Dated: August 6, 1998.

Arnold E. Layne,

Acting 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. 346a and 371.

2. In § 180.466, by revising paragraph (b) to read as follows:

§ 180.466 Fenpropathrin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the herbicide fenpropathrin in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerance will expire and is revoked on the date specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Currants	15	6/30/00

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300703; FRL–6024–7]

RIN 2070–AB78

Herbicide Safener HOE-107892; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of the inert ingredient, herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 in or on barley grain, barley hay, barley straw, and the processed by-products of barley grain: pearled barley, bran, and flour. 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 pesticide fenoxaprop formulated with HOE-107892 on barley. This regulation establishes maximum permissible levels for residues of HOE-107892 and its metabolites HOE 113225, HOE-109453, and HOE-094270 in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and be revoked on February 1, 2000.

DATES: This regulation is effective September 9, 1998. Objections and requests for hearings must be received by EPA on or before November 9, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300703], 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–300703], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requeststo Rm. 119, 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–300703]. 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: Andrew Ertman, 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) 308–9367, e-mail: ertman.andrew@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 residues of the herbicide safener HOE-107892 and its metabolites HOE 113225, HOE-109453, and HOE-094270, in or on barley grain at 0.05 part per million (ppm), barley hay at 0.5 ppm, barley straw at 1.0 ppm, and the processed by-products of barley grain: pearled barley at 0.1 ppm, bran at 0.4 ppm, and flour at 0.1 ppm. These tolerances will expire and be revoked on February 1, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance 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.

II. Emergency Exemption for the Herbicide Safener HOE-107892 on Barley and FFDCA Tolerances

The applicant requested the use of fenoxaprop formulated with the herbicide safener HOE-107892 (trade name Puma) to control trifluralin-resistant foxtail in barley fields. The applicant stated that resistant foxtail has gradually become a problem over the years with the end result being a significant drop in barley yields. The registered alternatives currently available are not adequate to control the problem and growers could be expected to experience significant economic losses without the authorized use of this formulation of fenoxaprop. EPA has authorized under FIFRA section 18 the use of fenoxaprop formulated with the herbicide safener HOE-107892 on barley for control of foxtail in North Dakota. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of HOE-107892 in or on barley grain, barley hay, barley straw, and the processed by-products of barley grain: pearled barley, bran, and flour. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and be revoked on February 1, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on barley grain, barley hay, barley straw, and the processed by-products of barley grain: pearled barley, bran, and flour after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed levels that were authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this herbicide safener indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether HOE-107892 meets EPA's registration requirements for use on barley or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of HOE-107892 by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than North Dakota to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for HOE-107892, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same

rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (children 1-6 years old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of HOE-107892 and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of HOE-107892 and its metabolites HOE 113225, HOE-109453, and HOE-094270 on barley grain at 0.05 ppm, barley hay at 0.5 ppm, barley straw at 1.0 ppm, and the processed by-products of barley grain: pearled barley at 0.1 ppm, bran at 0.4 ppm, and flour at 0.1 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by HOE-107892 are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, a reference dose (RfD)

was established for females, ages 13+, the population subgroup of concern. The Agency used a No Observable Effect Level (NOEL) of 100 mg/kg/day, based on increased preimplantation loss (indicative of initiation of dosing too early, which appeared after a single dose) at the Lowest Observable Effect Level (LOEL) of 250 mg/kg/day, from a developmental toxicity study in rabbits. Using an uncertainty factor of 100 for intra- and inter-species differences, the Acute RfD for oral exposure was calculated to be 1 mg/kg/day (100 mg/kg/day ÷ 100). The Agency determined that the 10X factor required by FQPA for protection of infants and children from exposure to HOE-107892 should be reduced to 3X for the purposes of this section 18 only. Application of the additional 3X safety factor for enhanced susceptibility of infants and children to the acute RfD results in an acceptable acute dietary exposure (food plus water) of 33.3% or less of the acute RfD for the population subgroup, females, 13+ years.

