

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 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.

IV. 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 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: August 13, 1999.

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. 321(q), 346(a) and 371.

§ 180.503 [Amended]

2. In § 180.503, by amending the table in paragraph (b) by revising the date "4/15/00" to read "10/15/01".

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[OPP-300910; FRL-6095-8]

RIN 2070-AB78

Chlorfenapyr; Re-Establishment of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes time-limited tolerances for residues of the insecticide chlorfenapyr and its metabolites in or on cottonseed and cotton gin byproducts at 0.5 and 2.0 part per million (ppm), respectively, and in livestock commodities at levels ranging from 0.01 to 0.3 ppm, for an additional 1½-year period. These tolerances will expire and are revoked on January 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cotton. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the FIFRA.

DATES: This regulation is effective September 1, 1999. Objections and requests for hearings, identified by docket control number OPP-300910, must be received by EPA on or before November 1, 1999.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the "SUPPLEMENTARY INFORMATION" section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300910 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308-9356; and e-mail address: beard.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register--Environmental Documents." You can also go directly to the Federal Register listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-300910. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic

comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of August 22, 1997 (62 FR 44565) (FRL-5737-7), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) it established time-limited tolerances for the residues of chlorfenapyr and its metabolites in or on cotton and livestock commodities at levels ranging from 0.01 to 2.0 ppm, with an expiration date of July 31, 1999. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of chlorfenapyr on cotton for this year's growing season due to the situation remaining an emergency. Beet armyworm has infested cotton fields to a high degree in recent growing seasons. EPA received requests from 11 states for this use this year: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. This pest had not previously been a significant pest in cotton, and had been controlled with available alternatives. However, in recent years, beet armyworm populations have reached devastating levels in southeastern cotton-growing areas, and registered alternatives have proven to provide inadequate control to prevent significant economic losses from occurring. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of chlorfenapyr on cotton for control of beet armyworm in cotton in the above-named 11 states.

EPA assessed the potential risks presented by residues of chlorfenapyr in or on cotton. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided

that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of August 22, 1997 (62 FR 44565) (FRL-5737-7). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are re-established for an additional 1 1/2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on January 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cotton after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-300910 in the subject line

on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 1, 1999.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260-4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to:

James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A. of this preamble, you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. of this preamble. Mail your copies, identified by docket number OPP-300910, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. of this preamble. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any

enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

V. 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 this 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: August 13, 1999.

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. 321(q), 346(a) and 371.

§ 180.513 [Amended]

2. In § 180.513, by amending the table in paragraph (b) by revising the date “7/31/99” wherever it appears to read “1/31/01”.

[FR Doc. 99-22633 Filed 8-31-99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6430-4]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Indiana has applied for final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revision basically covers regulatory changes that appeared in the **Federal Register** between July 1, 1992 and June 30, 1995, in addition, the revision includes Miscellaneous Units, and all minor rules appearing in the **Federal Register** between July 1, 1995 and June 30, 1997. The EPA has reviewed Indiana’s application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. EPA is authorizing the state program revision through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments.

However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize Indiana’s hazardous waste program revision will take effect as provided below.

DATES: This final authorization for Indiana will become effective without further notice on November 30, 1999, unless EPA receives adverse comment by October 1, 1999. Should EPA receive such comments it will publish a timely withdrawal informing the public that the rule will not take effect.

ADDRESSES: Send written comments referring to Docket Number Indiana ARA 14, to Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450. Copies of the Indiana program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 9:00 am to 4:00 pm at the following addresses: Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, contact Lynn West, (317) 232-3593, and EPA Region 5, contact Gary Westefer at the following address.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of

changes to EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. Indiana

Indiana initially received Final Authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement its base hazardous waste management program. Indiana received authorization for revisions to its program on October 31, 1986 (51 FR 39752) effective December 31, 1986, on January 5, 1988 (53 FR 128), effective January 19, 1988, on July 13, 1989 (54 FR 29557), effective September 11, 1989, on July 23, 1991 (56 FR 33717), effective September 23, 1991, on July 24, 1991 (56 FR 33866), effective September 23, 1991, on July 29, 1991 (56 FR 35831), effective September 27, 1991, on July 30, 1991 (56 FR 36010), effective September 30, 1991, on August 20, 1996 (61 FR 43008), effective October 21, 1996, and on August 20, 1996 (61 FR 43018), effective October 21, 1996.

EPA uses 40 CFR part 272 for codification of the decision to authorize Indiana’s program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. The authorized Indiana RCRA program was incorporated by reference into the CFR on August 23, 1989 (54 FR 34988) effective October 23, 1989. An update to this incorporation by reference is in process and will appear in 40 CFR part 272, subpart P at a later date.

On May 1, 1997, February 18, 1998 and June 22, 1999, Indiana submitted final complete program revision applications, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Indiana’s applications, and now makes an immediate final decision, subject to receipt of adverse written comment, that Indiana’s hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Indiana Final Authorization for the program modifications contained in the revision.

Indiana is applying for authorization for changes and additions to the Federal RCRA implementing regulations that were promulgated between December 10, 1987 and June 30, 1997, as listed below:

Description of federal requirement	Federal Register date and page [and/or RCRA statutory authority]	Analogous state authority ¹
Hazardous Waste Miscellaneous Units/Checklist 45 ...	December 10, 1987, 52 FR 46496	329 IAC 3.1-4-1, 3.1-9-1, 3.1-13-1 effective February 24, 1992.