

PRIORITY SETTING

§ 1990.121 Candidate list of potential occupational carcinogens.

(a) *Contents.* The Secretary shall prepare a list of substances (the "Candidate List") which are reported to be present in any American workplace and which, on the basis of a brief scientific review of available data, may be considered candidates for further scientific review and possible regulation as Category I Potential Carcinogens or Category II Potential Carcinogens. For the purposes of this paragraph, "available data" means:

(1) The data submitted by any person;

(2) Any data referred to by the Secretary of HHS or by the Director of NIOSH, either in the latest list entitled "Suspected Carcinogens" or any other communication;

(3) Literature referred to in U.S. Public Health Service, Publication No. 149;

(4) Data summarized and reviewed in Monographs of the International Agency for Research on Cancer (IARC) of the World Health Organization;

(5) The Toxic Substances Control Act Inventory of Chemical Substances, published by the Administrator of EPA;

(6) The Secretary of HHS's Annual Report to the President and the Congress as required by the Community Mental Health Centers Extension Act of 1978, section 404(a)(9), 42 U.S.C. 285.

(7) Any other relevant data of which the Secretary has actual knowledge.

(b) *Tentative classification.* The Secretary may tentatively designate substances on the Candidate List as candidates for classification as Category I Potential Carcinogens or as Category II Potential Carcinogens, or may list substances without a tentative designation, based on the brief scientific review of available data for the purpose of initiating a more extensive scientific review.

(c) *No legal rights established.* The inclusion or exclusion of any substance from the Candidate List shall not be subject to judicial review nor be the basis of any legal action, nor shall the exclusion of any substance from the list prevent the regulation of that substance as a potential occupational car-

cinogen. The inclusion of a substance on the Candidate List and its possible tentative designation as a Category I Potential Carcinogen or a Category II Potential Carcinogen therein do not reflect a final scientific determination that the substance is, in fact, a Category I Potential Carcinogen or a Category II Potential Carcinogen. It is a policy determination based on the brief scientific review that the Secretary should conduct a thorough review of all relevant scientific data concerning the substance.

EFFECTIVE DATE NOTE: At 48 FR 243, Jan. 4, 1983, in § 1990.121, paragraphs (a) and (b) were stayed in order to evaluate the impact of publishing the Candidate Lists and Priority List and to reconsider the criteria used in establishing the lists (see also 47 FR 187, Jan. 5, 1982).

§ 1990.122 Response to petitions.

Whenever the Secretary receives any information submitted in writing by any interested person concerning the inclusion or omission of any substance from the Candidate List, the Secretary shall briefly review the information and any other available data, as defined in § 1990.121(a). The results of the Secretary's review shall be transmitted to the petitioner, together with a short statement of the Secretary's reasons therefor, and made public upon request.

EFFECTIVE DATE NOTE: At 48 FR 243, Jan. 4, 1983, § 1990.122 was stayed in order to evaluate the impact of publishing the Candidate List and Priority Lists and to reconsider the criteria used in establishing the lists (see also 47 FR 187, Jan. 5, 1982).

§ 1990.131 Priority lists for regulating potential occupational carcinogens.

The Secretary shall establish two priority lists for regulating potential occupational carcinogens. One list should include approximately ten (10) candidates for rulemaking as Category I Potential Carcinogens; the other approximately ten (10) candidates for rulemaking as Category II Potential Carcinogens. The order of placement of substances on these lists will not reflect the Secretary's determination of the exact order in which these substances should be regulated in rulemaking proceedings but rather a policy