

Dated: July 31, 1997.

John E. Veentjer,

Captain, U.S. Coast Guard, Captain of the Port, Philadelphia, PA.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-97-063]

RIN 2121-AA97

Safety Zone: Albany Bicentennial Fireworks, Hudson River, Troy, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Albany Bicentennial Fireworks program. The safety zone will close all waters of the Hudson River, shore to shore, south of the Green Island Bridge and north of the Congress Street Bridge, Troy, New York. The safety zone is necessary to protect the maritime public from the hazards associated with fireworks launched from a barge in the Hudson River.

DATES: This final rule is effective from 8:45 p.m. until 10:15 p.m. on August 10, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Dave Gefell, Waterways Oversight Branch, Coast Guard Activities New York, (718) 354-4195, 212 Coast Guard Drive, Staten Island, New York 10305.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date that conclusive information for this event was received, there was insufficient time to draft and publish an NPRM. Following normal rulemaking procedures would cause the event to be delayed or cancelled and would be contrary to the public interest since the event is intended for public entertainment.

Background and Purpose

On July 15, 1997, the Albany Bicentenary Commission submitted an application to hold a fireworks program in the Hudson River for the purpose of

celebrating the 200th birthday of the city of Albany. The safety zone prevents vessels from transiting this portion of the Hudson River, and is needed to protect mariners from the hazards associated with fireworks launched from a barge. This regulation establishes a temporary safety zone in all waters of the Hudson River, shore to shore, south of the Green Island Bridge and north of the Congress Street Bridge, Troy, New York. The safety zone is in effect from 8:45 p.m. until 10:15 p.m. on August 10, 1997.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although this regulation would prevent traffic from transiting this area, the effect of this regulation would not be significant. This finding is based on the following: the duration of the event is limited, the limited vessel traffic in the area, the event is at a late hour, and extensive, advance advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. For the reasons discussed in the Regulatory Evaluation section above, the Coast Guard expects this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule does not provide for a collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01-063, is added to read as follows:

§ 165.T01-063 Safety Zone; Albany Bicentennial Fireworks Display, Hudson River, New York.

(a) *Location.* All waters of the Hudson River, shore to shore, south of the Green Island Bridge and north of the Congress Street Bridge, Troy, New York.

(b) *Effective period.* This safety zone is in effect on August 10, 1997, from 8:45 p.m. until 10:15 p.m.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 1, 1997.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port, New York.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300517; FRL-5731-7]

RIN 2070-AB78

Herbicide Safener HOE-107892; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for the inert ingredient, herbicide safener HOE-107892 (mefenpyr-diethyl) and its 2,4-dichlorophenyl-pyrazoline metabolites HOE-094270 and HOE-113225 in or on wheat grain and wheat straw. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the herbicide safener on wheat grain and wheat straw in North Dakota and Montana. This regulation establishes a maximum permissible level for residues of the Herbicide safener HOE-107892 in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on August 1, 1998.

DATES: This regulation is effective August 8, 1997. Objections and requests for hearings must be received by EPA on or before October 7, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300517], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300517], must also be submitted to: Public Information and Records

Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300517]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Pat Cimino, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9357, e-mail: cimino.pat@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for the inert ingredient herbicide safener HOE-107892 (mefenpyr-diethyl) and its 2,4-dichlorophenyl-pyrazoline metabolites HOE-094270 and HOE-113225 in or on wheat grain and wheat straw at 0.01 and 0.05 ppm respectively. These tolerances will expire and are revoked on August 1, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things,

FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL-5572-9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish 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 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.