

**B. Executive Order 12875**

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

**C. Executive Order 13084**

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on

matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

**VIII. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 1, 1998.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180— [AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371.

2. In § 180.448 by revising paragraph (a) to read as follows:

**§ 180.448 Hexythiazox; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the miticide hexythiazox, trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound) in or on the following commodities:

Commodity	Parts per million
Apples .....	0.02
Hops .....	2.0
Pears .....	0.30

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 745**

[OPPTS-62158B; FRL-6040-1]

RIN 2070-AD11

**Lead; Fees for Accreditation of Training Programs and Certification of Lead-based Paint Activities Contractors; Withdrawal of Final Rule**

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

**ACTION:** Final rule; withdrawal.

**SUMMARY:** Due to receipt of adverse comments, EPA is withdrawing a final rule published in the **Federal Register** of September 2, 1998, that would have established fees for accreditation of training programs and certification of lead-based paint activities contractors under the authority of section 402(a)(3) of the Toxics Substances Control Act.

**DATES:** The final rule published September 2, 1998 (63 FR 46668) is withdrawn as of October 16, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mike Wilson, National Program Chemicals Division (Mail Code 7404), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 260-4664; fax number: (202) 260-0770 or by e-mail: wilson.mike@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In the **Federal Register** of September 2, 1998 (63 FR 46668) (FRL-6017-8), EPA issued a final rule under Title IV of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2683, 2682, and 2684). Section 402(a)(3) of TSCA directs EPA to promulgate regulations which establish fees to recover for the U.S. Treasury the Agency's cost of administering and enforcing the standards and requirements applicable to lead-based paint training programs and contractors engaged in lead-based paint activities.

EPA published the action as a final rule without prior notice and

opportunity to comment because the Agency believed that providing notice and an opportunity to comment was unnecessary and contrary to the public interest. Therefore, the Agency applied the "good cause" exemption in the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) that allows agencies in limited circumstances to issue final rules without first providing notice and an opportunity for comment. While not required to do so under the APA, EPA delayed the effective date until October 19, 1998, providing a 30-day public comment period. EPA stated that if significant adverse comment was received, the Agency would withdraw the rule prior to the effective date and the comments would be addressed in a subsequent final rule. EPA simultaneously issued a companion proposed rule in the **Federal Register** (63 FR 46734) (FRL-6017-7) to ensure that the public was aware of its opportunity to comment, and to provide the APA-required proposal in the event that significant adverse comment was received and issuance of a subsequent final rule was necessary.

The comment period ended on October 2, 1998. The Agency has determined that significant adverse comments were received and is today issuing a withdrawal of the final rule. A subsequent final rule will be issued prior to February 28, 1999, which will address comments received during the comment period. EPA will not institute a second comment period for this action.

## II. Regulatory Assessment Requirements

### A. Certain Acts and Executive Orders

This action does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), or Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory

Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

### B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local or Tribal governments. The action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

### C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of

regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

## III. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead-based paint, Lead poisoning, Reporting and recordkeeping requirements.

Dated: October 13, 1998.

**Susan A. Wayland,**

*Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.*  
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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 4300

[WO-420-1050-00-24]

RIN 1004-AD06

#### Grazing Administration; Alaska; Reindeer; General

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

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**SUMMARY:** The Bureau of Land Management (BLM) is revising its regulations that provide for the administration of permits for grazing reindeer in Alaska. These regulations explain how Native Alaskans may apply for permits and what a permit entitles