

*EPA approved State plan* means a State plan that EPA has approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cc. An approved State plan becomes effective on the date specified in the notice published in the **Federal Register** announcing EPA's approval.

*Federal plan* means the EPA plan to implement 40 CFR part 60, subpart Cc for existing MSW landfills located in States and Indian country where State plans or tribal plans are not currently in effect. On the effective date of an EPA approved State or tribal plan, the Federal plan no longer applies. The

Federal plan is found at 40 CFR part 62, subpart GGG.

*Municipal solid waste landfill or MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes (see § 257.2 of this chapter) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads. A municipal solid waste landfill may be publicly or privately

owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion.

*Tribal plan* means a plan submitted by a tribal authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 to implement and enforce 40 CFR part 60, subpart Cc.

*Work practice standard* means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

As stated in §§ 63.1955 and 63.1980, you must meet each requirement in the following table that applies to you.

TABLE 1 OF SUBPART AAAA OF PART 63.—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA

Part 63 Citation	Description	Explanation
63.1(a) .....	Applicability: general applicability of NESHAP in this part.	Affected sources are already subject to the provisions of paragraphs (a)(10)–(12) through the same provisions under 40 CFR, part 60 subpart A.
63.1(b) .....	Applicability determination for stationary sources.	
63.1(e) .....	Title V permitting.	
63.2 .....	Definitions.	
63.4 .....	Prohibited activities and circumvention .....	Affected sources are already subject to the provisions of paragraph (b) through the same provisions under 40 CFR, part 60 subpart A.
63.5(b) .....	Requirements for existing, newly constructed, and reconstructed sources.	
63.6(e) .....	Operation and maintenance requirements, startup, shutdown and malfunction plan provisions.	
63.6(f) .....	Compliance with nonopacity emission standards .....	Affected sources are already subject to the provisions of paragraphs (f)(1) and (2)(i) through the same provisions under 40 CFR, part 60 subpart A.
63.10(b)(2)(i)–(b)(2)(v) .....	General recordkeeping requirements.	
63.10(d)(5) .....	If actions taken during a startup, shutdown and malfunction plan are consistent with the procedures in the startup, shutdown and malfunction plan, this information shall be included in a semi-annual startup, shutdown and malfunction plan report. Any time an action taken during a startup, shutdown and malfunction plan is not consistent with the startup, shutdown and malfunction plan, the source shall report actions taken within 2 working days after commencing such actions, followed by a letter 7 days after the event.	
63.12(a) .....	These provisions do not preclude the State from adopting and enforcing any standard, limitation, etc., requiring permits, or requiring emissions reductions in excess of those specified.	
63.15 .....	Availability of information and confidentiality.	

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP–2002–0336; FRL–7284–8]

**Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for the pesticides listed in Unit II. of the **SUPPLEMENTARY INFORMATION**. These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. 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.

**DATES:** This regulation is effective January 16, 2003. Objections and requests for hearings, identified by docket ID number OPP-2002-0336, must be received by EPA on or before February 18, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** See the table in this unit for the name of a specific contact person. The following information applies to all contact persons: Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; e-mail address: Sec-18-Mailbox@epamail.epa.gov.

Pesticide/CFR cite	Contact person
Sodium chlorate; 180.1020 Zinc phosphide; 180.284	Libby Pemberton (703) 308-9364
Fenhexamid; 180.553 N-(4-fluorophenyl)-N-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide; 180.527	Barbara Madden (703) 305-6463
Bifenthrin; 180.442	Andrea Conrath (703) 308-9356
Tebufenozide; 180.482 Lambda-cyhalothrin; 180.438 Sulfentrazone; 180.498 Spinosad; 180.495 2,4-D; 180.142	Andrew Ertman (703) 308-9367
Mancozeb; 180.176	Dan Rosenblatt (703) 308-9366

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a federal or state government agency involved in administration of environmental quality

programs. Potentially affected entities may include, but are not limited to:

Federal or State Government Entity, (NAICS 9241), i.e., Department of Agriculture, Environment, etc.

