

266. San Miguel.  
267. South San Juan Adjacent.  
268. Storm Peak.  
269. Treasure Mountain.  
270. Turkey Creek.  
271. Weminuche Adjacent.  
272. West Needles.  
273. Winter Hills/Serviceberry Mountain.

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**White River National Forest**

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274. Adam Mountain.  
275. Ashcroft.  
276. Assignment Ridge.  
277. Baldy Mountain.  
278. Basalt Mountain A.  
279. Basalt Mountain B.  
280. Berry Creek.  
281. Big Ridge to South Fork A.  
282. Big Ridge to South Fork B.  
283. Black Lake East.  
284. Black Lake West.  
285. Blair Mountain.  
286. Boulder.  
287. Budges.  
288. Buffer Mountain.  
289. Burnt Mountain.  
290. Chicago Ridge.  
291. Corral Creek.  
292. Crystal River.  
293. Deep Creek.  
294. Dome Peak.  
295. East Divide-Four Mile Park.  
296. East Vail.  
297. East Willow.  
298. Elk Creek B.  
299. Elliot Ridge.  
300. Fawn Creek-Little Lost Park.  
301. Freeman Creek.  
302. Gallo Hill.  
303. Game Creek.  
304. Grizzly Creek.  
305. Gypsum Creek.  
306. Hardscrabble.  
307. Hay Park.  
308. Holy Cross City.  
309. Homestake.  
310. Hoosier Ridge.  
311. Housetop Mountain.  
312. Hunter.  
313. Little Grand Mesa.  
314. Lower Piney.  
315. Mamm Peak.  
316. Maroon East.  
317. Maryland Creek.  
318. McClure Pass.  
319. McFarlane.  
320. Meadow Mountain A.  
321. Meadow Mountain B.  
322. Morapos A.  
323. Morapos B.  
324. Mormon Creek.  
325. No Name.  
326. North Elk.  
327. North Independent A.  
328. North Independent B.  
329. North Woody.  
330. Pagoda Peak.  
331. Piney Lake.  
332. Porcupine Peak.  
333. Ptarmigan A.  
334. Ptarmigan B.  
335. Ptarmigan C.  
336. Ptarmigan Hill A.  
337. Ptarmigan Hill B.  
338. Red Dirt A.

339. Red Dirt B.  
340. Red Mountain.  
341. Red Table.  
342. Reno Mountain.  
343. Ripple Creek Pass-Trappers Lake.  
344. Ryan Gulch.  
345. Salt Creek.  
346. Sloan Peak.  
347. Spraddle Creek A.  
348. Spraddle Creek B.  
349. Sweetwater A.  
350. Sweetwater B.  
351. Tenderfoot Mountain.  
352. Tenmile.  
353. Thompson Creek.  
354. Tigiwon.  
355. Treasure Mountain.  
356. West Brush Creek.  
357. West Lake Creek.  
358. Wildcat Mountain.  
359. Wildcat Mountain B.  
360. Wildcat Mountain C.  
361. Williams Fork.  
362. Willow.  
363. Woods Lake.

Dated: April 11, 2011.

**Jay J. Jensen,**

*Deputy Under Secretary, NRE.*

[FR Doc. 2011-9119 Filed 4-14-11; 8:45 am]

**BILLING CODE P**

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**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 158**

[EPA-HQ-OPP-2010-0670; FRL-8857-7]

**RIN 2070-AJ80**

**Pesticides; Microbial Pesticide  
Definitions and Applicability;  
Clarification and Availability of Draft  
Test Guideline for Comment**

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

**ACTION:** Proposed rule.

**SUMMARY:** As promulgated, EPA's regulations distinguish "isolates" and "strains" in a confusing and non-obvious manner. This has resulted in significant uncertainty within the regulated industry. This proposed rule addresses this problem by proposing new regulatory language that clarifies the requirements applicable to new strains that are considered to be new active ingredients under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA is also soliciting comment on a draft microbial pesticide test guideline, explaining the deposition of a sample in a nationally recognized culture collection data requirement, for comment. The revisions proposed in this rule also include several other minor corrections to words and references. The changes should enhance

the ability of industry to efficiently manage their microbial pesticide registration submissions.

**DATES:** Comments must be received on or before July 14, 2011.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2010-0670, 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 Facility'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 Facility telephone number is (703) 305-5805.

