

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 18 through November 22, 1996]

Date	Name and location of applicant	Case No.	Type of submission
November 20, 1996.	Personnel security hearing .....	VSO-0125	Request for hearing under 10 CFR Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
November 21, 1996.	James L. Hecht, Wilmington, DE .....	VFA-0244	Appeal of an information request denial. If granted: The October 29, 1996 Freedom of Information Request Denial issued by the Office of Energy Efficiency and Renewable Energy would be rescinded, and James L. Hecht would receive access to certain DOE information.
November 22, 1996.	Personnel security hearing .....	VSO-0126	Request for hearing under 10 CFR Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
November 22, 1996.	Personnel security hearing .....	VSA-0103	Request for review of opinion under 10 CFR Part 710. If granted: The October 24, 1996 Opinion of the Office of Hearings and Appeals, Case No. VSO-0103, would be reviewed at the request of an individual employed by the Department of Energy.

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**ENVIRONMENTAL PROTECTION AGENCY**

[OPP-30112A; FRL-5396-3]

**Chlorothalonil; Notice of Withdrawal of Administrative Exception Request to Worker Protection Standard's Prohibition of Early Entry Into Pesticide-Treated Areas to Harvest Muskmelons by Hand**

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

**ACTION:** Notice of withdrawal of petition.

**SUMMARY:** The State of Indiana has notified EPA that it is withdrawing its petition for an exception to the 48-hour restricted entry interval (REI) for chlorothalonil on muskmelon fields.

**EFFECTIVE DATE:** This document became effective December 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Joshua First, Office of Pesticide Programs, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1121, 1921 Jefferson Davis Highway, Crystal Mall 1B2, Arlington, VA, 703-305-7437, e-mail: first.joshua@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On August 21, 1992 (57 FR 38102), EPA issued a final rule revising the Worker Protection Standard (WPS) for

agricultural pesticides (40 CFR part 170). The WPS became fully implemented on January 1, 1995. The WPS contains requirements for training, notification of pesticide applications, use of personal protective equipment (PPE), decontamination, and emergency medical assistance. The WPS also set new restricted entry intervals (REIs) for thousands of pesticide products; many of the REIs were increased. Chlorothalonil's REI on muskmelons increased from 12 hours to 48 hours.

**II. Early Entry Exceptions**

In general, § 170.112 of the WPS prohibits agricultural workers from entering a pesticide-treated area during a REI. REIs are specified on the pesticide product label and typically range from 12 to 72 hours. Product-specific longer REIs have been set for a few pesticides.

Under § 170.112(e) of the WPS, EPA may establish exceptions to the Standard's provision of prohibiting early entry to perform routine hand labor tasks. Before implementing such changes, however, EPA is required to provide a 30-day public comment period. EPA will grant or deny a request for an exception based on a risk-benefit analysis. However, as required by 40 CFR 170.112(e)(3), the analysis must take into account both the added risks and the benefits from allowing early entry to perform hand labor tasks.

**III. Indiana's Petition for an Exception and Subsequent Retraction of the Petition**

Late in March 1996, EPA received a petition from the State of Indiana. Indiana petitioned the Agency under § 170.112(e) to allow early entry by

workers into chlorothalonil-treated muskmelon fields to perform hand labor harvesting. The current REI for chlorothalonil remains at 48 hours after application. Although a specific REI was not requested in the petition, Indiana requested entry as soon as feasible following the application of the fungicide, before the expiration of the REI. Indiana's petition stated that muskmelon growers would suffer substantial economic losses if they could not harvest their crop on a daily basis. The requested time period for the exception was from June 15 through August 30, 1996. EPA published a Notice of Receipt for the petition in the Federal Register of June 7, 1996 (61 FR 29096) (FRL-5373-8) and provided a 30-day public comment period.

In early July 1996, following the 30-day public comment period on the petition, EPA began its analysis of the comments that were received. On July 17, 1996, Indiana officially withdrew its petition in a retraction letter to Daniel M. Barolo, Director, Office of Pesticide Programs.

**List of Subjects**

Environmental protection, Occupational safety and health, Pesticides and pests.

Dated: December 9, 1996.

Lynn R. Goldman,  
*Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

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