112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the state's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of West Virginia's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. This program for delegations only applies to sources covered by the Part 70 program.

Additionally, EPA is promulgating approval of West Virginia's 45CSR30 operating permits program, 45CSR13 and 45CSR14 preconstruction permit programs, and authority under W. Va Code § 22–5–4(a)(5) to issue administrative orders, under the authority of Title V and Part 70 for the purpose of implementing section 112(g) if necessary during the transition period between promulgation of the federal section 112(g) rule and adoption of state rules to implement EPA's section 112(g) regulations. However, since this approval is for the purpose of providing a mechanism to implement section 112(g) during the transition period, the approval of these mechanisms for this purpose will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until state regulations are adopted. Although section 112(l) generally provides the authority for approval of state air toxics programs, Title V and section 112(g) provide authority for this limited approval because of the direct linkage between implementation of section 112(g) and Title V. Unless the federal section 112(g) rule establishes a specific timeframe for the adoption of state rules, the duration of this approval is limited to 24 months following promulgation by EPA of section 112(g) regulations, to provide West Virginia with adequate time to adopt regulations consistent with federal requirements.

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

EPA has determined that this final interim approval action does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action, promulgating interim approval of West Virginia's operating permits program, approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 8, 1995.

Stanley L. Laskowski,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for West Virginia in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

West Virginia

(a) Department of Commerce, Labor and Environmental Resources: submitted on November 12, 1993, and supplemented by the Division of Environmental Protection on August 26 and September 29, 1994; interim approval effective on December 15, 1995; interim approval expires December 15, 1997.

(b) (Reserved)

* * * * *

[FR Doc. 95–28211 Filed 11–14–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[NC–95–01; FRL–5332–2]

Clean Air Act Final Interim Approval Of Operating Permits Program; State of North Carolina, Western North Carolina, Forsyth County, and Mecklenburg County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: EPA is promulgating interim approval of the operating permit program submitted by the State of North Carolina Department of Health (DEHNR), Western North Carolina Regional Air Pollution Control Agency (WNCRAPCA), Forsyth County Department of Environmental Affairs (FCDEA), and Mecklenburg County Department of Environmental Protection (MCDEP) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: December 15, 1995.

ADDRESSES: Copies of the North Carolina State and local agency submittals and the other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365. Interested persons wanting to examine these documents, contained in EPA docket number NC–95–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Scott Miller, Title V Program Development Team, Air Programs Branch, Air Pesticides & Toxics Management Division, U.S. EPA Region 4, 345 Courtland Street NE., Atlanta, GA 30365, (404) 347–3555 extension 4153.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (the Act) and the implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. If the State or local agency submittals are changed during the one-year review period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following

receipt of additional materials. EPA received the North Carolina State and local agency submittals on November 12, 1993. The State and local agencies provided EPA with additional materials in supplemental submittals dated December 17, 1993; February 28, 1994; May 31, 1994; and August 9, 1995. Because the supplements materially changed the State and local agency title V program submittals, EPA extended the one-year review period.

EPA reviews state and local operating permit programs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permit program for the state or local agency.

On August 29, 1995, EPA proposed interim approval of the operating permits program for the DEHNR, WNCRAPCA, FCDEA, and MCDEP. *See* 60 FR 44805. The August 29, 1995 notice also proposed approval of the DEHNR, WNCRAPCA, FCDEA, and MCDEP interim mechanism for implementing section 112(g) and for delegation of section 112 standards and programs that are unchanged from the Federal rules as promulgated. Public comment was solicited on these proposed actions. In this document, EPA is responding to the comments received and taking final action to promulgate interim approval of the North Carolina State and local operating permit programs.

II. Final Action and Implications

A. Analysis of State Submission and Response to Public Comments

On August 29, 1995, EPA proposed interim approval of the DEHNR, WNCRAPCA, FCDEA, and MCDEP title V operating permit programs. *See* 60 FR 44805. The program elements discussed in the proposal notice are unchanged from the proposal notice and continue to substantially meet the requirements of title V and part 70. For detailed information on EPA's analysis of North Carolina State and local program submittals, please refer to the Technical Support Document (TSD) contained in the docket at the address noted above.

EPA received one letter during the 30-day public comment period held on the proposed interim approval of the North Carolina State and local agency programs. The commenter requests that EPA extend the title V permit application submittal deadline for at least two years from the effective date of approval for the DEHNR, WNCRAPCA, FCDEA, and MCDEP due to the complexity and evolving nature of the title V program. The application submittal deadline is a function of North Carolina State and local law in response to the original part 70 regulations promulgated July 21, 1992. *See* 57 FR 32250. Section 503(c) of the Act requires all title V facilities to submit an application to the relevant state and local permitting authorities within one year after the effective date of the title V program approval. The DEHNR, WNCRAPCA, FCDEA, and MCDEP programs fulfill this statutory requirement. Therefore, EPA denies the request to extend the title V permit application submittal deadline for at least two years from the effective date of approval for the DEHNR, WNCRAPCA, FCDEA, and MCDEP title V operating permit programs.

