

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: September 23, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II—North Carolina

2. Section 52.1770(c) is amended by revising the entries for Sections .0518, .0530, .0902, .0907, .0909, .0910, .0911, .0954, and .0107 and by adding section .0104 to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED REGULATIONS FOR NORTH CAROLINA

State citation	Title/subject	Adoption date	EPA approval date	Explanation
Subchapter 2D		Air Pollution Control Requirements		
* * *	* * *	* * *	* * *	* * *
Section .0518	Miscellaneous Volatile Organic Compound Emissions.	11/21/96	10/15/99	
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Section .0530	Prevention of Significant Deterioration.	11/21/96	10/15/99	
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Section .0902	Applicability	11/21/96	10/15/99	
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Section .0907	Compliance Schedules for Sources in Nonattainment Areas.	11/21/96	10/15/99	[Repealed]
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Section .0909	Compliance Schedules for Sources in New Nonattainment Areas.	11/21/96	10/15/99	
Section .0910	Alternate Compliance Schedules ..	11/21/96	10/15/99	[Repealed]
Section .0911	Exceptions for Compliance Schedules.	11/21/96	10/15/99	[Repealed]
* * *	* * *	* * *	* * *	* * *
Section .0954	Stage II Vapor Recovery	11/21/96	10/15/99	
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Subchapter 2Q		Air Quality Permits Requirements		
Section .0104	Where to Obtain and File Permit Applications.	11/21/96	10/15/99	
Section .0107	Confidential Information	11/21/96	10/15/99	

[FR Doc. 99-26193 Filed 10-14-99; 8:45 am]
BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 76**

[FRL-6455-4]

Acid Rain Program—Nitrogen Oxides Emission Reduction Program, Rule Revision in Response to Court Remand

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to revise the regulations for the Acid Rain Nitrogen Oxides Emission Reduction Program under title IV of the Clean Air Act in response to a remand by the U.S. Court of Appeals for the District of Columbia Circuit. In

December 1996, EPA issued regulations setting nitrogen oxides (NO_x) emission limits for specified types of existing, coal-fired boilers, including cell burner boilers, that are subject to such limits starting in 2000. In February 1998, the Court upheld the regulations except for one provision addressing what boilers qualify as cell burner boilers. The Court vacated and remanded that provision. EPA is revising the regulations, consistent with the Court's decision, to treat, as a cell burner boiler, any boiler subject to the limits starting in 2000, constructed as a cell burner boiler, and converted to the burner configuration of a wall-fired boiler. Under the regulations, a cell burner boiler must meet an annual average NO_x emission limit of 0.68 lb/mmBtu. The NO_x emission limits under title IV will reduce the serious, adverse effects of NO_x emissions on human health, visibility, ecosystems, and materials.

DATES: This rule is effective on December 14, 1999 without further

notice, unless EPA receives adverse comment by November 29, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: *Comments:* Commenters must identify all written comments with the appropriate docket number (Docket No. A-95-28) and must submit them in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, DC 20460.

Docket. Docket No. A-95-28, containing supporting information used in developing the proposed rule, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, Room 1500, 1st Floor, 401 M Street, SW, Washington, DC 20460. EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, at (202) 564-9151,

U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; or the Acid Rain Hotline at (202) 564-9089.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule revision as a direct final rule because we view this as noncontroversial and anticipate no adverse comment. The rule revision is consistent with a remand by the U.S. Court of Appeals for the District of Columbia Circuit. Further, EPA projects that the rule revision will affect only one boiler, by increasing the boiler's NO_x emission limit under title IV. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule revision if we receive any timely, adverse comments. Today's direct final rule will be effective on December 14, 1999 without further notice unless we receive adverse comment by November 29, 1999. If we receive such adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

The information in this preamble is organized as follows:

- I. Regulated Entities
- II. Background and Revisions
- III. Administrative Requirements
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Executive Order 12875: Enhancing Intergovernmental Partnerships
 - C. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
 - D. Unfunded Mandates Act
 - E. Paperwork Reduction Act
 - F. Regulatory Flexibility
 - G. Applicability of Executive Order 13045: Children's Health Protection
 - H. National Technology Transfer and Advancement Act
 - I. Submission to Congress and the General Accounting Office

I. Regulated Entities

Entities potentially regulated by this action are fossil-fuel fired boilers that burn coal and that serve generators producing electricity for sale. Regulated categories and entities include:

Category	Examples of regulated entities
NAICS Code: 22112, Fossil Fuel Electric Power Production.	Electric service providers, boilers that burn coal.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. This action could also regulate other types of entities not listed in the table. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in §§ 72.6 and 76.1 and the exemption in § 72.8 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background and Revisions

Under title IV of the Act, utility units are subject to sulfur dioxide (SO₂) emission limits (as required in sections 404, 405, 408, and 409) and must monitor SO₂, NO_x, carbon dioxide (CO₂), and opacity (as required in section 412). Further, under section 407(a), NO_x emission limits established under section 407(b) apply to any existing "coal-fired utility unit," generally when the unit is subject to SO₂ emission limits. 40 U.S.C. 7651f(a). Section 407(b)(1) requires EPA to set NO_x emission limits for tangentially fired boilers and dry bottom, wall-fired boilers. Section 407(b)(2) authorizes EPA to establish more stringent emission limits for these types of boilers effective starting in 2000. In addition, section 407(b)(2) requires EPA to set NO_x emission limits for all other types of existing coal-fired boilers, including "units applying cell burner technologies." 40 CFR 7651f(b)(2). However, title IV does not define the phrase "units applying cell burner technology." EPA therefore interpreted the phrase in the regulations setting the applicable limits.