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2010-0670. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form

of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., 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 either 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 hours of operation of this Docket Facility are 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:** Rose Kyprianou, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5354; fax number: (703) 305-5884; e-mail address: [kyprianou.rose@epa.gov](mailto:kyprianou.rose@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 a producer or registrant of a microbial pesticide product. This proposal also may affect any person or company who might petition the Agency for a tolerance or an exemption from the requirement of a tolerance for the residues of a microbial pesticide, holds a pesticide registration with an existing tolerance or tolerance exemption for a microbial pesticide, or is interested in obtaining or retaining a tolerance or tolerance exemption in the absence of a registration (*i.e.*, an import tolerance or tolerance exemption for a microbial pesticide). Potentially affected entities may include, but are not limited to:

- Pesticide and Other Agricultural Chemical Manufacturing (NAICS code 325320), e.g., pesticide manufacturers or formulators of pesticide products, importers, or any person or company who seeks to register a pesticide or to obtain a tolerance or tolerance exemption for a pesticide.
- Crop Production (NAICS code 111).
- Animal Production (NAICS code 112).

- Food Manufacturing and Processing (NAICS 311).

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. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

**II. What is EPA's authority for taking this action?**

This action is issued under the authority of sections 3, 5, 10, 12, and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA).

**III. What action is EPA taking?**

EPA is proposing several changes and corrections to the Microbial Pesticides data requirements (40 CFR part 158, subpart V). Two revisions are proposed to be made to text found in the Microbial Pesticides Definition and Applicability section (40 CFR 158.2100). The first is a correction, replacing "part" with "subpart" in 40 CFR 158.2100(c)(1). The other is a clarification, involving revisions to 40 CFR 158.2100(c)(2), and is in response to recent confusion over the distinction between isolates and strains and exactly how EPA is considering both of these terms. The clarification to 40 CFR 158.2100(c)(2) also proposes to include a requirement for the use of a unique identifier, as part of the microbial pesticide active ingredient taxonomic name, to allow for improved identification of company-specific registered isolates.

In conjunction with the change detailed for 40 CFR 158.2100(c)(2), EPA is also developing a draft microbial pesticide test guideline (OCSPP Guideline 885.1250) to explain the data requirement for the deposition of a sample in a nationally recognized culture collection, which is found in the tables in 40 CFR 158.2120(c) and 40 CFR 158.2171(c); presently, there is no test guideline referenced in the tables for this requirement. A copy of this draft test guideline is in the docket for this action to solicit public comment. Additionally, to clarify this microbial deposition data requirement, EPA is proposing to add a test note to the aforementioned tables, emphasizing the need for the continuing maintenance of a culture deposit to ensure it remains available in case EPA requests a sample. Finally, EPA is proposing to remove incorrect references, in 40 CFR 158.2120 and 40 CFR 158.2171, to a paragraph (e) that does not exist.

The improved clarity and transparency of the information proposed as changes to 40 CFR part 158, subpart V should enhance the ability of industry to efficiently manage their microbial pesticide registration submissions. Applicants may save time and money by understanding the

standards and interpretations of the definitions for the data that are needed. Having all required studies and information available to EPA at the time of application may reduce potential delays in the registration process, thereby enabling registration of microbial pesticides sooner and allowing microbial pesticide products to enter the market faster.

#### IV. Today's Proposed Revisions

##### A. Correcting the Statement in 40 CFR 158.2100(c)(1)

The Agency believes that 40 CFR 158.2100(c)(1), after replacing "part" with "subpart," should read as follows: "This subpart applies to microbial pesticides as specified in paragraphs (c)(2), (3), and (4) of this section." This section, as currently presented, could be misconstrued or interpreted to mean that all of 40 CFR part 158 applies to microbial pesticides and conflicts with the information presented in 40 CFR 158.1(c)(3).