2. *Short - and intermediate - term toxicity.* For short-term dermal Margin of Exposure (MOE) calculations, the Agency used the maternal/developmental NOEL of 100 mg/kg/day from a developmental study in the rabbit. At the LOEL of 250 mg/kg/day, there were decreases in body-weight gain during days 6 to 13 accompanied by reduced food efficiency index and food consumption and a higher rate of abortions starting on gestation day 16. An acceptable MOE is ≧ 100.

An endpoint for inhalation exposure was not found. The acute LC_{50} is > 1.32 mg/L for the technical material and the acute LC_{50} for an end-use formulation of which HOE-107892 is 2.6% by weight is > 5.14 mg/L (LC_{50} = concentration lethal to 50% of animals after a 4-hour exposure). It appears unlikely that there will be a significant risk from inhalation.

For intermediate-term dermal MOE calculations, the Agency used a NOEL of 80.5 mg/kg/day from a subchronic feeding study in the dog. At the LOEL of 341.0 mg/kg/day, there were increases in alkaline phosphatase (ALP) activities and absolute/relative liver weights; a focal liver lesion characterized by hemorrhage, necrosis, and inflammation; slight anemia and decreases in food consumption and body weight gains. An acceptable MOE is ≧ 100.

An endpoint for inhalation exposure was not found. The acute LC_{50} is > 1.32 mg/L for the technical material and the acute LC_{50} for an end-use formulation of which HOE-107892 is 2.6% by weight is > 5.14 mg/L. It appears unlikely that there will be a significant risk from inhalation.

3. *Chronic toxicity.* EPA has established the RfD for HOE-107892 at 0.51 milligrams/kilogram/day (mg/kg/day). This RfD is based on a chronic feeding study in dogs with a NOEL of 51.4 mg/kg/day and an uncertainty factor of 100. An LOEL of 260 mg/kg/day is based on increased alkaline phosphatase and absolute/relative liver weights and grade 1 (minimal) intrahepatic cholestasis in the liver.

The results from a 2-generation reproduction study in the rat support the NOEL from the chronic feeding study in the dog with a NOEL of 57.3 mg/kg/day and an LOEL of 305.9 mg/kg/day based on decreased mean body weight and mean body weight gain in the parents and offspring.

4. *Carcinogenicity.* In a rat study, there were no treatment related effects, including tumors. The NOEL is >5,000 ppm (highest dose tested: HDT). The doses employed in this study were not sufficient to produce any systemic effects and appeared to be inadequate to test the carcinogenic potential of the test material. This study is classified as unacceptable because it appears that the animals could have tolerated a higher dose level.

In the mouse study, there were no treatment related effects in mortality, clinical signs, feed consumption, and gross necropsy findings. Increases in liver weights and hepatocellular hypertrophy were detected at several dose levels. At the terminal sacrifice, Harderian gland adenocarcinoma showed a positive trend in both sexes with the incidences exceeding the maximum percentages for historical controls (2%) at some dose levels. However, although there was a positive trend, the incidences were not dose-related (0/50, 0/50, 2/50, 1/50 and 2/50 in males and 0/50, 1/50, 0/50, 0/50 and 2/50 in females). A complete assessment of the toxicological significance of these tumors will be conducted when this chemical is considered for full registration. The dose levels employed in this study were adequate to characterize the carcinogenic potential of HOE-107892 in NMRI mice.

The mouse and rat cancer studies with the safener have not been reviewed and classified by either the Cancer Peer Review Committee or the HIARC. It is not known at this time whether or not the Harderian gland adenocarcinomas mentioned in the mouse study are toxicologically significant and whether or not a cancer risk assessment is appropriate for this chemical. Therefore, for the purposes of this section 18, a cancer risk assessment was not conducted.

