

Inert ingredients	Limits	Uses
Tetrahydrofurfuryl alcohol (THFA) (CAS Reg. No 97-99-4)	Expires February 9, 2008	Solvent/cosolvent

■ 3. Section 180.1263 is added to subpart D to read as follows:

**§ 180.1263 Tetrahydrofurfuryl alcohol; exemption from the requirement of a tolerance.**

Tetrahydrofurfuryl alcohol (THFA, CAS Reg. No. 97-99-4) is exempt from the requirement of a tolerance in or on all raw agricultural commodities when used in accordance with good agricultural practices as an inert ingredient applied only:

- For use as a seed treatment.
- For applications prior to planting and at the time of planting.
- For use on cotton.
- For use in herbicides with one application to wheat and barley prior to the pre-boot stage, and two applications to canola and soybeans pre-bloom.
- For use in herbicides with two applications to field corn up to 24 inches tall (V 5 stage).

[FR Doc. E6-12591 Filed 8-8-06; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2006-0230; FRL-8084-1]

**Inert Ingredients; Revocation of Tolerance Exemptions with Insufficient Data for Reassessment**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule revokes under section 408(e)(1) of the Federal Food, Drug, and Cosmetic Act (FFDCA) the existing exemptions from the requirement of a tolerance for residues of certain inert ingredients because there are insufficient data to make the determination of safety required by FFDCA section 408(b)(2), or because they are redundant and, therefore, are not necessary. In addition, EPA has identified substances within certain of these tolerance exemptions that meet the definition of low-risk polymers and is establishing new tolerance exemptions for them. The revocation actions in this document contribute towards the Agency's tolerance reassessment requirements under FFDCA section 408(q), as amended by

the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory actions in this document pertain to the revocation of 130 tolerance exemptions which are counted as tolerance reassessment toward the August 2006 review deadline.

**DATES:** This rule is effective August 9, 2008, except amendatory instructions dd for § 180.910; jj and pp for § 180.920; m, q, bb, and kk for § 180.930; and § 180.960 which are effective August 9, 2006. Objections and requests for hearings must be received on or before October 10, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2006-0230. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Kerry Leifer, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8811; e-mail address: [leifer.kerry@epa.gov](mailto:leifer.kerry@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. 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 Access Electronic Copies of this Document?*

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

*C. Can I File an Objection or Hearing Request?*

Under section 408(g) of FFDCA, as amended by 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.

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2006-0230 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 October 10, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2006-0230, by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

## II. Background and Statutory Findings

### A. What Action is the Agency Taking?

1. *Revocation because of insufficient data*. This final rule revokes the inert ingredient tolerance exemptions with insufficient data identified in two documents that published in the **Federal Register** on May 3, 2006 (71 FR 25993; EPA-HQ-OPP-2006-0230) (FRL-8060-9) and June 7, 2006 (71 FR 32895; EPA-HQ-OPP-2006-0493) (FRL-8072-4). EPA is now in the process of reassessing all inert ingredient exemptions from the requirement of a tolerance ("tolerance exemptions") established prior to August 3, 1996, as required by FFDCA section 408(q). Under FFDCA section 408(q), tolerance reassessment may lead to regulatory action under FFDCA section 408(e)(1). When taking action under FFDCA section 408(e)(1), EPA

may leave a tolerance exemption in effect only if the Agency determines that the tolerance exemption is safe. EPA is revoking 130 inert ingredient tolerance exemptions because insufficient data are available to the Agency to make the safety determination required by FFDCA section 408(c)(2).

In making the FFDCA reassessment safety determination, EPA considers the validity, completeness, and reliability of the data that are available to the Agency, FFDCA section 408(b)(2)(D), and the available information concerning the special susceptibility of infants and children (including developmental effects from *in utero* exposure), FFDCA section 408(b)(2)(C). Data gaps exist for these inert ingredients in areas critical to reassessment. Without these data, the assessment of possible effects to infants and children cannot be made. EPA has insufficient data to make the safety finding of FFDCA section 408(c)(2) and is revoking the inert ingredient tolerance exemptions identified in this final rule.

The Agency is revoking two other inert ingredient tolerance exemptions with insufficient data under 40 CFR part 180 that were identified in the preamble of the proposed revocation document (71 FR 25993; EPA-HQ-OPP-2006-0230). They were inadvertently removed from the CFR some time ago but are considered to be active tolerance exemptions subject to reassessment as required by FFDCA section 408(q). The tolerance exemptions being revoked are:

- i. § 180.910: " $\alpha$ -Alkyl (C<sub>12</sub>-C<sub>15</sub>)- $\omega$ -hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles."

- ii. § 180.930: " $\alpha$ -Alkyl (C<sub>12</sub>-C<sub>15</sub>)- $\omega$ -hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles."

EPA's response to the comments received on the proposed rule is provided in Unit II.B. In summary, the safety finding required by FFDCA section 408(b)(2) cannot be made for certain inert ingredient tolerance exemptions due to insufficient data. Therefore, EPA is revoking under FFDCA section 408(e)(1) the tolerance exemptions identified in this document under §§ 180.910, 180.920, 180.930, and 180.940, with the revocations effective 2 years after the date of publication of this rule in the **Federal Register**.