##### B. Clarifying the Statement in 40 CFR 158.2100(c)(2)

The preamble of the final rule (71 FR 60988, October 26, 2007), codifying the provision found at 40 CFR 158.2100(c)(2), explained that registering a new isolate of an already registered microbial strain did not necessarily increase the amount of data needed to obtain such a registration. The following language is from that preamble:

EPA carefully considered the comment raising the issue of whether an isolate occasionally could be evaluated to satisfy a subset of data requirements at a higher taxonomic level than strain level and whether an isolate might sometimes be included as part of a very similar strain. EPA believes the proposed microbial pesticide definition applicability provision is sufficiently flexible to ensure adequate consideration and data on new isolates, while allowing use of existing data to support registration if similar to an existing strain that is already registered. The wording of the provision relating to applicability of the microbial data requirements reads, "each new isolate of a microbial pesticide is treated as a new strain and must be registered independently of any similar registered microbial pesticide strain and supported by data required in this subpart." This wording does not preclude the possibility of using data from another isolate to support the assessment if it can be shown that the two isolates are sufficiently closely related. In this way, it ensures that each isolate will be independently considered for registration purposes. The differences in taxonomy between different microorganism classifications, particularly for baculoviruses, would make any attempt to further clarify this provision very complex and potentially

confusing as the systematic nomenclature of these organisms change over time. The Agency intends to use its best scientific judgment in each instance to determine if one isolate is sufficiently closely related to another isolate to allow sharing of data or waiving of data requirements.

In this action, EPA is proposing new language for 40 CFR 158.2100(c)(2) to clarify that the use of the phrase "is treated as a new strain" was intended to illustrate that a new strain is considered to be a new active ingredient. EPA believes that this interpretation is consistent with its discussion in the 2007 final rule preamble and with how EPA has been implementing this regulation. Moreover, in order to allow for improved identification of company-specific registered isolates, these modifications will include a provision requiring use of a unique identifier as part of the microbial pesticide active ingredient taxonomic name (*e.g.*, a culture collection deposit identification number or another unique identifier, such as company initials followed by a number). Currently registered microbial pesticide active ingredients would not have to conform to this identification provision until they go through the registration review process.

##### C. Clarifying Particular Information Found in 40 CFR 158.2120 and 158.2171 Through Development of a Draft Test Guideline

In conjunction with the proposed change detailed for 40 CFR 158.2100(c)(2) (see Unit IV.B.), EPA is also developing a draft microbial pesticide test guideline (OCSP Guideline 885.1250) to explain the deposition of a sample in a nationally recognized culture collection data requirement, which is currently found in the tables in 40 CFR 158.2120(c) and 40 CFR 158.2171(c). Presently, there is no test guideline referenced in the tables for this requirement. Instead, information on this data requirement is briefly mentioned at the end of the Microbial Pesticide Test Guideline for Manufacturing Process (OPPTS Guideline 885.1200): "A sample of registered [Microbial Pest Control Agents] MPCAs is to be maintained on deposit in a nationally recognized culture collection." In 1996, this particular statement was transferred from the 1989 revision of Subdivision M of the Pesticide Assessment Guidelines (specifically 151A-11) to the Microbial Pesticide Test Guideline for Manufacturing Process (OPPTS Guideline 885.1200). The term "maintained" was used because some culture collections will discard deposits after a certain time if they do not get

subsequent requests to purchase samples from that deposit. In creating a distinct test guideline for the microbial deposition data requirement, EPA will provide a more easily found reference that can be added to the data requirement table. Furthermore, the draft test guideline will make clear that the deposition requirement is analogous to the submittal of samples data requirement (OPPTS Guideline 830.1900), which established that chemical pesticides must be deposited in the EPA National Pesticide Standard Repository. Some of this background information was explained in the preamble to the proposed rule for Data Requirements for Microbial and Biochemical Pesticides (71 FR 12072, March 8, 2006):

f. *Submittal of samples.* This provision is typically intended to enable EPA to identify the active ingredient and provide standards to governmental agencies needing to monitor chemical pesticide residues and is conditionally required (CR). The Agency proposes to require (R) these data as a product analysis requirement to be deposited in a nationally recognized culture collection to allow EPA to validate strain identity if issues arise (guideline 885.1200).

Since the Agency does not have capacity to store the variety of microbial pesticides that may be submitted, EPA did not set up a nationally recognized culture collection. There are several nationally recognized culture collections in this country (and abroad) such as the American Type Culture Collection and a microbial collection maintained in Peoria, Ill., by the USDA. These facilities have a vast number of microbial and cell cultures that [the facilities] are dedicated to transferring, maintaining and identifying. Rather than duplicate this effort, EPA chose to refer microbial pesticide producers to these facilities who have the routine expertise to keep and distribute (or protect) microbial cultures. There is a certain element of required expertise but really the cost and small number of our microbial pesticides would make it prohibitively expensive for the Agency to do this collection rather than direct the companies to these specialized facilities.

