

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). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impact of this proposed rule on small entities, the Agency hereby certifies that this proposed rule will not have significant negative economic impact on a substantial number of small entities. Establishing an exemption from the requirement of a pesticide tolerance (or, amending a tolerance exemption, as is proposed), is in effect, the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including small entities. 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 proposed 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 FFDCFA. For these same reasons, the Agency has determined that this proposed 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 proposed 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 proposed rule. The Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities.

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

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

Dated: September 7, 2005.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

#### PART 180—[AMENDED]

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

**Authority:** 21 U.S.C. 321(q), 346a and 371.

2. By revising § 180.1250 to read as follows:

#### **§ 180.1250 C8, C10, and C12 straight-chain fatty acid monoesters of glycerol and propylene glycol; exemption from the requirement of a tolerance.**

The C8, C10, and C12 straight-chain fatty acid monoesters of glycerol (glycerol monocaprylate, glycerol monocaprate, and glycerol monolaurate) and propylene glycol (propylene glycol monocaprylate, propylene glycol monocaprate, and propylene glycol monolaurate) are exempt from the requirement of a tolerance in or on all food commodities when used for both pre-harvest and post-harvest purposes, in accordance with approved label rates and good agricultural practice.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 300**

[FRL-7971-4]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; notice of intent to partially delete the East Tailing portion of the Tar Lake Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency, (EPA) Region 5 is issuing a notice of intent to partially delete the East Tailing Area of the Tar Lake Superfund Site (Site) located in Antrim County, Michigan, from the National Priorities List (NPL) and requests public comments on this notice of intent to partially delete. The East Tailing Area, as defined in the Remedial Investigation Report dated August 7, 2000, includes all soil, subsurface soil and groundwater associated with that part of the Tar Lake Superfund Site. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Michigan, through the Michigan Department of Environmental Quality, have determined that all appropriate response actions under CERCLA have been completed.

However, this partial deletion does not preclude future actions under Superfund. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final notice of partial deletion of the East Tailing Area of the Tar Lake Superfund Site without prior notice of intent to partially delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this partial deletion in the preamble to the direct final notice of partial deletion. If we receive no adverse comment(s) on the direct final notice of partial deletion, we will not take further action. If we receive timely adverse comment(s), we will withdraw the direct final notice of partial deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final partial deletion notice based on adverse comments received on this notice of intent to partially delete. We will not institute a second comment period on this notice of intent to partially delete. Any parties interested

in commenting must do so at this time. For additional information, see the direct final notice of partial deletion which is located in the Rules section of this **Federal Register**.

**DATES:** Comments concerning this Site must be received by October 21, 2005.

**ADDRESSES:** Written comments should be addressed to: Stuart Hill, Community Involvement Coordinator, U.S. EPA (P-19J), 77 W. Jackson, Chicago, IL 60604, 312-886-0689 or 1-800-621-8431. Electronic comments should be sent to [bloom.thomas@epa.gov](mailto:bloom.thomas@epa.gov).

**FOR FURTHER INFORMATION CONTACT:** Thomas Bloom, Remedial Project Manager at (312) 886-1967, or Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253 or 1-800-621-8431, Superfund Division, U.S. EPA (SR-6J), 77 W. Jackson, IL 60604.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

*Information Repositories:* Repositories have been established to provide

detailed information concerning this decision at the following address: EPA Region 5 Library, 77 W. Jackson, Chicago, IL 60604, (312) 353-5821, Monday through Friday 8 a.m. to 4 p.m.; Mancelona Public Library, 202 W. State Street, Mancelona, MI 49945, (231) 587-9471, Monday through Friday 8 a.m. to 4 p.m., Tuesday and Thursday 6 p.m. to 8 p.m.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: September 6, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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