2. *Five new tolerance exemptions for polymer chemicals*. In this final rule, EPA is establishing five tolerance exemptions under 40 CFR 180.960 for

chemicals that meet the criteria for defining a low-risk polymer under 40 CFR 723.250. No comments were received on the proposal to establish these tolerance exemptions (71 FR 25993; EPA-HQ-OPP-2006-0230). The establishment of these tolerance exemptions is effective on the date of publication of this rule in the **Federal Register**.

3. *Revocations for administrative reasons*. The Agency is revoking seven redundant and incorrect tolerance exemptions under 40 CFR part 180, as described in this unit. No comments were received on the proposal to revoke these tolerance exemptions (71 FR 25993; EPA-HQ-OPP-2006-0230). These tolerance exemptions are revoked on the date of publication of this rule in the **Federal Register**.

- i. In § 180.920, the tolerance exemption for: "Sodium mono- and dimethyl naphthalenesulfonate; molecular weight (in amu) 245-260."

- ii. In § 180.930, the tolerance exemptions for: "Ethyl vinyl acetate (CAS Reg. No. 24937-78-8)" and " $\alpha$ -(Methylene (4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene)bis- $\omega$ -hydroxypoly(oxyethylene) having 6-7.5 moles of ethylene oxide per hydroxyl group."

- iii. In § 180.920 and 180.930, the tolerance exemptions for: "Sodium butyl naphthalenesulfonate."

- iv. In § 180.910 and 180.930, the tolerance exemptions for: " $\alpha$ -[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; ...".

### B. EPA's Responses to Comments

1. *Identifying data gaps*. Several commenters claim that EPA has not communicated specific data gaps for each tolerance exemption, and has been reticent in communicating whether testing must be conducted for each chemical or whether inert ingredients can be grouped and data submitted that supports all the inert ingredients within a group. EPA disagrees. The proposed rule identified the data gaps that resulted in the Agency being unable to make the safety finding of FFDCA section 408(c)(2). In addition, EPA discussed these topics at some depth during both public meetings on the proposed revocation (See the **Federal Register** of May 3, 2006 (71 FR 26000) (FRL-8068-5)).

In the proposed rule, EPA clearly stated that tests agreed to under the Organization for Economic Cooperation and Development's (OECD) Screening

Information Data Set (SIDS) program would have permitted the Agency to evaluate the tolerance exemptions for reassessment. The proposed rule stated that there are data gaps critical to reassessment including acceptable repeat-dose, developmental, and reproductive toxicity studies. EPA stated that the preferred test for repeat-dose toxicity is the "Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test" (OECD Test Guideline 422). The OECD SIDS is a well-known international program that also is used in EPA's High Production Volume (HPV) program.

In the proposed rule, EPA stated that for some inert ingredients, the full SIDS may not be necessary because EPA has available a limited number of studies and information (e.g., acute toxicity studies). The Agency anticipates that most inert ingredients will only need the OECD 422 screening level study, but it must be noted that the results of this study may indicate a need for further testing. EPA is reiterating here the recommendation stated in the proposed rule that all parties interested in supporting a chemical consult with EPA prior to embarking on a testing strategy in order to determine the data gap and what data the Agency already has available. In addition, the proposed rule lists numerous broad multi-chemical tolerance exemptions, each of which could encompass many chemicals. EPA continues to offer to work with industry to clarify whether testing certain chemicals within a multi-chemical tolerance exemption will suffice rather than testing each chemical in the group. This will help reduce the number of studies conducted. EPA is pleased to report that numerous companies have already consulted with the Agency, and more meetings have been scheduled for the near future.

One commenter asserted that sufficient publicly available data exists for several of the inert ingredients proposed for revocation. The Agency disagrees. EPA searched Agency and publicly available data sources, including EPA's HPV program, and found inadequate and insufficient data for all of the inert ingredients being revoked in this final rule.

*2. Concern about whether 2 years is sufficient time.* Most commenters expressed concern that the effective date of the revocation action for the tolerance exemptions with insufficient data, which is 2 years from the publication of the final rule, is too short a timeframe to identify supporters of inert ingredients, generate the data, and complete Agency review. Some

commenters asked for assurance that the Agency will grant revocation extensions if a good-faith effort is demonstrated by the supporter of an inert ingredient.

The Agency determined that the safety finding of FFDC section 408(c)(2) could not be made for the inert ingredient tolerance exemptions with insufficient data being revoked in this final rule. While the Agency does not anticipate dietary risks of concern for the majority of these chemicals based on what is known of their physical-chemical properties and the history of their use, the lack of data requires revocation.

EPA selected the 2-year timeframe after considering what data would typically be needed to fill the data gaps for these inert ingredients. As discussed in this unit, the Agency anticipates that most inert ingredients will only need the OECD 422 screening level study to fill the data gap. The OECD 422 is an oral 28-day repeat-dose screening level study (with developmental and reproductive toxicity testing) that is known to have a relatively short development time—approximately 9 months from test initiation to report completion. Two years provides sufficient time for the study development and submission process, and for Agency review and decisionmaking.