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any 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 Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2002-0336. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under 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](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still

access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

##### II. Background and Statutory Findings

EPA published final rules in the **Federal Register** for each chemical/commodity listed. The initial issuance of these final rules announced that EPA, 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) was establishing time-limited tolerances.

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 FIFRA section 18. Such tolerances can be established without providing notice or time for public comment.

EPA received requests to extend the use of these chemicals for this year's growing season. After having reviewed these submissions, EPA concurs that emergency conditions exist. EPA assessed the potential risks presented by residues for each chemical/commodity. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCa, and decided that the necessary tolerance under section 408(l)(6) of FFDCa 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 originally published to support these uses. Based on that data and information considered, the Agency reaffirms that extension of these time-limited tolerances will continue to meet the requirements of section 408(l)(6) of FFDCa. Therefore, the time-limited tolerances are extended until the date listed. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on the date listed, under section 408(l)(5) of FFDCa, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on the commodity after that date will not be unlawful, provided the residue is present as a result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA, the tolerance was in place at the time of the application, and the residue does not exceed the level that

was authorized by the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

1. *2,4-D*. EPA has authorized under FIFRA section 18 the use of 2,4-D on wild rice for control of water plantain in Minnesota. This regulation extends time-limited tolerances for residues of the herbicide 2,4-dichlorophenoxyacetic acid and its metabolites in or on wild rice at 0.1 parts per million (ppm) for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2005. A time-limited tolerance was originally published in the **Federal Register** of September 5, 1997 (62 FR 46900) (FRL-5738-9).

2. *Bifenthrin*. EPA has authorized under FIFRA section 18 the use of bifenthrin on citrus for control of weevils in Texas and Florida. This regulation extends time-limited tolerances for residues of the insecticide bifenthrin in or on citrus, dried pulp and citrus, oil at 0.3 parts per million (ppm) for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004. A time-limited tolerance was originally published in the **Federal Register** of December 16, 1998 (63 FR 69200) (FRL-6048-1).

3. *N-(4-fluorophenyl)-N-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide*. EPA has authorized under FIFRA section 18 the use of *N-(4-fluorophenyl)-N-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide* on wheat and triticale for control of ryegrass in Idaho, Oregon, and Washington. This regulation extends a time-limited tolerance for combined residues of the herbicide *N-(4-fluorophenyl)-N-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide* and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on wheat grain at 1 ppm, wheat forage at 10 ppm, wheat hay at 2 ppm, wheat straw at 0.5 ppm, meat and fat of cattle, goats, horses, hogs, and sheep at 0.05 ppm, meat byproducts (other than kidney) of cattle, goats, horses, hogs, and sheep at 0.10 ppm and kidney of cattle, goats, horses, hogs, and sheep at 0.50 ppm for an additional 1-year, 11 months. These tolerances will expire and are revoked on June 30, 2005. Time-limited tolerances were originally published in the **Federal Register** of August 6, 1999 (64 FR 42839) (FRL-6091-9).

4. *Fenhexamid*. EPA has authorized under FIFRA section 18 the use of fenhexamid on pears for control of gray mold in California. This regulation extends a time-limited tolerance for residues of the fungicide fenhexamid, (*N*-2,3-dichloro-4-hydroxyphenyl)-1-methyl cyclohexanecarboxamide in or on pears at 15 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004. A time-limited tolerance was originally published in the **Federal Register** of November 21, 2000 (65 FR 69876) (FRL-6752-4).

EPA has received objections to tolerances it established for 2,4-D, and fenhexamid on different food commodities. The objections were filed by the Natural Resources Defense Council (NRDC) and raised several issues regarding aggregate exposure estimates and the additional safety factor for the protection of infants and children. Although these objections concern separate rulemaking proceedings under the FFDC, EPA has considered whether it is appropriate to extend the emergency exemption tolerances for 2,4-D, and fenhexamid while the objections are still pending.