B. Exposures and Risks

1. *From food and feed uses.* No permanent tolerances have been established for the residues of HOE-107892. A section 18 for HOE-107892 on durum wheat in North Dakota, South Dakota, and Montana was granted in 1996 and the appropriate time-limited tolerances were established. For the purposes of that section 18 only, it was assumed that there would be no quantifiable residues of HOE-107892 in wheat grain or straw. It was further assumed that there would be no quantifiable residues in meat, milk, poultry, or eggs resulting from the use. Risk assessments were conducted by EPA to assess dietary exposures and risks from HOE-107892 as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The acute RfD is 1 mg/kg bw/day. Application of the 3X safety factor for enhanced susceptibility of infants and children to the Acute RfD results in an acceptable acute dietary exposure (food plus water) of 33.3% or less of the acute RfD for the population subgroup of concern, females, age 13+ years. For this population subgroup, there is an acceptable acute dietary exposure (food only) of <1% of the acute RfD.

This acute dietary (food) risk assessment used the TMRC which assumes tolerance level residues and 100% crop-treated. The Dietary Exposure Evaluation Model (DEEM) software was used for this acute dietary exposure analysis. For females (13-50 yrs), the exposure values of 0.00028 was determined to utilize <1 percent of the acute RfD.

These results should be viewed as a very conservative risk estimate; refinement using anticipated residue values and percent crop-treated information in conjunction with Monte Carlo analysis would result in a lower estimate of acute dietary exposure.

ii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of all commodities (including barley) which have HOE-107892 tolerances (at the present time, time-limited tolerances) contain mefenpyr-diethyl residues, and these residues are present at the level of the tolerance. By making these assumptions, an overestimation of human dietary exposure results. Thus, in making a safety determination for this

tolerance, EPA is taking into account this conservative exposure assessment.

The time-limited HOE-107892 tolerances, including the necessary section 18 tolerance(s), result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the Chronic RfD:

Population Subgroup	TMRC(mg/kg/day)	% Chronic RFD
U.S. Population (48 States)	0.000023	<1%
Nursing Infants (<1 year old)	0.000004	<1%
Non-Nursing Infants (<1 year old)	0.000008	<1%
Children (1-6 years old)	0.000038	<1%
Children (7-12 years old)	0.000027	<1%
Females (13-50 years old)	0.000016	<1%

The subgroups listed above are: (1) U.S. population (48 states); (2) Infants and children (4 subgroups) and (3) Females (13-50 years). There are no other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

2. *From drinking water.* HOE-107892 is not persistent and not mobile. Even though sorption to soil is relatively low (median Koc of approximately 600), its short half-life of about one week or less and low use rate imply that it has little potential to leach to ground water or runoff to surface water. Under favorable conditions, there could be runoff into surface water, primarily via dissolution in runoff water, for several days post-application. There are no established Maximum Contaminant Levels for residues of HOE-107892 in drinking water. No health advisory levels for HOE-107892 in drinking water have been established.

i. *Ground water.* The Agency used its SCI-GROW (Screening Concentration in Ground Water) screening model and environmental fate data to determine the EECs of HOE-107892 in ground water. SCI-GROW is an empirical model based upon actual ground water monitoring data collected for the registration of a number of pesticides that serve as benchmarks for the model. The current version of SCI-GROW appears to provide realistic estimates of pesticide concentrations in shallow, highly vulnerable ground water sites (i.e., sites with sandy soils and depth to ground water of 10 to 20 feet). The SCI-GROW ground water screening concentration is 0.00006 ppb.

ii. *Surface water.* The Agency used its GENEEC (Generic Estimated Environmental Concentration) screening model and environmental fate data to determine the EECs of HOE-107892 in surface water. GENEEC simulates a 1 hectare by 2 meter deep edge-of-the-field farm pond which receives pesticide runoff from a treated 10 hectare field. GENEEC can substantially overestimate (by a ≧ 3 fold factor) true pesticide concentrations in drinking water. It has certain limitations and is not the ideal tool for use in drinking water risk assessments. However, it can be used in screening calculations and does provide an upper bound on the concentration of pesticide that can be found in drinking water. Since GENEEC can substantially overestimate true drinking water concentrations, it will be necessary to refine the GENEEC estimate when the level of concern is exceeded. In those situations where the level of concern is exceeded and the GENEEC value is a substantial part of the total exposure, the Agency can use a variety of methods to refine the exposure estimates.