The Agency is aware that unforeseen or other circumstances may make it challenging to complete data development work within the 2-year timeframe. The Agency envisions extending the expiration date of individual inert ingredient tolerance exemptions on a case-by-case basis when legitimate extenuating circumstances arise. EPA may be able to through rulemaking delay the effective date of the revocation to allow sufficient time for testing and data submission to be completed when, soon after the publication of this final rule, the submitter clearly communicates to EPA their commitment to support an inert ingredient, demonstrates a concerted effort to develop and submit the data within the 2-year timeframe, keeps the Agency informed of challenging circumstances as they arise, and, most importantly, provides the Agency with early indications of data that would support a safety finding.

Most commenters asserted that 2 years is an inadequate amount of time if they need to reformulate their pesticide products with other inert ingredients. The Agency believes that the majority of inert ingredients affected by this final rule that are currently used in pesticide products will be successfully supported with adequate

data. Developing the data, rather than costly reformulation, is the likely path forward considering the relatively low cost of conducting the screening level study (approximately \$150,000). It should be noted that for some pesticide products, no action is needed because the registrants already have permission to use alternate inert ingredients with tolerance exemptions that have been reassessed. The Agency will work with registrants on a case-by-case basis if the tolerance exemption for an inert ingredient cannot be reinstated because study results are unacceptable.

*3. Low Risk Methodology and DCIs.* Several commenters claim that EPA has not followed the guidance of the "Low Risk Methodology" and issued Data Call-In (DCI) notices requiring studies. The commenters are referring to EPA's "Guidance Document on Methodology for Determining the Data Needed and the Types of Assessments Necessary to Make FFDC Section 408 Safety Determinations for Lower Toxicity Pesticide Chemicals." Posted to EPA's website 4 years ago (June, 2002), this non-binding guidance document was developed in cooperation with a committee comprised of representatives of pesticide and industrial chemical manufacturers. It generally describes the reassessment and petition process for inert ingredients, sources of publicly available data and information, and the types of data and information that might be needed for risk characterization depending on various chemical-related factors. The screening level assessments that EPA is using to reassess inert ingredients are generally described in the guidance document. Data are discussed in some detail in the guidance document, including the need for repeat-dose, developmental, and reproductive toxicity studies and the OECD 422 study. Therefore, the need for these studies for inert ingredient reassessment has been public knowledge for some time.

The guidance document generally describes how DCIs are used by EPA, but never states that the Agency would definitely issue DCIs for inert ingredients. The mention of DCIs in the guidance document focuses on chemicals that have significant toxicity concerns and need a more robust ("Tier 3") evaluation rather than a screening level assessment. The guidance document states, "These chemicals may have already been classified as List 1 'inerts of toxicological concern' or List 2 'potentially toxic inerts/high priority for testing.' Usually, registrants whose products contain Tier 3 chemicals would be required to provide these data via a Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA) section 3(c)(2)(B) DCI notice.” The guidance document wisely and purposefully built in flexibility to the general process and states “The policies and process described herein are not binding on either EPA or pesticide registrants, and EPA may modify or disregard the process described herein where circumstances warrant and without prior notice.”

Some commenters believe that EPA may not revoke a tolerance or exemption for lack of supporting data unless it has first solicited data through a DCI under FFDC section 408(f)(1). Although FFDC section 408(f)(1) may be used to solicit data required to support a tolerance or exemption, the statute provides direct authority for revocation in the absence of such data. Section 408(q)(1)(C) of FFDC requires that “100 percent of... tolerances and exemptions are reviewed within 10 years of August 3, 1996.” When reviewing a tolerance exemption, FFDC section 408(c)(2)(A)(i) provides the following: The Administrator may establish or leave in effect an exemption from the requirement for a tolerance for a pesticide chemical residue in or on food only if the Administrator determines that the exemption is safe. The Administrator shall modify or revoke an exemption if the Administrator determines it is not safe.

Under FFDC section 408(c)(2)(A)(i) safety must be shown, and not presumed: The term “safe,” with respect to an exemption for a pesticide chemical residue, means that the Administrator has determined that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.

Thus, EPA is required by August of 2006 to determine that all tolerance exemptions are safe. And if there are insufficient data to determine that an exemption is safe, the assessment mandated by FFDC section 408(q)(1)(C) requires that the Agency revoke the exemption, regardless of whether a DCI has been issued.

4. *Request for guidance.* Several commenters requested written guidance, including process steps and schedules, on how to support chemicals with insufficient data. EPA is now developing written guidance that will help those interested in developing data on the inert ingredients with insufficient data identified in this final rule. The helpful guidance will include a recommended process with interim steps toward the completion of the inert

ingredient evaluation. For example, the guidance will (among other things) suggest ways to:

- i. Demonstrate an intention to support an inert ingredient (such as an official letter to the Agency).
- ii. Consult with the Agency on data gaps and chemicals to be tested.
- iii. Show commitment by contracting with a testing laboratory.
- iv. Submit the study to the Agency. The guidance will be made public on EPA’s website and widely distributed among industry and other interested stakeholders.