The commenter requests that insignificant activity levels for hazardous air pollutants (HAP) should be set no lower than the section 112(g) de minimis levels for individual pollutants. The commenter is concerned that ''increases above the 112(g) de minimis levels trigger a complex review process and the State should be given the flexibility to reserve limited resources for more significant modifications.'' Section 70.4(b)(2) requires state and local agencies to include in their part 70 programs any criteria used to determine insignificant activities or emission levels for the purpose of determining complete applications. Section 70.5(c) states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.5(c) also states that EPA may approve, as part of a state program, a list of insignificant activities and emissions levels which need not be included in permit applications. Under part 70, a state or local agency must request and EPA may approve as part of that state's or local agency's program any activities or emission levels that they wish to consider insignificant. Part 70, however, does not establish emission thresholds for insignificant activities. EPA has accepted emission thresholds of five tons per year for criteria pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAP, as reasonable.

The commenter urges EPA to limit the amount of fees that may be charged to a facility to be limited to the presumptive minimum ($25/ton of actual emissions adjusted annually to the Consumer Price Index (CPI)). The Act leaves to state discretion the structure of the title V fee schedule provided it meets the requirement of presumptive minimum or cost of the program. The DEHNR, FCDEA, and MCDEP fee schedules were set to raise, in the aggregate, the presumptive minimum based on estimates of title V source numbers and emissions. The flat fee plus tonnage fee formula was recommended by a State-legislatively established Clean Air Act Advisory Council to reflect work effort to issue and enforce permits. It was adopted by the Environmental Management Commission after public hearings. This fee formula means that some sources will pay less than a straight $25 plus inflation per ton fee, and some will pay more. In the aggregate, fee revenue has not exceeded the presumptive minimum. In the North Carolina State and local agency proposed program approval notice, EPA noted submittal of fee demonstrations from the DEHNR, FCDEA, and MCDEP that showed each program will collect the presumptive minimum fee. The WNCRAPCA submitted a title V program fee demonstration that demonstrated that it will collect less than the presumptive minimum. Therefore, the DEHNR, WNCRAPCA, FCDEA, and MCDEP have in effect accommodated the commenter's request.

The commenter requested that EPA urge the DEHNR, WNCRAPCA, FCDEA, and MCDEP to set aside any surplus monies generated in the title V operating permit program to be placed in a separate interest-bearing account. The commenter further requests that these funds should be applied as a credit against fees required in succeeding years, according to the proportion of the total of all emissions fees which were paid by a title V facility in a timely manner. As previously stated, the Act leaves to state discretion the structure of the title V fee schedule provided it meets the requirement of presumptive minimum or cost of the program. State statutes provide that the fees go into a separate title V nonreverting account. State statutes do not provide for interest, as they would have to for interest to be credited. State statutes do provide for reductions of fees when and if the funds in the account exceed the title V program cost for the next fiscal year.

The commenter requests that EPA urge DEHNR, WNCRAPCA, FCDEA, and MCDEP to adopt a list of ''trivial activities,'' as outlined in the EPA's ''White Paper for Streamlined

Development of Part 70 Permit Applications'' as well as develop a process for approving trivial activities on a case-by-case basis. EPA notes that DEHNR, WNCRAPCA, FCDEA, and MCDEP have an insignificant activities list found at 15A NCAC 2Q.0102 and respective local agency regulations which include activities that do not have to be included in a title V permit application. Should the State and local programs elect to utilize the list of trivial activities from the ''White Paper for Streamlined Development of Part 70 Permit Applications,'' they may do so at their own discretion. In addition, DEHNR, WNCRAPCA, FCDEA, and MCDEP have complete discretion over whether to create a process for case-by-case determinations of trivial activities. EPA recommends that the commenter make any such request to DEHNR, WNCRAPCA, FCDEA, and MCDEP.

Finally, the commenter took opportunity to make comments regarding provisions of the part 70 supplemental revisions published on August 31, 1995. *See* 60 FR 45530. This rulemaking exclusively covers the DEHNR, WNCRAPCA, FCDEA, and MCDEP title V operating permit programs which are being approved under the existing regulations found at 40 CFR part 70. EPA recommends that the commenter provide comment on the proposed part 70 revisions to the appropriate rulemaking docket for the subject rulemaking found at 60 FR 45530 (August 31, 1995).

