

Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

Today’s rule does not have tribal implications and will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

VII. Statutory Authority

The Statutory authority for the action today is granted to EPA by sections 211(c) and (k), 301, and 307 of the Clean Air Act, as amended; 42 U.S.C. 7545(c) and (k), 7601, 7607; and 5 U.S.C. 553(b).

VIII. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,
Administrator.

40 CFR part 80 is amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.70 is amended by revising the paragraph (j) introductory text, removing and reserving paragraph (j)(5), revising paragraphs (k), (l), and (m) and removing paragraph (n) to read as follows:

§ 80.70 Covered areas.

* * * * *

(j) Any other area classified under 40 CFR part 81, subpart C as a marginal, moderate, serious, or severe ozone nonattainment area may be included as a covered area on petition of the Governor of the State in which the area is located. The ozone nonattainment areas listed in this paragraph (j) opted into the reformulated gasoline program prior to the start of the reformulated gasoline program. These areas are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (j) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

* * * * *

(k) The ozone nonattainment areas included in this paragraph (k) have opted into the reformulated gasoline program since the beginning of the program, and are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (k) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

(1) The St. Louis, Missouri, ozone nonattainment area is a covered area beginning June 1, 1999. The prohibitions of section 211(k)(5) of the Clean Air Act apply to all persons in the St. Louis, Missouri, covered area, other than retailers and wholesale purchaser-consumers, beginning May 1, 1999. The prohibitions of section 211(k)(5) of the Clean Air Act apply to retailers and wholesale purchase-consumers in the St. Louis, Missouri, area beginning June 1, 1999.

(2) [Reserved]

(l) Upon the effective date for removal of any opt-in area or portion of an opt-in area included in an approved petition under § 80.72(a), the geographic area

covered by such approval shall no longer be considered a covered area for purposes of subparts D, E, and F of this part.

(m) Effective one year after an area has been reclassified as a Severe ozone nonattainment area under section 181(b) of the Clean Air Act, such Severe area shall also be a covered area under the reformulated gasoline program. The ozone nonattainment areas included in this paragraph (m) were reclassified as Severe ozone nonattainment areas, and are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (m) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

(1) The Sacramento, California, ozone nonattainment area, was redesignated as a Severe ozone nonattainment area effective June 1, 1995, and is a covered area for purposes of subparts D, E, and F of this part beginning on June 1, 1996.

(2) The San Joaquin Valley, California, ozone nonattainment area was redesignated as a Severe ozone nonattainment area effective December 10, 2001, and is a covered area for purposes of subparts D, E, and F of this part beginning on December 10, 2002.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[FRL–7221–1]

Notice of Final Decision on Motor Vehicle Waste Disposal Wells in EPA Region 8; Underground Injection Control (UIC) Class V Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision.

SUMMARY: Today the Environmental Protection Agency’s Region 8 Office in Denver, Colorado, is announcing a decision under which each motor vehicle waste disposal well in Colorado, Montana, or South Dakota (regardless of whether it is in Indian country) or in Indian country in North Dakota, Utah, or Wyoming must either be closed or covered by a Class V Underground Injection Control (UIC) permit application no later than January 1, 2007. The term “Indian country” as used in this document is defined in 18 United States Code Section 1151.

DATES: This decision is effective June 4, 2002.

ADDRESSES: The decision and supporting documents, including public comments, are available for review from 8 am to 5 pm on working days at the U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466.

FOR FURTHER INFORMATION CONTACT: Douglas Minter (8P-W-GW), EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Phone: 800-227-8917, extension 6079 or 303-312-6079. E-mail: minter.douglas@epa.gov.

SUPPLEMENTARY INFORMATION: Motor vehicle waste disposal wells typically are septic systems or dry wells that can receive or have received waste fluids from floor drains or shop sinks in public or private facilities that service cars, trucks, buses, aircraft, boats, trains, snowmobiles, construction and farm machinery, or other motor vehicles.