5. *Previously reassessed tolerance exemptions.* Several commenters noted that five tolerance exemptions were listed in the revocation proposal by mistake because they had already been reassessed by the Agency. The five tolerance exemptions are as follows:

- i. In both § 180.910 and 180.930: “ $\alpha$ -Lauryl- $\omega$ -hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.”
- ii. In both § 180.910 and 180.930: “Polyglyceryl phthalate ester of coconut oil fatty acids.”
- iii. In § 180.920: “Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648–12–4).”

Previous Agency reassessment determinations did include four of the above-listed tolerance exemptions, however, subsequent to those decisions, it was determined that the inert ingredients were erroneously included in those reassessment documents. In the case of polyglyceryl phthalate esters of coconut oil fatty acids, the two tolerance exemptions were initially considered to be reassessed based primarily upon an inaccurate assumption that the molecular weights for this inert ingredient are greater than 1,000 amu. The tolerance exemptions are no longer considered to be reassessed because there are no molecular weight limitation in the inert ingredient’s tolerance exemption expressions. In the case of  $\alpha$ -Lauryl- $\omega$ -hydroxypoly(oxyethylene), the two tolerance exemptions were inappropriately included in a reassessment document as a member of a group of polyethylene glycol fatty acid ester-type substances. The tolerance exemptions are no longer considered to be reassessed because they are not a part of this group. The reassessment documents that initially erroneously included these four tolerance exemptions have been revised and these tolerance exemptions have been removed. The Agency then attempted to evaluate these inert ingredients but found that insufficient data exists to make the FQPA reasonable certainty of no harm safety finding. As a result, the

Agency is revoking the four tolerance exemptions in this final rule.

The tolerance exemption for “Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648–12–4)” in § 180.920 has not been reassessed and is not part of any reassessment document.

6. *Channels of trade.* Commenters raised two issues regarding channels of trade. First, a number of commenters indicated that existing stocks of pesticides containing ingredients whose exemptions are to be revoked, or of chemical blends intended only for such pesticides, may not be used up by the time the exemption expires. As stated in this unit, the Agency envisions extending the expiration date of individual inert ingredient tolerance exemptions on a case-by-case basis when circumstances allow. Nevertheless, the Agency does not anticipate serious existing stocks problems as a result of this revocation action. The Agency believes that submission of acceptable new studies and acceptable existing studies that were previously unavailable to EPA will keep the need to reformulate pesticide products to a minimum. The Agency has already received several communications from pesticide registrants indicating their intention to submit unpublished data in their possession, and an industry association has stated that they are working to obtain unpublished data cited in various publications.

Second, one commenter raised a question regarding FFDC section 408(l)(5), which provides that commodities containing pesticide residues whose tolerances or exemptions that have been revoked are not considered adulterated provided that it is shown to the satisfaction of the Food and Drug Administration (FDA) that:

- i. The residue is present as the result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA.
- ii. The residue does not exceed a level that was authorized at the time of that application or use to be present on the food under a tolerance, exemption, or food additive regulation.

The commenter stated that it is highly doubtful that the agriculture industry would be able to provide FDA sufficient documentation to meet the standards in this provision. EPA has revoked a large number of tolerances since the enactment of FQPA, and is not aware of widespread difficulties in this area.

7. *Data compensation.* A number of commenters have expressed concern regarding the ability to receive compensation under FFDC section

408(i) for data generated to demonstrate the safety of the ingredients subject to this revocation. EPA has made clear that it interprets FFDCA section 408(i) to provide exclusive use and data compensation rights in data submitted to EPA by pesticide registrants or inert ingredient manufacturers and sellers to support or maintain tolerances or tolerance exemptions for inert ingredients. See the **Federal Register** of April 17, 2003 (68 FR 18977) (FRL-7279-9). Accordingly, should EPA rely upon such data to reinstate any of the listed tolerance exemptions subject to this action, such data will be subject to the protections of FFDCA section 408(i). The obligation for others to provide compensation for such protected data would accrue from DCIs as well as registration and registration review actions under FIFRA with respect to products containing the ingredients subject to this revocation action.

8. *Cost of the rule, OMB review, and the Regulatory Flexibility Act.* Several commenters expressed the opinion that the costs of the rule are significant, exceeding the \$100 million threshold for OMB review under Executive Order 12866. Commenters also claimed EPA's analysis of the impact on small business did not comply with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The costs asserted by the commenters include, among other things, testing of every ingredient subject to the tolerance exemptions to be revoked, lost sales due to cancellation of pesticides because of the revocations, lost value to farmers resulting from the unavailability of these pesticides, and the cost of reformulation to change inert ingredients. These costs have been estimated by some commenters to be in excess of 1 billion dollars.

EPA disagrees with this analysis. Companies will choose the lowest cost alternative between testing, reformulation, and abandoning a product. In most cases, testing, which EPA expects to average around \$150,000, will be by far the cheapest alternative, and EPA anticipates very few instances in which reformulation or pesticide product abandonment will be appropriate. EPA also anticipates that testing will not have to be performed for every chemical affected for several reasons. First, it is likely that some of these exemptions cover chemicals no longer used in pesticide products. Testing would not be conducted for such chemicals and there would be no costs for reformulation or due to pesticide product cancellation. Second, preliminary discussions with pesticide registrants and inert ingredient

manufacturers that would be affected by this rule suggest that there are a significant number of unpublished studies already conducted that would meet the data needs identified here. Third, in many instances, similarities among these chemicals will allow EPA to rely on data produced on one chemical to support another chemical or a whole group of chemicals. Therefore, the overall cost of this rule will be far below the Executive Order 12866 threshold.