B. Final Action

1. Title V Operating Permit Program

EPA is promulgating interim approval of the operating permits program submitted by the DEHNR, WNCRAPCA, FCDEA, and MCDEP on November 12, 1993, and supplemented on December 17, 1993; February 28, 1994; May 31, 1994; and August 9, 1995. The DEHNR, WNCRAPCA, FCDEA, and MCDEP must make the following changes to receive full program approval:

(a) Revise Regulation 15A NCAC 2Q.0507 (MCAPCO Regulation 1.5507, FCAQTC Regulation 3Q.0507, and WNCRAPCARR Regulation 17.0507) to require an applicant to include all fugitive emissions regardless of whether such emissions will be used to determine title V applicability. These fugitive emissions estimates may be of a qualitative nature as opposed to a numerical quantitative emission estimate.

(b) Revise Regulation 15A NCAC 2Q.0502(c) (MCAPCO Regulation 1.5502(c), FCAQTC Regulation 3Q.0502(c), and WNCRAPCARR Regulation 17.0502(c)) to assure that R&D facilities which are collocated with manufacturing facilities and which are under common control and belonging to a single major industrial grouping will be considered as the same facility for determining title V major source applicability for a facility. This change will not be necessary in the event that EPA promulgates revisions to part 70 that are similar to the DEHNR, WNCRAPCA, FCDEA, and MCDEP current treatment of R&D facilities for purposes of title V applicability.

(c) Revise Regulation 15A NCAC 2Q.0102(b)(2)(B) and respective local agency regulations to adjust the insignificant emission threshold levels downward from potential emissions of 40 tpy to potential per emission unit levels for insignificant activities of 5 tons per year for criteria pollutants and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAP. The DEHNR, WNCRAPCA, FCDEA, and MCDEP must also revise Regulation 15A NCAC 2Q.0102(b)(2)(F) and respective local agency regulations to provide that the list granted under 15A NCAC 2Q.0102(b)(2)(F) must be subject to the above-mentioned potential emission caps.

(d) Revise Regulation 15A NCAC 2Q.0514(a)(4) and respective local agency regulations to clarify that administrative permit amendments may be used to change test dates or construction dates only as long as no applicable requirements would be violated by doing so. Also, the DEHNR, WNCRAPCA, FCDEA, and MCDEP agencies must change the language of Regulation 15A NCAC 2Q.0514(a)(4) and respective local agency regulations to clarify that an administrative permit amendment may be used to move terms and conditions from the State-enforceable side of the permit to the State and Federal enforceable portion of the permit provided that the term being moved is a requirement which has become Federally enforceable through sections 110, 111, or 112 or other parts of the Clean Air Act.

(e) Revise Regulation 15A NCAC 2Q.0515(f) and respective local agency regulations to stipulate that a permit shield may not be granted for a minor permit modification. In addition, the DEHNR, WNCRAPCA, FCDEA, and MCDEP must change Regulation 15A NCAC 2Q.0515(d) and respective local agency regulations to specify that in the event an applicant submits a single minor permit modification which exceeds the thresholds listed in 15A NCAC 2Q.0515(c), the minor permit modification must be processed within 90 days after receiving the application or 15 days after the end of EPA's 45 day review period, whichever is later.

(f) Revise Regulation 15A NCAC 2Q.0517(b) and respective local agency regulations to provide that a title V permit shall be reopened and reissued within 18 months after a newly applicable requirement is promulgated. Also, the DEHNR, WNCRAPCA, FCDEA, and MCDEP must amend Regulation 15A NCAC 2Q.0517(b)(2) and respective local agency regulations to clarify that no reopening of a permit is required only if the effective date of a newly applicable requirement is after the expiration of the permit, unless the term of the permit was extended based on the fact that the DEHNR, WNCRAPCA, FCDEA, and MCDEP had not renewed the permit prior to its expiration.

(g) Revise Regulation 15A NCAC 2Q.0518(f) and respective local agency regulations to remove the phrase ''subject to adjudication.''

The scope of the DEHNR, WNCRAPCA, FCDEA, and MCDEP part 70 programs approved in this document applies to all part 70 sources (as defined in the approved program) within the State, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.,* 59 FR 55813, 55815–55818 (November 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

This interim approval, which may not be renewed, extends until December 15, 1997. During this interim approval period, the State of North Carolina is protected from sanctions, and EPA is not obligated to promulgate, administer, and enforce a Federal operating permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon the effective date of this final interim approval, as does the three-year time period for processing the initial permit applications.

If the State of North Carolina fails to submit a complete corrective program for full approval by June 16, 1997, EPA will start an 18-month clock for mandatory sanctions. If North Carolina then fails to submit a corrective program that EPA finds complete before the

expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that North Carolina has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of North Carolina, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that North Carolina has come into compliance. In any case, if, six months after the application of the first sanction, North Carolina has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves North Carolina's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of North Carolina, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the State has come into compliance. In all cases, if, six months after EPA applies the first sanction, North Carolina has not submitted a revised program that EPA determines to have corrected the deficiencies that prompted disapproval, a second sanction will be required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if a state has not timely submitted a complete corrective program. Moreover, if EPA has not granted full approval to a state program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer, and enforce a Federal operating permit program for that state upon interim approval expiration.

