

(5) Whether the molecular structure of the substance is similar to the molecular structure of another substance which meets the definition of a potential occupational carcinogen;

(6) Whether there are substitutes that pose a lower risk of cancer or other serious human health problems, or available evidence otherwise suggests that the social and economic costs of regulation would be small; and

(7) OSHA will also consider its responsibilities for dealing with other health and safety hazards and will consider the actions being taken or planned by other governmental agencies in dealing with the same or similar health and safety hazards.

§ 1990.133 Publication.

(a) The Secretary shall publish the Candidate List in the FEDERAL REGISTER at least annually.

(b) The Secretary shall publish the Priority Lists in the FEDERAL REGISTER at least every six months and may seek public comment thereon.

(c) The Secretary may periodically publish in the FEDERAL REGISTER a notice requesting information concerning the classification and establishment of priorities for substances on the Candidate List together with a brief statement describing the type of information being sought.

EFFECTIVE DATE NOTE: At 48 FR 243, Jan. 4, 1983, § 1990.133 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).

REGULATION OF POTENTIAL
OCCUPATIONAL CARCINOGENS

§ 1990.141 Advance notice of proposed rulemaking.

(a) Within thirty (30) days after OSHA initiates a study concerning the economic and/or technological feasibility of specific standards that might be applied in the regulation of a potential occupational carcinogen, the Secretary will normally publish, in the FEDERAL REGISTER, a notice which includes at least the following:

- (1) The name of the substance(s),
- (2) The scope of the study, including where possible,

- (i) Affected industries,
- (ii) Levels of exposure being studied,
- (iii) The anticipated completion date of the study;

(3) A brief summary of the available data on health effects;

(4) An estimate of when the Secretary anticipates the issuance of a proposal;

(5) An invitation to interested parties to provide relevant information;

(6) A statement that persons wishing to provide OSHA with their own study should complete it within 30 days after the anticipated proposal date; and

(7) A statement of the procedural requirements that must be met before substantial new issues or substantial new evidence will be considered in the proceeding pursuant to § 1990.145.

(b) Where the Secretary determines to discontinue a feasibility study, the Secretary should publish, within 30 days, a notice in the FEDERAL REGISTER so indicating.

§ 1990.142 Initiation of a rulemaking.

Where the Secretary decides to regulate a potential occupational carcinogen, the Secretary shall initiate a rulemaking proceeding in accordance with one of the following procedures, as appropriate.

(a) *Notice of proposed rulemakings (section 6(b) of the Act)*—(1) *General.* The Secretary may issue a notice of proposed rulemaking in the FEDERAL REGISTER, pursuant to section 6(b) of the Act and part 1911 of this chapter. The notice shall provide for no more than a sixty (60) day comment period, and may provide for a hearing, which shall be scheduled for no later than one hundred (100) days after publication of the Notice of Proposed Rulemaking. The commencement of the hearing may be postponed once, for no more than thirty (30) days, for good cause shown.

(2) *Provisions of the proposed standard for Category I Potential Carcinogens.* Whenever the Secretary issues a notice of proposed rulemaking to regulate a substance as a Category I Potential Carcinogen:

- (i) The proposed standard shall contain at least provisions for scope and application, definitions, notification of use, a permissible exposure limit, monitoring, regulated areas, methods of