

agricultural commodities and in processed commodities, when such residues result from the use of decanoic acid as an antimicrobial treatment in solutions containing a diluted end-use concentration of decanoic acid (up to 170 ppm per application) on food contact surfaces such as equipment, pipelines, tanks, vats, fillers, evaporators, pasteurizers and aseptic equipment in restaurants, food service operations, dairies, breweries, wineries, beverage and food processing plants. [FR Doc. 03-3843 Filed 2-18-03; 8:45 am]

BILLING CODE 6560-50-S

DEPARTMENT OF ENERGY

41 CFR Part 109-6

RIN 1991-AB61

Official Use of Government Passenger Carriers Between Residence and Place of Employment

ACTION: Final rule.

AGENCY: Office of Management, Budget and Evaluation, Department of Energy (DOE).

SUMMARY: The Department of Energy publishes a final rule to remove from the DOE Property Management Regulation (DOE-PMR) certain overly broad restrictions regarding the use of government passenger carriers between an employee's residence and place of employment, and to update references to the Federal Management Regulation.

EFFECTIVE DATE: This rule is effective February 19, 2003.

FOR FURTHER INFORMATION CONTACT: Stephen J. Michelsen, Director, Office of Resource Management, Office of Procurement and Assistance Management, Department of Energy, (202) 586-1368, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The DOE-PMR at 41 CFR 109-6.4 sets forth rules that apply to the use of Government passenger carriers between a DOE employee's residence and place of employment. Section 109-6.402(b) restricts such use to the Secretary of Energy and persons "engaged in field work," as determined by the Secretary. DOE today is eliminating this restriction from the DOE-PMR because it prevents certain uses by employees of Government passenger carriers between residence and place of employment that are authorized by statute and the implementing Federal Management Regulation. Other uses authorized by 31 U.S.C. 1344 include, but are not limited to: use by an officer or employee with

regard to which the Secretary, has determined, that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business; use by a single principal deputy to the Secretary if the Secretary determines appropriate; and use, when approved by the Secretary, by officers or employees when essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties. The rule being promulgated today harmonizes the DOE-PMR with the relevant statutory authority and allows Government vehicles to be used in the manner authorized by the statute. In addition, this rule updates DOE-PMR, 41 CFR 109-6.4, by replacing obsolete references to sections of the Federal Management Regulation which was revised in 2000 (65 FR 54966, September 12, 2000).

This rule is being promulgated as a final rule, without providing for a public comment period, or a 30 day effective date because it addresses a matter relating to agency management or personnel or to public property and therefore is not subject to the notice and comment requirements of the Administrative Procedures Act. *See* 5 U.S.C. 553(a).

Regulatory Review

A. Review Under Executive Order 12866

This final rule has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this final rule is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Agency to assess the effects of Federal regulatory action on State, local, and tribal governments and the private sector. DOE has determined that today's regulatory action would not impose a Federal mandate on State, local, or tribal governments or on the private sector.

C. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice

Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive Agencies to review regulations in light of applicable standards in section 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

D. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Public Law 96-354, requires preparation of a regulatory flexibility analysis for any rule which is subject to notice and comment rulemaking requirements. As noted above, this rule addresses a matter relating to agency management or personnel or to public property and maybe is not subject to the notice and comment requirements of the Administrative Procedures Act.

E. Review Under Paperwork Reduction Act

No new information collection requirements subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are imposed by today's regulatory action.

F. Review Under the National Environmental Policy Act

This rule eliminates certain restrictions on the official use of government passenger carriers by DOE employees between residence and place of employment. Implementation of this rule will not result in environmental