to be replicated by an Eastern Bloc country. The Wassenaar Arrangement (WA), the successor to COCOM, was established to address post-Cold War security concerns. However, the Cold War-inspired ''use'' definition was adopted by WA without revision and subsequently included in Part 772 of the EAR.

The OIG highlighted inconsistent interpretations of ''use'' that exist throughout industry, academia, and within BIS. However, a regulatory revision of the definition of ''use'' from the conjunctive to the disjunctive is not the most appropriate vehicle for resolving disparate interpretations. Instead, BIS is clarifying that the definition of ''use'' is properly read in the conjunctive. This clarification resolves the inconsistency suggested by the OIG Report and restates a coherent, bright line rule, which will resolve any misunderstanding and increase compliance with the regulations.

Regulatory Guidance Related to Fundamental Research

As noted in many of the comments, there has been some misapprehension as to the scope of the existing regulations as they relate to academic and research institutions. While the domain of items subject to the EAR is large, it is not infinite. There are four broad classes of items that are not subject to the EAR: (1) Items controlled for export exclusively by another agency of the U.S. government, (2) products such as books, movies, magazines, and recordings; (3) publicly available technology and software; and (4) foreign-made items that have less than a *de minimis* percentage of controlled U.S. content.

Although the OIG Report refers to an ''exemption'' for fundamental research, the EAR generally does not refer to items or activities that are not subject to the EAR as ''exemptions.'' As outlined in Part 734, items and activities are either subject to the EAR or they are not subject to the EAR. (See 15 CFR 734.2 & 734.3) In Part 734, the EAR addresses the jurisdictional scope of fundamental research and sets forth specific parameters and limitations that would take such activities and products resulting from fundamental research outside of the scope of the EAR.

Section 734.8 states that the information resulting from fundamental research is usually not subject to the EAR if the intent is to make the information resulting from the fundamental research publicly available. As such, a product of basic and applied fundamental research would often be captured within the broader category of items that are ''publicly available,'' and thus is not subject to the EAR. Such research can be distinguished from proprietary research and from research related to industrial development, design, and production, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons. (See 15 CFR 734.8(a) & 734.11(b)).

It is essential to distinguish the information or product (which may be in the form of a scientific paper or publication that describes and/or details the results of the fundamental research) that results from fundamental research from the conduct that occurs within the context of the fundamental research. While the product of the fundamental research is not subject to the EAR because the results of that research are intended for publication and dissemination within the scientific community, authorization may be required if during the conduct of the research controlled technology is released to a foreign national.

The regulated community has expressed concern that the deemed export rule is inconsistent with National Security Decision Directive 189 (NSDD–189). The stated purpose of NSDD–189 is as follows:

> ''This directive establishes national policy for controlling the flow of science, technology and engineering information produced in federally funded fundamental research at colleges, universities, and laboratories. Fundamental research is defined as follows:
>
> 'Fundamental research' means basic and applied research in science and engineering, the *results of which ordinarily are published and shared broadly* within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.'' (*Emphasis added*) (NSDD–189, section II, Policy)

The description of fundamental research found in Section 734.8 of the EAR closely mirrors this section of NSDD–189. Further, the directive clarifies that the product that results from fundamental research is distinct from the conduct involved in the research itself. NSDD–189 also distinguishes proprietary research from basic and applied research.

The regulated community has expressed concerns that license requirements within the EAR for the release of controlled technologies to foreign nationals from countries of concern are in opposition to the Administration's stated policy with respect to fundamental research. However, NSDD–189 expressly notes that the United States government may place restrictions on the release of controlled information. The pertinent section of NSDD–189 states as follows:

> ''No restriction may be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, *except as provided in applicable U.S. Statutes.*'' (*Emphasis added*) (NSDD–189, section II, Policy)

The Export Administration Act (EAA) and the International Emergency Economic Powers Act (IEEPA), the principal statutes authorizing dual-use export controls, constitute applicable U.S. statutes within the meaning of NSDD–189. Pursuant to the EAA, the EAR implement U.S. government restrictions related to fundamental research when the conduct of the research involves the transfer of controlled technologies to foreign nationals. As such, there is no inconsistency between the technology controls listed in the EAR and the type of restrictions on fundamental research specified in NSDD–189.

Based on the extensive and varied public comments received, BIS has concluded that expanded outreach is required to clarify the guidance provided in the questions and answers in Supplement 1 to Part 734 of the EAR. Furthermore, as indicated by the findings of the OIG, the extensive and varied response to the ANPR, and the number of questions and issues that have been raised in recent outreach efforts, it is apparent that an expanded outreach program must be supplemented by a collaborative effort between BIS and the regulated community to ensure that the deemed export policy is consistent with evolving technologies and national security concerns.

Dated: May 24, 2006.

Matthew Borman,

Deputy Assistant Secretary of Commerce for Export Administration.

[FR Doc. E6–8370 Filed 5–30–06; 8:45 am]

BILLING CODE 3510–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–NM–0003; FRL–8175–5]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve two separate State Implementation Plan (SIP) revisions submitted by the Governor of New Mexico. The first submittal, dated September 7, 2004, adopts local Ambient Air Quality Standards (AAQS) and incorporates by reference the Federal National AAQS for the Albuquerque/Bernalillo County, New Mexico area. The second submittal, dated July 28, 2005, revises the Variance Procedure for the Albuquerque/Bernalillo County, New Mexico area. We are proposing to approve these two separate SIP revisions in accordance with the requirements of the Clean Air Act, section 110.

DATES: Written comments must be received on or before June 30, 2006.

ADDRESSES: Comments may be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733 at (214) 665–6691, or *shar.alan@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: May 19, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 06–4920 Filed 5–30–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0123; FRL–8061–7]

Inorganic Bromide; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is announcing that 12 specific inorganic bromide tolerances have been reassessed and is proposing to revoke them because they are no longer needed. These twelve tolerances are for residues of inorganic bromide from pre-plant (non-food) use in or on raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide. Although methyl bromide is used as an agricultural pesticide, the Agency considers its application as a soil fumigant to be a non-food use because it is quickly degraded or metabolized in the soil, and subsequently incorporated into natural plant constituents.Methyl bromide is also emitted to the atmosphere. Residues of the parent compound are not likely to be found in foods as a result of prior treatment of fields. While residues of inorganic bromide may be present, these residues are indistinguishable from background because of inorganic bromide's ubiquity in the environment. In addition, the Agency has concluded that inorganic bromide residue from such use is not of risk concern and has determined those twelve tolerances to be safe. Consequently, EPA is proposing to revoke them because no tolerances are needed for those non-food uses and the Agency considers these tolerances to be reassessed. Furthermore, since methyl bromide, when applied as a pre-plant soil fumigant is a non-food use, it should be added as an entry to 40 CFR 180.2020 noting the non-food use determination. The regulatory actions proposed in this document contribute toward the Agency's tolerance reassessment requirements under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory actions proposed in this document pertain to the proposed revocation of 12 tolerances that count as tolerance reassessments toward the August 2006 review deadline.

DATES: Comments must be received on or before July 31, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0123, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building); 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0123. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in