

(b) The inventories are for the ozone precursors which are volatile organic compounds, nitrogen oxides, and carbon monoxide. The inventories cover point, area, non-road mobile, on-road mobile, and biogenic sources.

(c) The BTR nonattainment area is classified as Serious and includes Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge Parishes; the CAL nonattainment area is classified as Marginal and includes Calcasieu Parish.

[FR Doc. 95-6299 Filed 3-14-95; 8:45 am]

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#### 40 CFR Part 61

[FRL-5169-9]

#### Approval of Delegation of Authority; National Emission Standards for Hazardous Air Pollutants; Radionuclides; Utah

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is granting delegation of authority to the State of Utah to implement and enforce five National Emission Standards for Hazardous Air Pollutants (NESHAP) for radionuclides. The Governor of Utah requested delegation from EPA Region VIII in a letter dated June 4, 1993. EPA has reviewed the application and has reached a decision that the State of Utah has satisfied all of the requirements necessary to qualify for approval of delegation. The effect of this action allows the State of Utah to implement and enforce specific radionuclide NESHAP.

**DATES:** This action is effective May 15, 1995 unless adverse comments are received by April 14, 1995. If the effective date is delayed due to comments, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be submitted to Patricia D. Hull, Director, Air, Radiation & Toxics Division, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466 and concurrently to Russell A. Roberts, Director, Division of Air Quality, Department of Environmental Quality, 1950 West North Temple, Salt Lake City, Utah 84114-4820. A docket containing the State of Utah's submittals are available for public inspection during normal business hours at the above locations.

**FOR FURTHER INFORMATION CONTACT:** T. Scott Whitmore at (303) 293-1758.

#### SUPPLEMENTARY INFORMATION:

##### Background

Due to the unique nature of radionuclide materials, delegation of authority to states to implement and enforce a NESHAP program for radionuclides has not been automatic. EPA's regional offices have traditionally assumed the lead responsibility for administering the radionuclides NESHAP. Because of the EPA Administrator's commitment to enable state and local governments, as partners, to implement and enforce the requirements of the Clean Air Act as amended in 1990 (CAA), EPA wishes to extend delegated authority for the radionuclides program to the states.

The State of Utah received financial assistance from EPA to develop the radiation expertise and experience in implementing and enforcing an effective radionuclides NESHAP program. Under a radionuclides NESHAP grant workplan, the Department of Environmental Quality, State of Utah, has developed an approvable program which includes the following regulatory elements: emission limits, test methods, reporting and monitoring requirements, enforcement authority, surveillance and public notification procedures. Accordingly, the Governor of Utah submitted a letter, dated June 4, 1993, requesting delegation of authority to implement and enforce the radionuclides NESHAP, 40 CFR part 61, subparts B, Q, R, T, and W.

As required by 40 CFR 63.91(a)(2), the EPA is seeking public comments for 30 days. The comments shall be submitted concurrently to the State of Utah and to EPA. The State of Utah can then submit a response to the comments to EPA.

EPA is approving the State of Utah's request for delegation as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to this rule, this **Federal Register** document will serve as the final notice of the approval to delegate the implementation and enforcement of this program. The effective date will be 60 days from the date of this publication and no further activity will be contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the accompanying proposed rule which appears in the Proposed Rule Section of this **Federal Register**. However, EPA will not institute a second comment period on this action. Any parties

interested in commenting on this action should do so at this time.

##### Final Action

EPA has reviewed the pertinent statutes and regulations of the State of Utah and the grant workplan accomplishments and has determined that the State of Utah meets all of the statutory and regulatory requirements established by Section 112 of the Clean Air Act as amended in 1990 for the implementation and enforcement of the radionuclides NESHAP. Therefore pursuant to section 112(l) of the Clean Air Act as amended in 1990, 42 U.S.C. 7412(l), and 40 CFR 63.91, EPA hereby delegates its authority for the implementation and enforcement of the following National Emission Standards for Radionuclides for all sources located, or to be located in the State of Utah:

(1) National Emission Standards for Radon Emissions from Underground Uranium Mines (40 CFR part 61, subpart B),

(2) National Emission Standards for Radon Emissions from Department of Energy Facilities (40 CFR part 61, subpart Q),

(3) National Emission Standards for Radon Emissions from Phosphogypsum Stacks (40 CFR part 61, subpart R),

(4) National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings (40 CFR part 61, subpart T). Note that subpart T was amended on July 15, 1994 (59 FR 36283) and now only applies to unlicensed disposal sites that are under the control of the Department of Energy.

(5) National Emission Standards for Radon emissions from Operating Mill Tailings (40 CFR part 61, subpart W).