Cell burner boilers have closely spaced clusters of 2 or 3 burners (*i.e.*, cells) that together result in a single flame. In addition, the boilers are, like many wall-fired boilers, relatively compactly designed with small furnaces. Two types of combustion control systems are available for cell burner boilers. First, the boiler owner or operator can retain the cell configuration of the burners by replacing each burner in each cell with a low NO_x burner (referred to as "plug-in combustion controls"). Second, the owner or operator can replace the sections of the boiler walls containing the cells with wall sections that reconfigure and replace the burners and that contain low NO_x burners more

widely spaced in a row (referred to as "non-plug-in combustion controls"), like those in wall-fired boilers. Either type of combustion controls may or may not include additional ports for the injection of air above the low NO_x burners.

In interpreting section 407 for purposes of setting emission limits under sections 407(b)(1) and (2), EPA had to decide how to apply the boiler categories to boilers to which the owner or operator made physical changes after original construction. Some of these changes could arguably put the boilers in a different boiler category. EPA first addressed this issue in the rulemaking under section 407(b)(1) where EPA issued the April 13, 1995 rule setting the initial limits for tangentially fired boilers and dry bottom, wall-fired boilers. The rule provided that a cell burner boiler that is subject to SO₂ limits during 1995 through 1999 (*i.e.*, Phase I of the Acid Rain Program) and that converted to the conventional burner configuration of a wall-fired boiler (*i.e.*, through retrofitting with non-plug-in combustion controls) on or before January 1, 1995 is classified as a wall-fired boiler. 40 CFR 76.5(d).

EPA also addressed this issue in the rulemaking under section 407(b)(2) where EPA issued the December 19, 1996 rule that, among other things, set an emission limit for cell burner boilers. In the preamble of the proposed rule in that rulemaking, EPA stated that the replacement of the cells in a cell burner boiler by conventionally spaced burners "essentially convert[s] the cell burner boiler to a conventional wall-fired boiler". 61 FR 1442, 1465 (1996). EPA proposed treating, as a cell burner boiler, any cell burner boiler (other than a Phase I boiler) that replaced its cells on or before the commencement of Phase II of the Acid Rain Program (*i.e.*, January 1, 2000). 61 FR 1480. One commenter submitted comments on this matter.

Noting that the Agency was also considering an alternative that would classify, as wall-fired boilers, any cell burner boilers that converted their cells on or before November 15, 1990, the commenter opposed that alternative. The commenter noted that it originally constructed two of its units as cell burner boilers and that it installed non-plug-in combustion controls at the first unit in 1989 and at the second unit in 1991. The commenter argued that the two units are, as a technical matter, still cell burner boilers after conversion of their cells to conventionally spaced low NO_x burners. According to the commenter, the two units should therefore be subject to the NO_x emission

limit for cell burner boilers, not the more stringent NO_x emission limit for wall fired boilers. The commenter urged that, for purposes of determining how to classify cell burner boilers that convert to conventionally spaced burners, EPA adopt a "case-by-case policy wherein each installation is evaluated on its own merits." Docket Item IV-D-051 at 4.

In response to these comments, the December 19, 1996 rule established the date of enactment of title IV (November 15, 1990) as the cutoff date for classifying converted cell burners as wall-fired boilers. Section 407 does not specifically address how to categorize cell burners that are converted so that they are no longer applying cell burner technology. EPA took the approach of applying the statutory boiler category of "units applying cell burner technology" as of the date of enactment of title IV. Under the December 19, 1996 rule, the commenter's unit with non-plug-in combustion controls installed in 1989 is a wall-fired boiler with NO_x limit of 0.46 lb/mmBtu, and the unit with non-plug-in combustion controls installed in 1991 is cell burner boiler with NO_x limit of 0.68 lb/mmBtu.

In response to petitions for review of the December 19, 1996 rule, the U.S. Court of Appeals for D.C. upheld all provisions of the rule except for the provision addressing the treatment of cell burner boilers with non-plug-in combustion controls as wall-fired boilers. *Appalachian Power v. EPA*, 135 F.3d 791, 822 (D.C. Cir. 1998). The Court vacated, and remanded that rule provision to EPA. *Id.* The Court explained that:

the fact that no retrofitted cell burner [i.e., no cell burner with non-plug-in combustion controls] can achieve the * * * emission limit [for wall-fired boilers] using only the technology Congress authorized for setting that limit (low NO_x burner technology) is evidence that retrofitted cell burners are not the functional equivalent of wall-fired boilers, as measured by congressional concerns. 135 F.3d at 821.