Factors taken into account by EPA included how close the Agency is to concluding the proceedings on the objections, the nature of the current action, whether NRDC's objections raised frivolous issues, and extent to which the issues raised by NRDC had already been considered by EPA. Although NRDC's objections are not frivolous, the other factors all support extending these tolerances at this time. First the objections proceeding is unlikely to conclude prior to when action is necessary on this petition. NRDC's objections raise complex legal, scientific, policy, and factual matters and EPA initiated a 60-day public comment period on them in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL-7167-7). That comment period was extended until October 16, 2002 (September 17, 2002, 67 FR 58536) (FRL-7275-3), and EPA is now examining the extensive comments received. Second the nature of the current actions are extremely time-sensitive as they address emergency situations. Third the issues raised by NRDC are not new matters but questions that have been the subject of considerable study by EPA and comment by stakeholders. Accordingly, EPA is proceeding with extending the tolerances for 2,4-D, and fenhexamid.

5. *Lambda-Cyhalothrin*. EPA has authorized under FIFRA section 18 the use of lambda-cyhalothrin on barley for control of the Russian wheat aphid and

cutworms in Idaho, Colorado, Wyoming, and Montana. This regulation extends a time-limited tolerance for combined residues of the pyrethroid lambda-cyhalothrin, 1:1 mixture of (S)- $\alpha$ -cyano-3-phenoxybenzyl-(Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (R)- $\alpha$ -cyano-3-phenoxybenzyl-(Z)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer expressed as epimer of lambda-cyhalothrin, a 1:1 mixture of (S)- $\alpha$ -cyano-3-phenoxybenzyl-(Z)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (R)- $\alpha$ -cyano-3-phenoxybenzyl-(Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in or on barley grain at 0.05 ppm, barley bran at 0.2 ppm, and barley hay and straw at 2.0 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2005. Time-limited tolerances were originally published in the **Federal Register** of October 29, 1997 (62 FR 56095) (FRL-5745-5).

6. *Mancozeb*. EPA has authorized under FIFRA section 18 the use of mancozeb on ginseng for control of stem and leaf blight in Wisconsin. This regulation extends a time-limited tolerance for combined residues of the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate, and its metabolite ethylenethiourea (ETU) in or on ginseng at 2.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004. A time-limited tolerance was originally published in the **Federal Register** of October 9, 1998 (63 FR 54362) (FRL-6029-5).

7. *Sodium chlorate*. The state of Arkansas availed itself of the authority to declare the existence of a crisis situation, thereby authorizing use under FIFRA section 18 of sodium chlorate on wheat as a defoliant or desiccant to aid in the harvest of wheat. This regulation extends a time-limited exemption from the requirement of a tolerance for residues of the defoliant/desiccant sodium chlorate in or on wheat for an additional 2-year period. This exemption from the requirement of a tolerance will expire and is revoked on December 31, 2004. A time-limited exemption from the requirement of a tolerance was originally published in the **Federal Register** of December 3, 1997 (62 FR 63858) (FRL-5754-1).

8. *Spinosad*. EPA is authorizing under FIFRA section 18 the use of spinosad on all agricultural commodities when

applied in connection with quarantine eradication programs directed by state agricultural officials for control of quarantined fruit fly species, such as the Mediterranean fruit fly in California. This regulation extends a time-limited tolerance for residues of the insecticide spinosad, Factor A is 2-[(6-deoxy-2,3,4-tri-O-methyl-o-L-mannopyranosyl)oxy]-13-[[5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]9-ethyl-2,3,3a,5a,6,9,10,11,12,13,14,16a,6b,tetradecahydro-14-methyl-1H-as-Indaceno[3,2d]oxacyclododecin-7,15-dione. Factor D is 2-[6-deoxy-2,3,4-tri-O-methyl-o-L-mannopyranosyl]oxy]13-[[5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-4,14,dimethyl-1H-as-Indaceno[3,2d]oxacyclododecin-7,15-dione, in or on all agricultural commodities where a separate higher tolerance is not already established at 0.02 ppm for an additional 4-year period. This tolerance will expire and is revoked on December 31, 2006. A time-limited tolerance was originally published in the **Federal Register** of July 21, 1999 (62 FR 39053) (FRL-6086-7)