Today's decision applies to every motor vehicle waste disposal well that became operational or for which construction had begun by April 5, 2000, if that well is (1) anywhere in Colorado, Montana, or South Dakota, in Indian country or not, or (2) in Indian country in North Dakota, Utah, or Wyoming.

Today's decision does not apply to wells for which construction began after April 5, 2000. Since that date, new or converted motor vehicle waste disposal wells have been prohibited (unless construction began before that date). See the **Background** section below for more details.

1. Background

Under the authority of part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300h *et seq.*, the United States Environmental Protection Agency ("EPA") regulates underground injection of fluids into wells. The purpose of EPA's UIC program is to prevent underground injection that may contaminate underground sources of drinking water (USDW). (42 U.S.C. 300h(b) and (d).) A "USDW" is an aquifer, or its portion, that has not been found by the EPA to be an "exempted aquifer" and that (1) supplies any public water system, or (2) contains a sufficient quantity of ground water to supply a public water system and either currently supplies drinking water for human consumption or contains fewer than 10,000 milligrams per liter (mg/l) of dissolved solids. (40 CFR 144.3.)

There are five classes of injection wells. Motor vehicle waste disposal wells are considered Class V wells. (40 CFR 144.80, 144.81, and 146.5.) All owners or operators of Class V wells

must comply with various requirements, including submission of inventory information to State or EPA regulatory agencies prior to operating any Class V well. (See 40 CFR part 144, especially §§ 144.26 and 144.83.)

UIC programs are administered either by EPA or by states whose UIC programs EPA has approved. In Region 8, EPA has authorized North Dakota, Utah, and Wyoming to administer Class V UIC programs. For Indian country in these three states, however, EPA directly administers the Class V UIC program. EPA also directly administers the Class V UIC program throughout Colorado, Montana, South Dakota (*i.e.*, in both Indian country and elsewhere).

On December 7, 1999, EPA revised its regulations for Class V wells. (64 FR 68546.) Effective April 5, 2000, all new motor vehicle waste disposal wells were prohibited. (40 CFR 144.88(a)(2).) Motor vehicle waste disposal wells already in operation or under construction by that date are to be closed or permitted, with the final deadlines for closure or permit applications depending on a determination of the susceptibility of the nearby groundwater to contamination. (40 CFR 144.87 and 144.88(b).)

The areas with greatest priority for protection are known as "Ground Water Protection Areas" or "GWPA's." States are required to delineate and assess GWPA's. (See section 1453 of the SDWA and 40 CFR 144.86.) An example of a GWPA is a recharge area of an aquifer that serves a "community" or "non-transient non-community" public water supply system. (See 40 CFR 144.86.) Any motor vehicle waste disposal well in a GWPA must either close or be covered by a permit application within one year of the state's completion of a local source water assessment, with certain allowances for extensions relating to the timing of the state delineation and assessment. (See 40 CFR 144.87(b) and 144.88(b)(1)(i) and (v).)

States and the EPA may also identify other areas where groundwater protection is important. These additional areas are known as "Other Sensitive Ground Water Areas" or "OSGWA's." Any motor vehicle waste disposal well in any designated OSGWA must either close or be covered by a permit application no later than January 1, 2007, again with certain allowances for extensions. (See 40 CFR 144.86(g), 144.87(c), and 144.88(b)(1)(ii) and (vi).)

States and the EPA are not required to designate "OSGWA's." If no OSGWA's are designated in a particular state, then all motor vehicle waste disposal wells in that state are to close or be covered

by a permit application no later than January 1, 2007 (or the extended deadline, if any). (40 CFR 144.87(f).) If, however, some areas are designated as OSGWA's and others are not, then only those wells within OSGWA's are subject to this particular deadline.