Not all authorities for the NESHAP can be delegated to the state. The EPA Administrator retains authority to implement those sections of the NESHAP that require approval of equivalency determinations and alternative test methods, decision-making to ensure national consistency, and EPA rulemaking to implement including but not limited to the following provisions of 40 CFR part 61:

(1) 40 CFR 61.04(b), which pertains to permitting the submission of reports to the state only, instead of EPA and the state,

(2) 40 CFR 61.12(d)(1), which pertains to permitting an alternative means of emission limitation,

(3) 40 CFR 61.13(h)(1)(ii), which pertains to approval of the use of an alternative method of emission tests.

As the radionuclides NESHAP are updated, Utah should revise its rules

and regulations accordingly and in a timely manner.

EPA retains concurrent enforcement authority. If at any time there is a conflict between the state and federal regulations, the federal regulations must be applied if they are more stringent than the state regulations.

Note that the only NESHAP for radionuclides for which Utah did not request delegation and for which Utah may presently have sources is 40 CFR part 61, subpart I, National Emission Standards for Radionuclide Emissions from Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities Not Covered by subpart H. Subpart I was stayed by EPA. The stay expired on November 15, 1992 and

subpart I reporting began on March 31, 1994.

Effective May 15, 1995 all notices, reports, and other correspondence required under subparts B, Q, R, T, and W should be sent to the State of Utah rather than to EPA Region VIII, Denver, Colorado.

**List of Subjects in 40 CFR Part 61**

Environmental protection, Air pollution control, Intergovernmental relations, Radiation protection.

Dated: February 23, 1995.

**Kerrigan Clough,**

*Acting Regional Administrator, Region VIII.*

For reasons set forth in the preamble, 40 CFR part 61 is amended as follows:

**PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**

1. The authority citation for part 61 continues to read as follows:

**Authority:** 42 U.S.C. 7412.

**Subpart A—General Provisions**

2. Section 61.04 is amended by revising paragraph (c) to read as follows:

**§ 61.04 Address.**

\* \* \* \* \*  
(c) \* \* \*

**REGION VIII.—DELEGATION STATUS OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS<sup>1</sup>**

Subpart	CO	MT <sup>2</sup>	ND <sup>2</sup>	SD <sup>2</sup>	UT <sup>2</sup>	WY
A—General Provisions .....	(*)	(*)	(*)	(*)	(*)	(*)
B—Radon Emissions from Underground Uranium Mines .....					(*)	(*)
C—Beryllium .....	(*)	(*)	(*)		(*)	(*)
D—Beryllium Rocket Motor Firing .....	(*)	(*)	(*)		(*)	(*)
E—Mercury .....	(*)	(*)	(*)		(*)	(*)
F—Vinyl Chloride .....	(*)	(*)	(*)		(*)	(*)
H—Emissions of Radionuclides other than Radon from Department of Energy Facilities .....						
I—Radionuclide Emissions from Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not covered by Subpart H .....						
J—Equipment Leaks (Fugitive Emission Sources) of Benzene .....	(*)	(*)	(*)		(*)	
K—Radionuclide Emissions from Elemental Phosphorus Plants .....						
L—Benzene Emissions from Coke By-Product Recovery Plants .....		(*)	(*)		(*)	
M—Asbestos .....	(*)	(*)	(*)	(*)	(*)	<sup>3</sup> (*)
N—Inorganic Arsenic Emissions from Glass Manufacturing Plants .....		(*)	(*)		(*)	
O—Inorganic Arsenic Emissions from Primary Copper Smelters .....		(*)	(*)		(*)	
P—Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities .....		(*)	(*)		(*)	
Q—Radon Emissions from Department of Energy Facilities .....					(*)	
R—Radon Emission from Phosphogypsum Stacks .....					(*)	
T—Radon Emissions from the Disposal of Uranium Mill Tailings .....					(*)	
V—Equipment Leaks (Fugitive Emission Sources) .....		(*)	(*)		(*)	
W—Radon Emissions from Operating Mill Tailings .....					(*)	
Y—Benzene Emissions from Benzene Storage Vessels ..		(*)	(*)		(*)	
BB—Benzene Emission from Benzene Transfer Operations .....		(*)	(*)		(*)	
FF—Benzene Waste Operations .....		(*)			(*)	

(\*) Indicates approval of delegation of subpart to state.

<sup>1</sup> Authorities which may not be delegated include 40 CFR 61.04(b), 61.12(d)(1), 61.13(h)(1)(ii), 61.112(c), 61.164(a)(2), 61.164(a)(3), 61.172(b)(2)(ii)(B), 61.172(b)(2)(ii)(C), 61.174(a)(2), 61.174(a)(3), 61.242-1(c)(2), 61.244, and all authorities listed as not delegable in each subpart under Delegation of Authority.