9. *Spinosad*. EPA has authorized under FIFRA section 18 the use of spinosad on alfalfa for control of armyworms in Texas and New Mexico and pastureland and rangeland for control of armyworms in Arkansas, Mississippi, Texas, Tennessee and Georgia. This regulation extends time-limited tolerances for combined residues of the herbicide spinosad, Factor A is 2-[(6-deoxy-2,3,4-tri-O-methyl-o-L-mannopyranosyl)oxy]-13-[[5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]9-ethyl-2,3,3a,5a,6,9,10,11,12,13,14,16a,6b,tetradecahydro-14-methyl-1H-as-Indaceno[3,2d]oxacyclododecin-7,15-dione. Factor D is 2-[6-deoxy-2,3,4-tri-O-methyl-o-L-mannopyranosyl]oxy]13-[[5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-4,14,dimethyl-1H-as-Indaceno[3,2d]oxacyclododecin-7,15-dione in or on alfalfa forage at 4.0 ppm; alfalfa hay at 4.0 ppm; cattle fat at 15.0 ppm; cattle, meat byproducts at 3.50 ppm; cattle meat at 0.60 ppm; egg at 0.030 ppm; goat fat at 15.0 ppm; goat meat byproducts at 3.50 ppm; goat meat at 0.60 ppm; grass forage at 7.0 ppm; grass hay at 7.0 ppm; hog fat at 15.0 ppm; hog meat byproducts at 3.50 ppm; hog meat at 0.60 ppm; horse fat at 15.0 ppm; horse meat byproducts at 3.50 ppm; horse, meat at 0.60 ppm; sheep fat at 15.0 ppm; sheep meat byproducts at

3.50 ppm; and sheep meat at 0.60 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2005. A time-limited tolerance was originally published for sunflowers in the **Federal Register** of January 9, 2001 (66 FR 1592) (FRL-6760-2).

10. *Sulfentrazone*. EPA has authorized under FIFRA section 18 the use of sulfentrazone on horseradish for control of weeds in Wisconsin, Minnesota, and Illinois; sugarcane for control of weeds in Louisiana; and sunflowers for control of weeds in Montana, North Dakota, Minnesota, Wyoming, Texas, Nebraska, Oklahoma, Missouri, South Dakota, Kansas, and Colorado. This regulation extends a time-limited tolerance for combined residues of the herbicide sulfentrazone, N-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]methanesulfonamide, and its metabolites 3-hydroxymethyl sulfentrazone (HMS) and 3-desmethyl sulfentrazone (DMS) in or on horseradish, roots at 0.1 ppm, sugarcane at 0.05 ppm, and sunflower at 0.1 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2005. A time-limited tolerance was originally published for sunflowers in the **Federal Register** of September 21, 1999 (64 FR 51060) (FRL-6097-8). Time-limited tolerances were originally published for horseradish and sugarcane in the **Federal Register** of November 9, 2000 (65 FR 67272) (FRL-6751-7).

11. *Tebufenozide*. EPA has authorized under FIFRA section 18 the use of tebufenozide on sweet potatoes for control of armyworms in Mississippi, Louisiana, and North Carolina. This regulation extends a time-limited tolerance for residues of the insecticide tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide in or on sweet potatoes at 0.25 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2005. A time-limited tolerance was originally published in the **Federal Register** of December 18, 1998 (63 FR 70030) (FRL-6049-4)

12. *Zinc phosphide*. EPA has authorized under FIFRA section 18 the use of zinc phosphide on timothy, alfalfa, and clover for control of vole complex in Washington. This regulation extends time-limited tolerances for residues of the rodenticide zinc phosphide in or on alfalfa (forage and hay); clover (forage and hay); and timothy (forage, hay and seed) at 1; 0.1; and 0.1 ppm, respectively, for an

additional 3-year period. These tolerances will expire and are revoked on December 31, 2005. Time-limited tolerances were originally published in the **Federal Register** of August 25, 1998 (63 FR 45176) (FRL-6021-6) and February 23, 2000 (65 FR 8872) (FRL-6489-8).

### 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, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA 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) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. 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 ID number OPP-2002-0336 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 February 18, 2003.

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 (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. 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 (703) 603-0061.