2. Today's Decision and Its Consequences

The purpose of this document is to announce that EPA Region 8 has decided not to designate any OSGWA's. The consequence of this decision is that no later than January 1, 2007, each motor vehicle waste disposal well that is in Colorado, Montana, or South Dakota (regardless of whether it is in Indian country) or that is in Indian country in North Dakota, Utah, or Wyoming must close or be covered by either a permit or permit application.

If EPA Region 8 had decided to designate any OSGWA(s), then any motor vehicle waste disposal well outside of the designated OSGWA(s) would not have been subject to the final January 1, 2007 deadline.

There is no provision in EPA's regulations for extending the January 1, 2007 deadline in jurisdictions where EPA directly administers the Class V UIC program. The extension provisions apply only to state-administered programs, as described in 40 CFR 144.87(c). Consequently, the January 1, 2007 deadline is a final deadline.

To obtain a permit to operate a motor vehicle waste disposal well, an owner or operator must demonstrate, among other things, that the well's waste stream does not contain contaminants in concentrations greater than the Maximum Contaminant Levels (MCLs) established in 40 CFR part 141 or Health Advisory Limits. A Health Advisory Limit (HAL) is an estimate of an acceptable drinking water level for a chemical substance based on health effects information. HALs can be used by UIC programs to establish enforceable limits for contaminants for which no primacy MCL has been established. HAL information can be obtained from EPA at the address given above in the section entitled **FOR FURTHER INFORMATION CONTACT**.

Permits usually require owners or operators of motor vehicle waste disposal wells to sample and analyze their waste streams on a quarterly basis. If a well's owner or operator does not obtain a permit for authorization to inject, then the well must be closed in a manner that cannot allow any waste fluids to be released into the ground, with thirty days' advance notice to Region 8 of the closure. (40 CFR 144.88(b)(1)(vii).) More details on the

permit application process are available from EPA upon request. (Please see the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.)

In some cases, motor vehicle waste disposal well owners or operators may be required to close their wells or apply for permits before January 1, 2007. For example, if a Class V well is in a designated GWPA, it must be closed or covered by a permit application within one year of the completion of a source water assessment, as mentioned above. As another example, if EPA finds that a well may cause a violation of a National Primary Drinking Water Regulation at 40 CFR part 141 or may be otherwise adversely affecting the health of persons, then EPA may require the owner or operator of the well to apply for a permit application or to close the well by a date to be specified by Region 8. (See 40 CFR 144.12(c) and (d).) Under no circumstance would a well's location in a GWPA or an OSGWA (had Region 8 decided to designate any) postpone a more immediate closure/permit application deadline specified by Region 8.

3. EPA Region 8's Public Participation Process

EPA Region 8 has made extensive efforts to educate and consult with the public, including Indian tribes, concerning the requirements for motor vehicle waste disposal wells and Region 8's options for designating OSGWAs. The Region's efforts are summarized below. The following does not include owner/operator-specific compliance assistance, inspections, enforcement actions, and other efforts that also have served to disseminate information about the new requirements.

March, 2000: Region 8 directly mailed information on the new/existing Class V requirements to sanitarians affiliated with all county health departments in Colorado. County sanitarians are responsible for ensuring that on-site waste water (e.g., septic) systems in their jurisdiction are constructed and used properly.

April, 2000: At the Spring Sanitarians' Educational Conference in Helena, Montana, Region 8 presented a summary of the new/existing Class V requirements.

April, 2000: Region 8 staff presented a summary of the new/existing Class V requirements to the Montana Department of Environmental Quality (DEQ) in Helena, Montana. The DEQ is responsible for implementing the source water assessment program and other ground water protection programs within Montana.

July, 2000: Region 8 presented a summary of the new/existing Class V requirements at the National Environmental Health Association's Annual Education Conference in Denver, Colorado. This conference drew sanitarians from Region 8 and other parts of the country.

August, 2000: Region 8 discussed the new Class V requirements with representatives from the Colorado Department of Public Health and Environment (DPH&E) and Montana DEQ, during the State UIC/Source Water Directors' Meeting in Glenwood Springs, Colorado.