<sup>2</sup> Indicates approval of National Emission Standards for Hazardous Air Pollutants as part of the State Implementation Plan (SIP) with the exception of the radionuclide NESHAP Subparts B, Q, R, T, W which were approved through Section 112(l) of the Clean Air Act.

<sup>3</sup> Delegation only for asbestos demolition, renovation, spraying, manufacturing, and fabricating operations, insulating materials, waste disposal for demolition, renovation, spraying, manufacturing and fabricating operations, inactive waste disposal sites for manufacturing and fabricating operations, and operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material.

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**40 CFR Part 180**

[PP 4F4373/R2113; FRL-4940-9]

RIN 2070-AB78

**Pesticide Tolerance for Avermectin B<sub>1</sub> and Its Delta-8,9-Isomer**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This document establishes tolerances for residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer in or on the raw agricultural commodity head lettuce. Merck Research Laboratories requested this regulation to establish maximum permissible levels for residues of the insecticide.

**EFFECTIVE DATE:** This regulation becomes effective March 15, 1995.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 4F4373/R2113], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

**FOR FURTHER INFORMATION CONTACT:** By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: LaRocca.George@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the **Federal Register** of May 29, 1991 (56 FR 24189), which announced that Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc.,

Hillsborough Rd., Three Bridges, NJ 08887, had submitted a pesticide petition (PP 1F3973) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for residues of the pesticide abamectin (same as avermectin B<sub>1</sub>) and its delta-8,9-isomer in or on the raw agricultural commodities (RAC) lettuce at 0.05 part per million (ppm) and almonds and walnuts at 0.005 ppm.

In a letter dated June 9, 1994, Merck Research Laboratories requested a separation of PP 1F3973 into two distinct petitions. Almonds and walnuts were to be processed under PP 1F3973, and head lettuce was assigned a new petition number, PP 4F4373. No comments were received on the notice of filing (56 FR 24189, May 29, 1991).

The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of these tolerances are discussed in detail in related documents published in the **Federal Registers** of May 31, 1989 (54 FR 23209) for cottonseed and August 2, 1989 (54 FR 31836) for citrus.

The Agency used a two-generation rat reproduction study with an uncertainty factor of 300 to establish a Reference Dose (RfD). The 300-fold uncertainty factor was utilized for (1) inter- and intra-species differences, (2) the extreme seriousness of pup death observed in the reproduction study, (3) maternal toxicity (lethality) no-observable-effect level (NOEL)(0.05 mg/kg/day), and (4) cleft palate in the mouse developmental toxicity study with isomer (NOEL = 0.06 mg/kg/day). Thus, based on a NOEL of 0.12 mg/kg/day from the two-generation rat reproduction and an uncertainty factor of 300, the RfD is 0.0004 mg/kg/body weight (bwt)/day.

A chronic dietary exposure/risk assessment has been performed for abamectin using the above RfD. Available information on anticipated residues and 100% crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance-level residues. The ARC from established tolerances and the current action is estimated at 0.000022 mg/kg bwt/day and utilizes 5.4 percent of the RfD for the U.S. population. The ARC for children, aged 1 to 6 years old, and nonnursing infants (subgroups most highly exposed) utilizes 13 and 18 percent of the RfD, respectively.

Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

Because of the developmental effects seen in animal studies, the Agency used the mouse teratology study (with a NOEL of 0.06 mg/kg/day for developmental toxicity for the delta-8,9 isomer) to assess acute dietary exposure and determine a margin of exposure (MOE) for the overall U.S. population and certain subgroups. Since the toxicological end-point pertains to developmental toxicity, the population group of interest for this analysis is women aged 13 and above, the subgroup which most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOEL to the exposure. For this analysis, the Agency calculated the MOE for high-end exposures for women ages 13 and above. The MOE for the high-end exposure is 200. Generally speaking, MOEs greater than 100 for data derived from animal studies are acceptable to the Agency.

The metabolism of the chemical in plants and livestock for this use is adequately understood. Any secondary residues occurring in meat, meat byproducts, or milk will be covered by existing tolerances for those commodities. There is no reasonable expectation of finite residues in poultry and swine commodities; therefore, no tolerances are necessary at this time. Adequate analytical methodology (HPLC-Fluorescence Methods) is available for enforcement purposes. Prior to publication in the **Pesticide Analytical Manual, Vol. II**, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-304-5232.

The tolerances established by amending 40 CFR part 180 will be adequate to cover residues in or on lettuce. There are currently no actions pending against the continued registration of this chemical. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.