Although several commenters claimed that EPA's RFA certification of no significant impact on a substantial number of small businesses was deficient, little or no explanation was provided for that claim other than to argue that EPA needed to perform a more comprehensive analysis. EPA has reexamined this question and again concluded that there will be no significant negative impact on a substantial number of small entities (here, small businesses). As explained in this unit, the costs associated with this action are most likely to be testing costs borne by pesticide registrants. EPA has identified 1,720 pesticide registrants and approximately 58% of this total meet the definition of a small business. Even assuming some of these small businesses have to conduct testing on their own, the cost of testing (\$150,000) would only be a small fraction of average annual sales for these companies (0.60%). EPA believes, however, that it is unlikely that small pesticide registrants will bear solely the costs of testing for an exemption. First, for the reasons explained in this unit, EPA believes that the number of tests conducted will be far fewer than the number of inert ingredients covered by these revocations. Second, and more to the point, the statute has cost-sharing provisions to ensure that the costs are divided between all affected parties. Although EPA has not matched up exemptions with pesticide products for pesticide registrants, EPA expects impacts to be widely spread through the group of 1,720 registrants because the same inert ingredients are frequently used in several pesticide products. Therefore, in all likelihood, the costs will be divided between many registrants. In fact, EPA has information indicating task forces are already being formed to share the cost of producing data. One commenter asserted that small registrants did not have the resources to participate in cost-sharing task forces. EPA's analysis, however, suggests that the shared costs of conducting these studies will be insignificant. Finally, with respect to RFA, EPA would note

that tolerance revocations generally are under FFDCA, and these actions in particular, are based solely on safety grounds, and costs may not be considered. For example, it would not be relevant under FFDCA to contest these revocations on the ground that the tests needed to demonstrate safety are too costly. Thus, the testing costs associated with this rule are not actually costs that must be considered under the RFA in determining whether there is an impact on small entities.

### *C. What is the Agency's Authority for Taking this Action?*

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under FFDCA section 402(a), 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

### *D. When do These Actions Become Effective?*

1. EPA is revoking the tolerance exemptions identified in this document that have insufficient data effective 2 years after the date of publication of this rule in the **Federal Register**. Any commodities listed in this rule treated with pesticide products containing the inert ingredients and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticide chemicals in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that:

i. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

ii. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

2. EPA is establishing new tolerance exemptions under 40 CFR 180.960 effective on the date of publication of this rule in the **Federal Register**.

3. EPA is revoking for administrative reasons the redundant and incorrect tolerance exemptions identified in this document under 40 CFR 180.910, 180.920, and 180.930 effective on the date of publication of this rule in the **Federal Register**.

#### *E. What is the Contribution to Tolerance Reassessment?*

By law, EPA is required by August, 2006 to reassess the tolerances and exemptions from tolerances that were in existence on August 3, 1996. This document revokes 130 inert ingredient tolerance exemptions, which count as a tolerance reassessment toward the August, 2006 review deadline under FFDCA section 408(q), as amended by FQPA in 1996.

#### **III. Are the Actions Consistent with International Obligations?**

The tolerance revocation in this rule is not discriminatory and is designed to ensure that both domestically produced and imported foods meet the food safety standard established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision (RED) documents. EPA has developed guidance concerning submissions for import tolerance support which was published in the **Federal Register** of June 1, 2000 (65 FR

35069) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the Internet at <http://www.epa.gov>. On the Home Page select "Laws, Regulations, and Dockets," then select "Regulations and Proposed Rules" and then look up the entry for this document under "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at <http://www.epa.gov/fedrgrstr>.

#### **IV. Statutory and Executive Order Reviews**

This rule establishes and revokes tolerance exemptions under section 408(d) of 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 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).

Pursuant to RFA (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant negative economic impact on a substantial number of small entities. The factual basis for this certification is included in Unit II.B.8.

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 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 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. Congressional Review Act**

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: July 31, 2006.

**Lois Rossi,**

*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), 346a and 371.

#### § 180.910 [Amended]

■ 2. In § 180.910, the table is amended by removing the following entries:

a.  $\alpha$ -Alkyl (C<sub>9</sub>-C<sub>18</sub>- $\omega$ -hydroxypoly(oxyethylene) with poly(oxyethylene) content of 2-30 moles.

b.  $\alpha$ -(*p*-Alkylphenyl)- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C<sub>13</sub>) with 6 moles of ethylene oxide.

c.  $\alpha$ -Alkyl (C<sub>6</sub>-C<sub>14</sub>)- $\omega$ -hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 4-12 moles; average molecular weight (in amu) is approximately 635.

d.  $\alpha$ -(*p-tert*-Butylphenyl)- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 4-12 moles.

e.  $\alpha$ -(*o,p*-Dinonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine,

potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

f.  $\alpha$ -(*o,p*-Dinonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) produced by condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 or 140-160 moles of ethylene oxide.