October, 2000: Region 8 discussed the new Class V requirements with representatives of the South Dakota Department of Environment and Natural Resources (DENR) in Pierre, South Dakota. The DENR is responsible for implementing the source water assessment program and other ground water protection programs within South Dakota.

March, 2001: Region 8 sent a letter to all Tribal Chairpersons and Tribal Environmental Program Directors in Indian country in Region 8 describing Region 8's implementation options. The letter included a draft proposal for applying the closure/permitting requirements throughout all Indian country in Region 8.

April, 2001: Region 8 invited potential stakeholders (including motor vehicle-related industry groups) in South Dakota to participate in upcoming workshops on the new/existing Class V requirements. The invitation letter described Region 8's draft proposal to apply the closure/permitting requirements throughout South Dakota.

May, 2001: In Rapid City and Huron, South Dakota, Region 8 presented a summary of the new/existing Class V requirements to federal, state, county, municipal, nonprofit, and private citizen stakeholders. Region 8 described its implementation options and its draft proposal to apply the closure/permitting requirements throughout South Dakota. It also received comments from the public on the draft proposal.

July, 2001: In Fort Yates, North Dakota, Region 8 presented a summary of the new/existing Class V requirements to Tribal Environmental Program Directors attending a Regional Operations Committee meeting, describing Region 8's implementation options and its draft proposal for applying the closure/permitting requirements throughout Indian country in Region 8.

September/October, 2001: Region 8 published a notice announcing its proposal for implementing the motor

vehicle waste disposal well permitting/closure requirements on a state and Indian countrywide basis, as described below.

October, 2001: Region 8 discussed the new Class V requirements with representatives from the Colorado DPH&E, Montana DEQ, and the South Dakota DENR during the State UIC/Source Water Directors Meeting held in Lead, South Dakota.

October, 2001: Region 8 presented a summary of the new/existing Class V requirements and Region 8's previously-published formal proposal in Helena, Montana, to General Motors' automobile facility dealerships in Montana.

4. Public Notice of Proposal

In late September and early October of 2001, Region 8 formally announced that it was proposing to implement the 1999 Class V requirements throughout Colorado, Montana, and South Dakota, and only in Indian country in the other three Region 8 states (i.e., North Dakota, Utah, and Wyoming). Region 8 made its announcement by publishing a two-page notice in nineteen newspapers throughout Region 8. It also mailed this notice directly to over 300 potential stakeholders in the Region and posted it on Region 8's Web site.

In this notice, Region 8 made a finding that motor vehicle waste disposal wells are located predominately in unsewered areas with permeable soils, where local populations depend on ground water as a source of drinking water or could do so in the future. Region 8 also found that for wells located in areas with more impermeable soils, motor vehicle wastes (e.g., solvents) can migrate downward through natural (e.g., fractures) and artificial (e.g., abandoned wells) pathways and indirectly contaminate USDWs. Therefore, Region 8 proposed implementing a closure/permitting requirement throughout the area in which it directly implements the Class V program as the most prudent and equitable way to achieve its regulatory goal of protecting all USDWs for current and future uses.

Neither the Safe Drinking Water Act nor any EPA regulation requires Region 8 to publish a formal notification of its proposed or final decision not to delineate OSGWAs. If Region 8 does not designate any OSGWAs by January 1, 2004, then the "default" closure/permit application deadline is January 1, 2007. (See 40 CFR 144.87(c).) Thus, as of January 1, 2004, any member of the regulated community could have learned of the January 1, 2007 deadline by finding out that as of that date Region 8 had designated no OSGWAs. Region 8

has chosen, however, not to let the regulated community wait in this manner. Today's document is intended to publicize and clarify well in advance of the January 1, 2007 deadline that motor vehicle waste disposal wells in areas where Region 8 directly implements the Class V UIC program will need to be closed or covered by permit applications by that time. Region 8 is also taking this opportunity to reiterate its ongoing concerns with disposal of motor vehicle waste fluids. The Region will continue to use its authority under 40 CFR 144.12(c) and (d) to take any appropriate action (including requiring permit applications or well closure, as well as to take an enforcement action) upon finding that any Class V well may cause a violation of a National Primary Drinking Water Regulation or otherwise adversely affect public health.