2. Preconstruction Review Program Implementing Section 112(g)

EPA is approving the use of the North Carolina State and local agency's preconstruction review programs found in Regulation 15A NCAC 2Q.0300 and respective local agency regulations as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and the North Carolina State and local programs adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by the North Carolina State and local agencies to implement 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide the North Carolina State and local agencies with adequate time to adopt regulations consistent with Federal requirements.

3. Program for Delegation of Section 112 Standards as Promulgated

The requirements for part 70 program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a state and local program for delegation of section 112 standards promulgated by EPA as they apply to title V sources. Section 112(l)(5) requires that the State and local programs contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is approving under section 112(l)(5) and 40 CFR 63.91, the North Carolina State and local programs for receiving delegation of section 112 standards and programs that are unchanged from the Federal rules as promulgated. EPA is also approving the delegation of all existing standards under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 and non-part 70 sources.[1]

Based on the delegation requests North Carolina submitted by North Carolina and each local agency, EPA has determined that all requirements (i.e., legal authority, available resources, implementation schedules, and compliance mechanisms) necessary for delegation have been satisfied. As the delegation relates to the existing NESHAP standards, the effective date of the delegations would be the date the individual standards become effective as a matter of State or local law. For future standards, the State of North Carolina, once State approved, will utilize automatic adoption as its delegation mechanism. Hence, all standards will be state effective on the date of EPA promulgation. Subsequent (or within thirty days) to the State's delegation, the local programs will seek delegation of Federal authorities. During the interim period between Federal promulgation and the effective local delegations, the North Carolina State and local programs will continue to implement the standards, excluding enforcement actions, under a Memorandum of Agreement entered into with EPA. EPA will retain primary enforcement authority until the respective effective dates for each promulgated standard becomes State and locally effective. The most efficient use of State, local and EPA resources would dictate usage of this streamlined approval approach, thereby, negating the need for either the North Carolina State or any of the local programs to submit additional demonstrations of authority sufficiency, resource availability, and/or implementation mechanisms for any requests that are not approved with this title V approval action.

[1] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State and local operating permit programs for part 70 sources. There is not yet a Federal definition of ''major'' for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. EPA will work with the State and local agencies in the development of a radionuclide program to ensure that permits are issued in a timely manner.

III. Administrative Requirements

A. Docket

Copies of the State and local agency submittals and other information relied upon for the final interim approval, including the one public comment letter received and reviewed by EPA on the proposal notice, are contained in docket number NC–95–01 maintained at the EPA Region 4 Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed interim approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 2, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by adding the entry for North Carolina in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

North Carolina

(a) Department of Environment, Health and Natural Resources, Western North Carolina Regional Air Pollution Control Agency, Forsyth County Department of Environmental Affairs and the Mecklenburg County Department of Environmental Protection: submitted on November 12, 1993, and supplemented on December 17, 1993; February 28, 1994; May 31, 1994; and August 9, 1995; interim approval effective on December 15, 1995; interim approval expires December 15, 1997.

(b) (Reserved)

* * * * *

[FR Doc. 95–28186 Filed 11–14–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 2F4072/R2188; FRL–4986–7]

RIN 2070–AB78

Metalaxyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as metalaxyl equivalents, in or on the raw agricultural commodities brassica (cole) leafy vegetables group [except broccoli, cabbage, cauliflower, brussels sprouts, and mustard greens] at 0.1 part per million (ppm); brussels sprouts at 2.0 ppm; cabbage at 1.0 ppm; cauliflower at 1.0 ppm; and mustard greens at 5.0 ppm. Ciba-Geigy Corp. submitted a petition under the Federal Food, Drug and Cosmetic Act (FFDCA) for the regulation to establish a maximum permissible level for residues of the fungicide.

EFFECTIVE DATE: This rule becomes effective on October 27, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 2F4072/R2188], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. 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. 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.

A copy of any objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the document number [PP 2F4072/R2188]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-6226; e-mail: welch.connie@.epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice of filing, published in the Federal Register of June 15, 1995 (60 FR 31465), which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted a pesticide petition, PP 2F4063, to EPA requesting that the Administrator, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), establish tolerances for combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as metalaxyl equivalents, in or on the raw agricultural commodities brassica (cole) leafy vegetables group [except broccoli, cabbage, cauliflower, brussels sprouts, and mustard greens] at 0.1 part per million (ppm); brussels sprouts at 2.0 ppm; cabbage at 1.0 ppm; cauliflower at 1.0 ppm; and mustard greens at 5.0 ppm.