g. Dodecylbenzenesulfonic acid, amine salts.

h.  $\alpha$ -(*p*-Dodecylphenyl)- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

i. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles.

j.  $\alpha$ -Lauryl- $\omega$ -hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.

k.  $\alpha$ -Lauryl- $\omega$ -hydroxypoly(oxyethylene) sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles.

l. Manganous oxide.

m.  $\alpha$ -(*p*-Nonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles or 30 moles.

n.  $\alpha$ -(*p*-Nonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

o. Polyglyceryl phthalate ester of coconut oil fatty acids.

p. Poly(methylene-*p-tert*-butylphenoxy)-poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

q. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

r. Secondary alkyl (C<sub>11</sub>-C<sub>15</sub>) poly(oxyethylene) acetate, sodium salt;

the ethylene oxide content averages 5 moles.

s. Sodium diisobutyl-naphthalenesulfonate.

t. Sodium dodecylphenoxybenzenedisulfonate.

u. Sodium isopropylisohexyl-naphthalenesulfonate.

v. Sodium lauryl glyceryl ether sulfonate.

w. Sodium monoalkyl and dialkyl (C<sub>8</sub>-C<sub>16</sub>) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product.

x. Sodium mono- and dimethylnaphthalenesulfonates, molecular weight (in amu) 245-260.

y. Sodium mono-, di-, and tributyl naphthalenesulfonates.

z. Sodium mono-, di-, and triisopropyl naphthalenesulfonate.

aa. Sodium *N*-oleoyl-*N*-methyltaurine.

bb. Sodium sulfite.

cc.  $\alpha$ -[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.

dd.  $\alpha$ -[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

ee. Tridecylpoly(oxyethylene) acetate, sodium salt; where the ethylene oxide content averages 6-7 moles.

#### § 180.920 [Amended]

■ 3. In § 180.920, the table is amended by removing the following entries:

a.  $\alpha$ -Alkyl (C<sub>12</sub>-C<sub>18</sub>)- $\omega$ -hydroxypoly(oxyethylene) copolymers with poly(oxypropylene); polyoxyethylene content averages 3-12 moles and polyoxypropylene content 2-9 moles.

b.  $\alpha$ -Alkyl (C<sub>10</sub>-C<sub>16</sub>)- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 3-20 moles.

c.  $\alpha$ -Alkyl (C<sub>12</sub>-C<sub>15</sub>)- $\omega$ -hydroxypoly(oxyethylene)

sulfosuccinate, isopropylamine and *N*-hydroxyethyl isopropylamine salts of; the poly(oxyethylene) content averages 3-12 moles.

d.  $\alpha$ -Alkyl(C<sub>10-12</sub>)- $\omega$ -hydroxypoly(oxyethylene) poly(oxypropylene) copolymer; poly(oxyethylene) content is 11-15 moles; poly(oxypropylene) content is 1-3 moles.

e.  $\alpha$ -Alkyl(C<sub>12-18</sub>)- $\omega$ -hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles.

f.  $\alpha$ -Alkyl (C<sub>10-16</sub>)- $\omega$ -hydroxypoly(oxyethylene)poly(oxypropylene) mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly(oxyethylene) poly(oxypropylene) content averages 3-20 moles.

g.  $\alpha$ -Alkyl (C<sub>12-18</sub>)- $\omega$ -hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-12 moles and the oxypropylene content is 3-7 moles.

h.  $\alpha$ -Alkyl (C<sub>12-15</sub>)- $\omega$ -hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles.

i.  $\alpha$ -Alkyl (C<sub>21-71</sub>)- $\omega$ -hydroxypoly(oxyethylene) in which the poly(oxyethylene) content is 2 to 91 moles and molecular weight range from 390 to 5,000.

j. *n*-Alkyl(C<sub>8-18</sub>)amine acetate.

k. Amine salts of alkyl (C<sub>8-24</sub>) benzenesulfonic acid (butylamine, dimethylaminopropylamine, mono- and diisopropylamine, mono-, di-, and triethanolamine).

l. *N*-(Aminoethyl) ethanolamine salt of dodecylbenzenesulfonic acid.

m. *N,N*-Bis( $\alpha$ -ethyl- $\omega$ -hydroxypoly(oxyethylene) alkylamine; the poly(oxyethylene) content averages 3 moles; the alkyl groups (C<sub>14-18</sub>) are derived from tallow, or from soybean or cottonseed oil acids.

n. *N,N*-Bis(2-hydroxyethyl)alkylamine, where the alkyl groups (C<sub>8-18</sub>) are derived from coconut, cottonseed, soya, or tallow acids.

o. *N,N*-Bis 2-( $\omega$ -hydroxypolyoxyethylene) ethyl) alkylamine; the reaction product of 1 mole *N,N*-bis(2-hydroxyethyl)alkylamine and 3-60 moles of ethylene oxide, where the alkyl

group (C<sub>8-18</sub>) is derived from coconut, cottonseed, soya, or tallow acids.

p. *N,N*-Bis-2-( $\omega$ -hydroxypolyoxyethylene/polyoxypropylene) ethyl alkylamine; the reaction product of 1 mole of *N,N*-bis(2-hydroxyethyl alkylamine) and 3-60 moles of ethylene oxide and propylene oxide, where the alkyl group (C<sub>8-18</sub>) is derived from coconut, cottonseed, soya, or tallow acids.