5. Public Comments and EPA Region 8's Response

In the public notice described above, EPA Region 8 asked any interested member of the public to submit written comments within 30 days. Approximately 20 persons responded by the end of the comment period, speaking at the meetings described above and/or sending letters or electronic correspondence to EPA. The substantive comments that Region 8 interprets as objections to its proposal are summarized below, along with the Region's responses.

Comment: Some USDWs are not at risk from motor vehicle disposal well-related contamination, while others are. There are areas where the ground water is not located near the land surface and/or is underlain by soil and rock formations (e.g., clays and shales) that prevent the downward migration of motor vehicle-related waste fluids into an underlying USDW. Region 8 should delineate OSGWAs only where USDWs are relatively shallow and not overlain by an impermeable formation.

Response: Due to hydrogeologic variability, some USDWs are more vulnerable than others. However, deeper, more confined USDWs are at some risk from motor vehicle disposal well-related contamination. Natural (e.g., fractures) and artificial (e.g., abandoned wells) pathways in soil and rock formations, including clays and shales, can facilitate the downward migration of contaminants. This is particularly true for certain chemicals (e.g., solvents), which are heavier than water and routinely used in motor vehicle-related operations.

In addition to large, well-defined shallow aquifer systems, there are less

well-defined shallow aquifer systems that have been or could be used extensively in rural areas for drinking water. While often very limited in areal extent, these aquifers constitute USDWs based on their quality (i.e., less than 10,000 mg/l total dissolved solids) and quantity (i.e., sufficient to supply a public water system, which Region 8's UIC program generally interprets as an aquifer yielding two or more gallons of water per minute). These USDWs include: (1) Fractured rock (e.g., granite, shale, and limestone) aquifers; (2) alluvial sand and gravel aquifers adjacent to small drainages; and (3) limited sand lenses within confining (e.g., shale) formations. While there may be economic or other reasons for these USDWs not to be used for supplying public water systems, it is prudent and in keeping with the purposes of the SDWA for EPA to protect them as drinking water sources for future users and for those who now use existing private wells.

Therefore, Region 8 has concluded that the 1999 Class V requirements affecting existing motor vehicle waste disposal wells should not be restricted to certain geographic areas.

Comment: The proposal would place an economic burden on owners/operators of existing motor vehicle waste disposal wells in rural areas where USDWs are not susceptible to contamination. For example, if an owner or operator installs a holding tank to capture motor vehicle-related wastes, there may be a high price for disposing of these wastes properly, because the nearest facility accepting the waste may be many miles away. As a result, some of these owners/operators could be forced out of business.

Response: Applying the new permitting/closure requirements regardless of facility location should not impose an unreasonable economic burden on owners/operators of motor vehicle waste disposal wells. Having overseen the closure of hundreds of existing motor vehicle waste disposal wells in urban and rural areas over the past 15 years, Region 8 has found that owners/operators have been able to find affordable, alternative methods for managing and disposing of their motor vehicle-related wastes.

Rural facilities often have limited options because the greater distances to a sewer line make connection to a municipal system expensive. However, many motor vehicle-related facilities in rural areas are allowed to discharge into municipal sewer systems, and Region 8 has found that owners/operators are able to afford the costs associated with capturing, pumping, and transporting

their wastes to these locally-available systems. These costs also have been affordable due to the small amounts of waste (from occasional drips, leaks, and spills) generated from typical motor vehicle-related operations. In the few instances where larger facilities were found to be generating significant volumes of motor vehicle-related fluid wastes, owners/operators have recycled their wastes or obtained permits requiring injection at levels that would not compromise drinking water standards.