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](mailto: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, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

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, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., 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.1. Mail your copies, identified by docket ID number OPP-2002-0336, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit

I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto: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 6.1/8.0 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 time-limited tolerances under section 408 of the FFDCA. 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). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). 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 any special considerations 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 OMB review or any Agency action under 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). Since tolerances and exemptions that are established under section 408(l)(6) of the FFDCA in response to an exemption under FIFRA section 18, such as the tolerances 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. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the 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." This rule 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. Thus, Executive Order 13175 does not apply to this rule.

#### 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 final rule in the **Federal Register**. This final 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: December 24, 2002.

#### Peter Caulkins,

*Acting 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.

#### § 180.142 [Amended]

2. In § 180.142, in the table to paragraph (b), the entry for wild rice is amended by revising the expiration date to read "12/31/05."

#### § 180.176 [Amended]

3. In § 180.176, in the table to paragraph (b), the entry for ginseng is amended by revising the expiration date to read "12/31/04."

#### § 180.284 [Amended]

4. In § 180.284, in the table to paragraph (b), the entries for alfalfa, forage; alfalfa, hay; clover, forage;

clover, hay; timothy, forage; timothy, hay; and timothy, seed are amended by revising the expiration dates to read "12/31/05."

#### § 180.438 [Amended]

5. In § 180.438, in the table to paragraph (b), the entries for barley, bran; barley, grain; barley, hay; and barley, straw are amended by revising the expiration dates to read "12/31/05."

#### § 180.442 [Amended]

6. In § 180.442, in the table to paragraph (b), the entries for citrus, dried pulp; and citrus, oil are amended by revising the expiration dates to read "12/31/04."

#### § 180.482 [Amended]

7. In § 180.482, in the table to paragraph (b), the entry for sweet potato, roots is amended by revising the expiration date to read "12/31/05."

#### § 180.495 [Amended]

8. In § 180.495, in the table to paragraph (b), the entries for alfalfa, forage; alfalfa, hay; cattle, fat; cattle, meat byproducts; cattle, meat; egg; goat, fat; goat, meat byproducts; goat, meat; grass, forage; grass, hay; hog, fat; hog, meat byproducts; hog, meat; horse, fat; horse, meat byproducts; horse, meat; peanut, hay; poultry, fat; sheep, fat; sheep, meat byproducts; and sheep, meat are amended by revising the expiration date to read "12/31/05" and the entry for "all commodities in connection with quarantine eradication programs against exotic, non-indigenous, fruit fly species, where a separate higher tolerance is not already established" is amended by revising the expiration date to read "12/31/06."

#### § 180.498 [Amended]

9. In § 180.498, in the table to paragraph (b), the entries for horseradish, roots; sugarcane; and sunflower are amended by revising the expiration date to read "12/31/05."

#### § 180.527 [Amended]

10. In § 180.527, in the table to paragraph (b), the entries for cattle, fat; cattle, kidney; cattle, meat; cattle, meat byproducts; goat, fat; goat, kidney; goat, meat; goat, meat byproducts; hog, fat; hog, kidney; hog, meat; hog, meat byproducts; horse, fat; horse, kidney; horse, meat; horse, meat byproducts; sheep, fat; sheep, kidney; sheep, meat; sheep, meat byproducts; wheat, forage; wheat, grain; wheat, hay; and wheat, straw are amended by revising the expiration date to read "6/30/05."

#### § 180.553 [Amended]

12. In § 180.553, in the table to paragraph (b), the entry for pear is amended by revising the expiration date to read "12/31/04."

#### § 180.1020 [Amended]

13. In § 180.1020, in the table to paragraph (b), the entry for wheat is amended by revising the expiration date to read "12/31/04."

[FR Doc. 03-969 Filed 1-15-03; 8:45 a.m.]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7438-8]

### National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the ATSF Clovis, Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice of deletion of the ATSF Clovis, Superfund Site (Site), located in Clovis, New Mexico, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of New Mexico, through the New Mexico Environment Department because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final notice of deletion will be effective March 17, 2003 unless EPA receives significant adverse or critical comments by February 18, 2003. If adverse comments are received, EPA will publish timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Comments should be addressed to: Beverly Negri, Community Involvement Coordinator, U.S. EPA Region 6 (6SF-PO), 1445 Ross Avenue, Dallas, TX, 75202-2733, (214) 665-8157