q. Butoxytriethylene glycol phosphate.

r. Cyclohexanol.

s.  $\alpha$ -(Di-*sec*-butyl)phenylpoly(oxypropylene) block polymer with poly(oxyethylene); the poly(oxypropylene) content averages 4 moles, the poly(oxyethylene) content averages 5 to 12 moles, the molecular weight (in amu) averages 600 to 965.

t. Disodium 4-isodecyl sulfosuccinate.

u. Dodecylphenol.

v.  $\alpha$ -Dodecylphenol- $\omega$ -hydroxypoly(oxyethylene/oxypropylene) hetero polymer where ethylene oxide content is 11-13 moles and oxypropylene content is 14-16 moles, molecular weight (in amu) averages 600 to 965.

w. Isopropylbenzenesulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.

x. (3-Lauramidopropyl) trimethylammonium methyl sulfate.

y. Linoleic diethanolamide (CAS Reg. No. 56863-02-6).

z. Methyl bis(2-hydroxyethyl)alkyl ammonium chloride, where the carbon chain (C<sub>8-18</sub>) is derived from coconut, cottonseed, soya, or tallow acids.

aa.  $\alpha,\alpha'$ -[Methylenebis]-4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene bis( $\omega$ -hydroxypoly(oxyethylene)) having 6-7.5 moles of ethylene oxide per hydroxyl group.

bb. Methyl naphthalenesulfonic acid—formaldehyde condensate, sodium salt.

cc. Methyl poly(oxyethylene) alkyl ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C<sub>8-18</sub>) is derived from coconut, cottonseed, soya, or tallow acids.

dd. Methyl violet 2B.

ee. Morpholine salt of dodecylbenzenesulfonic acid.

ff. Naphthalenesulfonic acid-formaldehyde condensate, ammonium and sodium salts.

gg. Partial sodium salt of *N*-lauryl- $\alpha$ -iminodipropionic acid.

hh. Poly(methylene-*p*-nonylphenoxy)poly(oxypropylene) propanol; the poly(oxy-propylene) content averages 4-12 moles.

ii. Primary *n*-alkylamines, where the alkyl group (C<sub>8-18</sub>) is derived from coconut, cottonseed, soya, or tallow acids.

jj. Sodium butyl naphthalenesulfonate.

kk. Sodium 1,4-dicyclohexyl sulfosuccinate.

ll. Sodium 1,4-dihexyl sulfosuccinate.

mm. Sodium 1,4-diisobutyl sulfosuccinate.

nn. Sodium 1,4-dipentyl sulfosuccinate.

oo. Sodium 1,4-ditridecyl sulfosuccinate.

pp. Sodium mono- and dimethyl naphthalenesulfonate; molecular weight (in amu) 245-260.

qq. Sulfosuccinic acid ester with *N*-(2-hydroxy-propyl) oleamide, ammonia and isopropylamine salts of.

rr. Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648-12-4).

ss. *N,N,N',N'*-Tetrakis-(2-hydroxypropyl) ethylenediamine.

tt.  $\alpha$ -[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding sodium salts of the phosphate esters; the poly(oxyethylene) content averages 6 to 10 moles.

#### § 180.930 [Amended]

■ 4. In § 180.930, the table is amended by removing the following entries:

a.  $\alpha$ -Alkyl (C<sub>9-18</sub>)- $\omega$ -hydroxy poly(oxyethylene): the poly(oxyethylene) content averages 2-20 moles.

b.  $\alpha$ -Alkyl (C<sub>12-15</sub>)- $\omega$ -hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles.

c.  $\alpha$ -Alkyl (C<sub>8-10</sub>) hydroxypoly(oxypropylene) block polymer with polyoxyethylene; polyoxypropylene content averages 3 moles and polyoxyethylene content averages 5-12 moles.

d.  $\alpha$ -Alkyl (C<sub>6-14</sub>)- $\omega$ -hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight (in amu) approximately 635.

e.  $\alpha$ -(*p*-Alkylphenyl)- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C<sub>13</sub>) with 6 moles of ethylene oxide.

f. Amine salts of alkyl (C<sub>8-24</sub>) benzenesulfonic acid (butylamine; dimethylamino propylamine; mono- and diisopropyl- amine; and mono-, di-, and triethanolamine).

g.  $\alpha$ -(*p-tert*- Butylphenyl)- $\omega$ -hydroxypoly(oxyethylene) mixture of

dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 4-12 moles.

h.  $\alpha$ -(*o,p*-Dinonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

i.  $\alpha$ -(*o,p*-Dinonylphenyl)- $\omega$ -hydroxypoly(oxyethylene), produced by the condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 moles of ethylene oxide.

j. Dodecylbenzenesulfonic acid, amine salts.

k.  $\alpha$ -(*p*-Dodecylphenyl)- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70 moles.

l. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles.

m. Ethyl vinyl acetate (CAS Reg. No. 24937-78-8).

n.  $\alpha$ -Lauryl- $\omega$ -hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.