To clarify this microbial deposition data requirement, the Agency is proposing to add a test note to the tables in 40 CFR 158.2120 and 40 CFR 158.2171, emphasizing the need for the continuing maintenance of a culture deposit to ensure it remains available in case the Agency requests a sample.

##### D. Correcting Statements in 40 CFR 158.2120 and 158.2171

The current paragraphs (a) and (b) of both 40 CFR 158.2120 and 158.2171 incorrectly reference a paragraph (e) that does not exist. EPA proposes to remove these incorrect references. Specifically, EPA proposes to do the following in 40

CFR 158.2120 and 158.2171: (1) Revise the last sentence of paragraph (a) for each of these sections to read as “Notes that apply to an individual test and include specific conditions, qualifications, or exceptions to the designated test are identified in paragraph (d) of this section” and (2) remove the last sentence in paragraph (b) for each of these sections.

#### V. FIFRA Review Requirements

Pursuant to FIFRA sections 25(a) and (d), EPA has submitted a draft of this proposed rule to the Committee on Agriculture in the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry in the United States Senate, and the U.S. Department of Agriculture (USDA).

The FIFRA Scientific Advisory Panel (SAP) and the USDA waived review of this proposed rule. The FIFRA SAP waived its review of this proposed rule because the significant scientific issues involved have already been reviewed by the SAP and additional review is not necessary. The SAP waived its review of this proposed rule on August 17, 2010.

#### VI. Statutory and Executive Order Reviews

This action only proposes to clarify the existing regulatory text to allow EPA and stakeholders a clearer understanding of 40 CFR part 158, subpart V. It does not otherwise propose to amend or impose any other requirements. The proposed rule will not otherwise involve any significant policy or legal issues and will not increase existing costs. As such, this action is not subject to review by the Office of Management and Budget (OMB) as a “significant regulatory action” under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does it impose or change any information collection burden that requires additional review by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The information collection activities contained in the regulation are already approved under Information Collection Request (ICR) instruments related to the submission of data to EPA in order to establish a tolerance or an exemption from the requirement of a tolerance currently approved under OMB Control No. 2070–0024 (EPA ICR No. 0597), the activities associated with the application for a new or amended registration of a pesticide currently approved under OMB Control No. 2070–0060 (EPA ICR No. 0277), the activities associated with the application for an

experimental use permit currently approved under OMB Control No. 2070–0040 (EPA ICR No. 0276), and the activities associated with the generation of data for regulatory review programs currently approved under OMB Control No. 2070–0174 (EPA ICR No. 2288). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), EPA hereby certifies that this proposed rule does not have a significant adverse economic impact on a substantial number of small entities. This action only proposes to clarify the existing regulatory text to allow EPA and stakeholders a clearer understanding of 40 CFR part 158, subpart V. It does not otherwise propose to amend or impose any other requirements. In general, EPA strives to minimize potential adverse impacts on small entities when developing regulations to achieve the environmental and human health protection goals of the statute and the Agency. EPA solicits comments specifically about potential small business impacts.

State, local, and Tribal governments are rarely pesticide applicants or registrants, so this proposed rule is not expected to affect these governments. Accordingly, pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538), EPA has determined that this action is not subject to the requirements in sections 202 and 205 because it does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or for the private sector in any one year. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. For the same reasons, EPA has determined that this proposed rule does not have “federalism implications” as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), because it would not 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, as specified in the Order. Thus, Executive Order 13132 does not apply to this proposed rule. Nor does it have “Tribal implications” as

specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 22951, November 9, 2000). EPA is not aware of any Tribal governments that are pesticide registrants. Thus, Executive Order 13175 does not apply to this action.

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), and Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, which is not the case in this proposed rule.

This action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

This action does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, this action does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

#### List of Subjects in 40 CFR Part 158

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

Dated: April 7, 2011.

**Lisa P. Jackson,**  
Administrator.

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

#### PART 158—[AMENDED]

1. The authority citation for part 158 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y; 21 U.S.C. 346a.

2. Amend § 158.2100 as follows:

- a. Revise paragraph (c)(1).
- b. Revise paragraph (c)(2).

The revised text reads as follows:

**§ 158.2100 Microbial pesticides definition and applicability.**

\* \* \* \* \*

(c) *Applicability.* (1) This subpart applies to microbial pesticides as specified in paragraphs (c)(2), (3) and (4) of this section.