In today's action, EPA is revising the December 17, 1996 rule to remove the provision vacated by the Court in *Appalachian Power* and, in light of the Court's opinion, has decided to take no further action on this matter. As a result, boilers subject to the NO_x limit starting in 2000 and originally constructed as cell burner boilers will be subject to the NO_x limit for cell burner boilers, regardless of whether or when they are modified through the installation of non-plug-in combustion controls. Today's rule revision does not address or change in any respect the compliance dates, which are in the existing regulations and which the Court upheld

in *Appalachian Power*, for any units subject to the NO_x limits under the Acid Rain Program.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has determined that today's final rule is not a "significant regulatory action" and therefore is not subject to OMB review.

B. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or unless EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal

governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's final rule does not create a mandate on State, local or tribal governments and does not impose any enforceable duties on these entities. EPA projects that the rule will affect only one boiler, by increasing the level of the boiler's NO_x emission limit under title IV. Moreover, the boiler is not owned or operated by a State, local, and tribal government. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or unless EPA consults with those governments. If EPA complies by consulting, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's final rule does not significantly or uniquely effect, or impose any substantial direct compliance costs on, the communities of Indian tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Unfunded Mandates Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private

sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, before promulgating a proposed or final rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 205 generally requires that, before promulgating a rule for which a written statement must be prepared, EPA must identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator explains why that alternative was not adopted. Finally, section 203 requires that, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must have developed a small government agency plan. The plan must provide for notifying any potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because today's rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

As discussed above, EPA projects that today's final rule will affect only one boiler, by increasing the level of the boiler's NO_x emission limit under title IV. Moreover, the boiler is not owned or operated by a State, local, and tribal government.

E. Paperwork Reduction Act

Today's final revisions to parts 72 and 73 will not impose any new information collection burden subject to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). OMB has previously

approved the information collection requirements contained in the Acid Rain Nitrogen Oxides Emission Reduction Program regulations, 40 CFR part 76, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* See OMB Control Number 2060-0258.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the previously approved ICR may be obtained from the Director, Regulatory Information Division; EPA; 401 M St. SW (mail code 2137); Washington, DC 20460 or by calling (202) 564-2740. Include the ICR and/or OMB number in any correspondence.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

As discussed above, EPA projects that today's final rule will affect only one boiler, by increasing the level of the boiler's NO_x emission limit under title IV. Moreover, the boiler is not owned or operated by a small entity. For these reasons, EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

G. Applicability of Executive Order 13045: Children's Health Protection

Executive Order 13045 (62 FR 19885, April 29, 1997) applies to any rule if EPA determines (1) that the rule is economically significant as defined under Executive Order 12866, and (2) that the environmental health or safety risk addressed by the rule has a

disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

Today's final rule is not subject to Executive Order 13045, because the action is not economically significant and does not address an environmental health or safety risk that may disproportionately affect children.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. 104-113, § 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, or business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's final rule does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the NTTAA.

I. Submission to Congress and the General Accounting Office

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. Today's final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 76

Environmental protection, Acid rain program, Air pollution control, Electric utilities, Nitrogen oxides.

Dated: October 5, 1999.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 76—[AMENDED]

1. The authority citation for part 76 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 76.6 is amended by removing from paragraph (a)(1) the words “after November 15, 1990” and the entire last sentence.

[FR Doc. 99–26658 Filed 10–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300915; FRL–6380–4]

RIN 2070–AB78

Rhizobium Inoculants; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the *Rhizobium* inoculants (pure strains of *Rhizobium spp.* bacteria [e.g. *Sinorhizobium*, *Bradyrhizobium* & *Rhizobium*]; hereinafter referred to as *Rhizobium* inoculants) when used as inert ingredients in pesticide formulations applied to all leguminous food commodities. This would not include strains expressing rhizobitoxine or strains deliberately altered to expand the range of antibiotic resistance. EPA is establishing this regulation on its own initiative. EPA submitted a proposed rule under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Rhizobium* inoculants.

DATES: This regulation is effective October 15, 1999. Objections and requests for hearings, identified by docket control number OPP–300915, must be received by EPA on or before December 14, 1999.

ADDRESSES: Written objections and hearing requests may be submitted by

mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the “SUPPLEMENTARY INFORMATION” section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300915 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Edward Allen, Biological Pesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: 9th Floor, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–8699; e-mail: allen.edward@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

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

Cat-egories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the “FOR FURTHER INFORMATION CONTACT” section.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select

“Laws and Regulations” and then look up the entry for this document under the “Federal Register—Environmental Documents.” You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300915. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 19, 1999 (64 FR 27223) (FRL–6074–3), EPA issued a proposed rule pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170). This rule was proposed by EPA on its own initiative. The rule included a summary of the petition prepared by EPA. There were no comments received in response to the proposed rule.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of *Rhizobium* inoculants.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) defines “safe” to mean 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.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section