Using the GENEEC model and available environmental fate data, EPA calculated the following Tier 1 Estimated EECs for HOE-107892:

- GENEEC Peak EEC(ppb): 0.29 ppb
- Average 4 day EEC (ppb): 0.28 ppb
- Average 21 day EEC(ppb): 0.23 ppb
- Average 56 day EEC (ppb): 0.15 ppb.

iii. *Acute exposure and risk.* Based on the acute dietary (food) exposure estimates, acute drinking water level of concern (DWLOC) for HOE-107892 was calculated to be 9,900 (µg/L) for the subpopulation group of concern (females 13 years and older).

iv. *Chronic risk.* Based on the chronic dietary (food) exposure estimates, chronic drinking water levels of concern (DWLOC) for HOE-107892 were calculated and are summarized below:

- U.S. Population (48 States): 18,000
- Females 13 + years, nursing: 15,000
- Children (1-6 years old): 5,100

It is current Agency policy that the following subpopulations be addressed when calculating drinking water levels of concern: U.S. population (48 States), any other adult populations whose %RfD is greater than that of the U.S. population, and the Female and Infant/Children subgroups (1 each) with the highest food exposure. The subgroups which are listed above are those which fall into these categories.

3. *From non-dietary exposure.* HOE-107892 currently has no registered residential uses.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are

toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether HOE-107892 has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, HOE-107892 does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that HOE-107892 has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk— U.S. adult population.* Toxicological effects applicable to the general U.S. adult population that could be attributed to a single exposure (dose) were not observed in oral toxicity studies in animal species. Therefore, a dose and endpoint were not identified for acute dietary risk assessment for this population.

Females 13 years and older: The population subgroup of concern is females 13+ years. Using TMRC, EPA concluded that the high-end exposure estimate of 0.00028 mg/kg/day, results in an acceptable acute dietary risk estimate (food only) of <1% of the acute RfD for the population of concern: Females, 13+ years.

For acute exposure, based on an adult female body weight of 60 kg and 2L consumption of water per day, EPA's DWLOC for acute exposure to HOE-107892 for Females, 13 years and older, is 9,900 ppb. The peak EEC (acute) value of 0.29 ppb is lower than the acute DWLOCs for females, 13 years and older (9900 ppb). Therefore, EPA concludes with reasonable certainty that the acute exposure to mefenpyr-diethyl (HOE-107892) in drinking water is less than our level of concern and that the acute aggregate risk estimate (food and water) is less than our level of concern.

2. *Chronic risk.* Using the conservative TMRC exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, the Agency has calculated that chronic dietary exposure to HOE-107892 from food will utilize <1% of the RfD for the U.S. population. EPA's DWLOC for chronic exposure to HOE-107892 is 18,000 ppb for the US population and 15,000 for nursing females 13 years and older. The chronic EEC, GENEEC 56-day, value of 0.15 ppb is lower than these chronic DWLOCs. Therefore, EPA concludes with reasonable certainty that exposure to HOE-107892 in drinking water is less than the level of concern and that the chronic aggregate risk (food and water) is less than the level of concern.

There are no residential exposures. Under current Agency guidelines, the proposed and current uses of HOE-107892 under the existing temporary tolerances do not constitute a chronic dermal or inhalation exposure scenario. EPA concludes that there is a reasonable certainty that no harm will result from chronic aggregate exposure to HOE-107892 residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are no residential uses. Therefore, short- and intermediate-term aggregate risk assessments are not required.