Comment: Committing resources to address existing motor vehicle waste disposal wells in areas where no USDWs are at risk from contamination is not a good use of taxpayers' money. Designating OSGWAs would focus resources on USDWs most susceptible to contamination.

Response: First, in order to designate OSGWAs, Region 8 would need to expend considerable resources to develop a delineation methodology and conduct delineations to support implementation and possible enforcement on a site-by-site basis. Rather than conduct a technically complex and legally defensible exercise, Region 8 believes the idea of designating OSGWAs can be put into practice more efficiently by targeting resources in areas overlying the most vulnerable USDWs. Second, having found over the past 15 years that the majority of motor vehicle waste disposal wells are located in populated areas, where local communities depend on accessible (and vulnerable) ground water as a source of drinking water, Region 8 has made these areas its primary focus for implementation in order to achieve the greatest level of risk reduction with its limited resources.

6. EPA Region 8's Final Implementation Decision

Having reviewed all comments received during the public comment period, Region 8 has concluded that no new or compelling information was received to justify substantive changes to its implementation proposal. Therefore, Region 8 has decided to apply the closure/permitting requirements of the December 7, 1999 revisions to all motor vehicle waste disposal wells throughout the States of Colorado, Montana, and South Dakota (regardless of whether they are in Indian country), and throughout Indian country within North Dakota, Utah, and Wyoming.

In making its final decision, Region 8 considered the following additional factors:

Consistency in Implementation:

Nationally, almost all State/EPA UIC programs intend to apply the new Class V requirements state and Indian country-wide. The remaining UIC programs nonetheless expect that all motor vehicle waste disposal wells will be either closed or permitted.

Possible Delay of Source Water Assessment Completion: EPA's 1999 rule states that if all four steps (*i.e.*, inventory, delineation, susceptibility analysis, and public notification) of the assessment process for all applicable public water systems (PWSs) are not completed by a state or tribe by January 1, 2004, the new requirements affecting existing motor vehicle waste disposal wells will apply throughout the relevant state or area of Indian country, absent a formal request for a one-year extension. (40 CFR 144.87(b).) Based on feedback Region 8 has received from state and tribal source water program contacts, it is unlikely that assessments will be completed for all PWSs affected by this rule. This is particularly true in Indian country because tribes are not required to complete this work under the SDWA. Therefore, Region 8 expects that the new requirements will most likely apply across all Region 8 states and areas of Indian country, consistent with today's decision.

Reduced Owner/Operator Liability:

EPA and State UIC program inspections and environmental audits conducted by property owners, lenders, and insurers have identified motor vehicle waste disposal wells as an unnecessary and long-term environmental liability. The costs of soil and ground water cleanup have far exceeded the preventive costs of adopting alternatives such as sewer connections, holding tanks, and dry shops. Today's decision will encourage these alternative, more environmentally sound means of managing and disposing of motor vehicle waste fluids.

Dated: May 17, 2002.

Kerrigan G. Clough,

Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, Region 8.

[FR Doc. 02-13699 Filed 6-3-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0087; FRL-7178-5]

Cyhalofop-butyl; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of cyhalofop (cyhalofop-butyl plus cyhalofop-acid) and the di-acid metabolite in or on rice grain and rice straw. Dow AgroSciences, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire on June 1, 2007.

DATES: This regulation is effective June 4, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0087, must be received on or before August 5, 2002.

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 VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0087 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-6224; and e-mail address: miller.joanne@epamail.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 codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing 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 under **FOR FURTHER INFORMATION CONTACT.**

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," "Regulations and Proposed Rules," 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/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0087. 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, 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

In the **Federal Register** of April 25, 2001 (66 FR 20808) (FRL-6774-7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-