(2) Because of the potential for variation in microorganisms, each new isolate of a microbial pesticide is treated as a new active ingredient and must be registered independently of any similarly designated and already registered microbial pesticide active ingredient. Each new isolate for which registration is sought must have a unique identifier following the taxonomic name of the microorganism, and the registration application must be supported by data required in this

subpart. This does not preclude the possibility of using data from another isolate, provided sufficient similarity is established, to support registration.

\* \* \* \* \*

3. Amend § 158.2120 as follows:

- a. Revise paragraph (a).
- b. Revise paragraph (b).
- c. Revise paragraph (c).
- d. In paragraph (d), redesignate test notes 1 through 4 as 2 through 5, respectively, and add new test note 1.

The revised and added text reads as follows:

**§ 158.2120 Microbial pesticides product analysis data requirements table.**

(a) *General.* Sections 158.100 through 158.130 describe how to use this table to determine the product analysis data

requirements and the substance to be tested for a particular microbial pesticide. Notes that apply to an individual test and include specific conditions, qualifications, or exceptions to the designated test are identified in paragraph (d) of this section.

(b) *Key.* R = Required; CR = Conditionally required; NR = Not required; MP = Manufacturing-use product; EP = End-use product; TEP = Typical end-use product; TGAI = Technical grade of the active ingredient; All = All of the above.

(c) *Table.* The following table shows the data requirements for microbial pesticides product analysis. The test notes are shown in paragraph (d) of this section.

TABLE—MICROBIAL PESTICIDES PRODUCT ANALYSIS DATA REQUIREMENTS

Guideline No.	Data requirement	All use patterns	Test substance		Test notes
			MP	EP	
<b>Product Chemistry and Composition</b>					
885.1100 .....	Product identity .....	R	MP	EP	.....
885.1200 .....	Manufacturing process .....	R	TGAI and MP	TGAI and EP	.....
885.1250 .....	Deposition of a sample in a nationally recognized culture collection.	R	TGAI	TGAI	1
885.1300 .....	Discussion of formation of unintentional ingredients .....	R	TGAI and MP	TGAI and EP	.....
<b>Analysis and Certified Limits</b>					
885.1400 .....	Analysis of samples .....	R	TGAI and MP	TGAI and EP	2
885.1500 .....	Certification of limits .....	R	MP	EP	.....
<b>Physical and Chemical Characteristics</b>					
830.6302 .....	Color .....	R	TGAI	TGAI	.....
830.6303 .....	Physical state .....	R	TGAI	TGAI	.....
830.6304 .....	Odor .....	R	TGAI	TGAI	.....
830.6313 .....	Stability to normal and elevated temperatures, metals and metal ions.	R	TGAI	TGAI	.....
830.6317 .....	Storage stability .....	R	TGAI and MP	TGAI and EP	.....
830.6319 .....	Miscibility .....	R	MP	EP	3
830.6320 .....	Corrosion Characteristics .....	R	MP	EP	4
830.7000 .....	pH .....	R	TGAI	TGAI	.....
830.7100 .....	Viscosity .....	R	MP	EP	5
830.7300 .....	Density/relative density/bulk density (specific gravity) .....	R	TGAI	TGAI	.....

(d) \* \* \*

1. Required for each isolate of a microbial pesticide. New isolates must be deposited with an agreement to ensure that the sample will be maintained and will not be discarded for the duration of the associated registration(s).

\* \* \* \* \*

4. Amend § 158.2171 as follows:

- a. Revise paragraph (a).
- b. Revise paragraph (b).
- c. Revise paragraph (c).

d. In paragraph (d), redesignate test notes 3 through 6 as 4 through 7, respectively and add a new test note 3.

The revised and added text reads as follows:

**§ 158.2171 Experimental use permit microbial pesticides product analysis data requirements table.**

(a) *General.* Sections 158.100 through 158.130 describe how to use this table to determine the product analysis data requirements and the substance to be tested for a particular microbial pesticide. Notes that apply to an individual test and include specific

conditions, qualifications, or exceptions to the designated test are identified in paragraph (d) of this section.

(b) *Key.* R = Required; CR = Conditionally required; NR = Not required; MP = Manufacturing-use product; EP = End-use product; TEP = Typical end-use product; TGAI = Technical grade of the active ingredient; All = All of the above.

(c) *Table.* The following table shows the data requirements for experimental use permit microbial pesticides product analysis. The test notes are shown in paragraph (d) of this section.

