publicly announced meetings together with its Multispecies, Sea Scallop, and Habitat Oversight Committees, Advisory Panels, and Plan Development Teams. Separate notices of intent already have