o.  $\alpha$ -Lauryl- $\omega$ -hydroxypoly(oxyethylene), sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles.

p. Manganous oxide.

q.  $\alpha$ -(Methylene (4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene) bis- $\omega$ -hydroxypoly(oxyethylene) having 6-7.5 moles of ethylene oxide per hydroxyl group.

r. Mono-, di-, and trimethylnaphthalenesulfonic acids-formaldehyde condensates, sodium salts.

s. Naphthalenesulfonic acid and its sodium salt.

t.  $\alpha$ -(*p*-Nonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine,

potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

u.  $\alpha$ -(*p*-Nonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

v.  $\alpha$ -(*p*-Nonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 or 30-90 moles of ethylene oxide.

w. Polyglyceryl phthalate esters of coconut oil fatty acids.

x. Poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

y. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles.

z. Poly(methylene-*p*-nonylphenoxy)poly(oxypropylene) propanol; the poly(oxypropylene) content averages 4-12 moles.

aa. Secondary alkyl (C<sub>11</sub>-C<sub>15</sub>) poly(oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

bb. Sodium butylnaphthalenesulfonate.

cc. Sodium diisobutylnaphthalenesulfonate.

dd. Sodium isopropylisohexylnaphthalenesulfonate.

ee. Sodium isopropylisobutylnaphthalenesulfonate.

ff. Sodium monoalkyl and diakyl (C<sub>8</sub>-C<sub>13</sub>) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product.

gg. Sodium mono- and dimethylnaphthalenesulfonate, molecular weight (in amu) 245-260.

hh. Sodium mono-, di-, and tributylisobutylnaphthalenesulfonates.

ii. Sodium *N*-oleoyl-*N*-methyl taurine.

jj.  $\alpha$ -[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]- $\omega$ -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p* (1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.

kk.  $\alpha$ -[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]- $\omega$ -

hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

ll. Tridecylpoly(oxyethylene) acetate sodiums salt; where the ethylene oxide content averages 6-7 moles.

#### § 180.940 [Amended]

■ 5. Section 180.940 is amended as follows:

■ a. The table in paragraph (a) is amended by removing the following entries:

i.  $\alpha$ -Alkyl(C<sub>10</sub>-C<sub>14</sub>)- $\omega$ -hydroxypoly(oxyethylene) poly(oxypropylene) average molecular weight (in amu), 768 to 837.

ii.  $\alpha$ -Alkyl(C<sub>12</sub>-C<sub>18</sub>)- $\omega$  hydroxypoly(oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120.

■ b. The table in paragraph (b) is amended by removing the following entries:

i.  $\alpha$ -Lauroyl- $\omega$ -hydroxypoly(oxyethylene) with an average of 8-9 moles ethylene oxide, average molecular weight (in amu), 400.

ii. Oxirane, methyl-, polymer with oxirane, ether with (1,2-ethanediyldinitrilo)tetrakis [propanol] (4:1).

■ c. The table in paragraph (c) is amended by removing the following entries:

i.  $\alpha$ -Alkyl(C<sub>10</sub>-C<sub>14</sub>)- $\omega$ -hydroxypoly(oxyethylene) poly(oxypropylene) average molecular weight (in amu), 768 to 837.

ii.  $\alpha$ -Alkyl(C<sub>11</sub>-C<sub>15</sub>)- $\omega$ -hydroxypoly(oxyethylene) with ethylene oxide content 9 to 13 moles.

iii.  $\alpha$ -Alkyl(C<sub>12</sub>-C<sub>15</sub>)- $\omega$ -hydroxypoly(oxyethylene) polyoxypropylene, average molecular weight (in amu), 965.

iv.  $\alpha$ -Alkyl(C<sub>12</sub>-C<sub>18</sub>)- $\omega$ -hydroxypoly(oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120.

v.  $\alpha$ -Lauroyl- $\omega$ -hydroxypoly(oxyethylene) with an average of 8-9 moles ethylene oxide, average molecular weight (in amu), 400.

vi. Naphthalene sulfonic acid, sodium salt.

vii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives.

viii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives alkylated at 3% by weight with C<sub>6</sub>-C<sub>9</sub> linear olefins.

ix. Oxirane, methyl-, polymer with oxirane, ether with (1,2-ethanediyldinitrilo)tetrakis [propanol] (4:1).

**§ 180.960 [Amended]**

■ 6. In § 180.960, the table is amended by alphabetically adding the following entries:

**§ 180.960 Polymers; exemptions from the requirement of a tolerance.**

\* \* \* \* \*

Polymer	CAS No.
***** α-(o,p-Dinonylphenyl)-ω-hydroxypoly(oxyethylene) produced by condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 140-160 moles of ethylene oxide	9014-93-1
***** α-(p-Dodecylphenyl)-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 30-70 moles of ethylene oxide	9014-92-0 26401-47-8
***** α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 30 moles	None
α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 30-90 moles of ethylene oxide	None
***** α-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)phenol with a range of 30-70 moles of ethylene oxide	9036-19-5 9002-93-1
*****	

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket No. FEMA-7937]

**Suspension of Community Eligibility**

**AGENCY:** Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** David Stearrett, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 et seq.; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance

with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022,