TABLE—EUP MICROBIAL PRODUCT ANALYSIS DATA REQUIREMENTS

Guideline No.	Data requirement	All use patterns	Test substance		Test notes
			MP	EP	
<b>Product Chemistry and Composition</b>					
885.1100 .....	Product identity .....	R	MP	EP	.....
885.1200 .....	Manufacturing process .....	R	TGAI and MP	TGAI and EP	1, 2
885.1250 .....	Deposition of a sample in a nationally recognized culture collection.	R	TGAI	TGAI	3
885.1300 .....	Discussion of formation of unintentional ingredients .....	R	TGAI and MP	TGAI and EP	2
<b>Analysis and Certified Limits</b>					
885.1400 .....	Analysis of samples .....	R	TGAI and MP	TGAI and EP	2, 4
885.1500 .....	Certification of limits .....	R	MP	EP	.....
<b>Physical and Chemical Characteristics</b>					
830.6302 .....	Color .....	R	TGAI	TGAI	.....
830.6303 .....	Physical state .....	R	TGAI	TGAI	.....
830.6304 .....	Odor .....	R	TGAI	TGAI	.....
830.6313 .....	Stability to normal and elevated temperatures, metals and metal ions.	R	TGAI	TGAI	.....
830.6317 .....	Storage stability .....	R	TGAI and MP	TGAI and EP	.....
830.6319 .....	Miscibility .....	R	MP	EP	5
830.6320 .....	Corrosion characteristics .....	R	MP	EP	6
830.7000 .....	pH .....	R	TGAI	TGAI	.....
830.7100 .....	Viscosity .....	R	MP	EP	7
830.7300 .....	Density/relative density/bulk density (specific gravity) .....	R	TGAI	TGAI	.....

(d) \* \* \*

3. Required for each isolate of a microbial pesticide. New isolates must be deposited with an agreement to ensure that the sample will be maintained and will not be discarded for the duration of the associated experimental use permit(s).

\* \* \* \* \*

[FR Doc. 2011-9191 Filed 4-14-11; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 281**

[EPA-R10-UST-2011-0097; FRL-9296-1]

**Oregon: Tentative Approval of State Underground Storage Tank Program: Public Hearing Cancellation**

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

**ACTION:** Proposed rule; cancellation of notice of public hearing.

**SUMMARY:** This document cancels a public hearing on a proposed rulemaking relating to the State of Oregon's application for final approval of its Underground Storage Tank (UST) Program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency did not receive any comments or a request for a public hearing.

**DATES:** The public hearing originally scheduled for April 13, 2011 at 9 a.m. has been cancelled.

**FOR FURTHER INFORMATION CONTACT:** Katherine Griffith, U. S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: OCE-082, Seattle, WA 98101, phone number: (206) 553-2901, e-mail: [griffith.katherine@epa.gov](mailto:griffith.katherine@epa.gov).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and a notice of public hearing that appeared in the Federal Register on Wednesday, March 2, 2011 (76 FR 11404) announced that a public hearing was scheduled for April 13, 2011, at 9 a.m. at the United States Environmental Protection Agency, 805 SW. Broadway, Suite 500, Portland, Oregon 97205.

The public comment period for the proposed rulemaking expired on April 1, 2011. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request. As of Monday, April 4, 2011, no one has requested to speak. Therefore, the public hearing scheduled for April 13, 2011, is cancelled.

Dated: April 8, 2011.

**Dennis J. McLerran,**  
Regional Administrator, Region 10.

[FR Doc. 2011-9184 Filed 4-14-11; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 355**

[EPA-HQ-SFUND-2010-0586; FRL-9295-6]

RIN 2050-AF08

**Emergency Planning and Notification; Emergency Planning and List of Extremely Hazardous Substances and Threshold Planning Quantities**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revise the manner by which the regulated community would apply the threshold planning quantities (TPQs) for those extremely hazardous substances (EHSs) that are non-reactive solid chemicals in solution form. Specifically, facilities with a solid EHS in solution would be subject to the Emergency Planning requirements if the amount of the solid chemical on-site, when multiplied by 0.2, equaled or exceeded the lower published TPQ, based on data that shows less potential for the solid chemical in solution to remain airborne in the event of an accidental release. Previously, EPA assumed that 100% of the chemical could become airborne in the event of an accidental release.

**DATES:** Comments must be submitted on or before June 14, 2011.