D. Aggregate Cancer Risk for U.S. Population

Although there is a question concerning a positive statistical trend in Harderian gland tumors in mice exposed to HOE-107892 in the diet over a lifetime and the incidences exceed historical control incidences, these tumors were not dose-related and there is no statistically significant increase using a pairwise comparison at any dose level. It is unlikely that they will be toxicologically significant when officially reviewed by either the HIARC or the CPRC. Therefore, for the purposes of this section 18, which allows for a limited use over a limited period of time, a cancer risk assessment will not be conducted.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—* i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of HOE-107892, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply a 10-fold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the no observed effect level in the animal study appropriate to the particular risk assessment. This 100-fold uncertainty (safety) factor/margin of exposure (safety) is designed to account for inter-species extrapolation and intra-species variability. The Agency believes that reliable data support using the 100-fold margin/factor, rather than the 1,000-fold margin/factor, when EPA has a complete data base under existing guidelines, and when the severity of the effect in infants or children, the potency or unusual toxic properties of a compound, or the quality of the exposure data do not raise concerns regarding the adequacy of the standard margin/factor.

ii. *Developmental toxicity studies.* In a developmental toxicity study in rats, the maternal NOEL is the limit dose, 1,000 mg/kg/day. There were no treatment-related effects in developmental parameters. The developmental NOEL is also the limit dose, 1,000 mg/kg/day.

In an embryotoxicity and post-natal development study HOE-107892 was tested at the limit dose of 1,000 mg/kg/day. Mean maternal body-weight gain was significantly lower during treatment and was accompanied by a significant reduction in food efficiency and food consumption. There was also a treatment-related impairment in fetal body weight and body-weight gain. Based on the results of the study, the NOEL for maternal, fetal and neonatal toxicity is < 1,000 mg/kg/day.

In a developmental toxicity study in rabbits there was a significant decrease in body-weight gain observed at 250 mg/kg/day during the first week of treatment which was accompanied by significantly reduced food efficiency index and food consumption. There was also a higher rate of abortions and an increased preimplantation loss. The NOEL for teratogenicity was 250 mg/kg/

day, the highest dose tested. The NOEL for maternal toxicity is 100 mg/kg/day. Based on the higher rate of abortions observed in the dams at 250 mg/kg/day, the NOEL for fetotoxicity is also 100 mg/kg/day.

iii. *Reproductive toxicity study.* In a 2-generation reproduction study in rats, the NOEL for general toxicity (i.e., for parents and offspring) was determined to be 57.3 mg/kg bw/day based on decreased mean body weight and mean body weight gain and an increase in the severity (but not in the incidence) of splenic extramedullary hematopoiesis. The reproductive NOEL was set at 305.9 mg/kg/day (HDT), since there were no adverse treatment-related effects on reproductive parameters evident at any dose level tested.

iv. *Pre- and post-natal sensitivity.* The toxicological data base for evaluating pre- and post-natal toxicity for HOE-107892 is complete with respect to current data requirements. Based on the developmental study data discussed above, HOE-107892 does not appear to have an extra sensitivity for pre-natal effects. The FQPA safety factor of 10X was reduced to 3X for the purposes of this section 18 only until the entire database is completely reviewed. The factor of 3X is only to be applied to the acute dietary endpoint for the females 13+ years population subgroup; the factor of 10X is to be removed for the chronic dietary endpoint for all population subgroups. The rationale was as follows: ''There is no increased sensitivity in rats and rabbits in developmental and reproduction studies in rats and rabbits, however, in the absence of an OPP toxicologist's review of the rabbit developmental study, the summary description of the rabbit developmental study indicates that there may an increased severity of effect in the offspring (increased preimplantation loss and abortions) relative to effects in the dams at the same dose (decreases in food consumption, food efficiency and weight gain).''

2. *Acute risk.* Toxicological effects applicable to children and/or infants that could be attributed to a single exposure (dose) were not observed in oral toxicity studies in several animal species. Therefore, a dose and endpoint were not identified for acute dietary risk assessment for this population subgroup.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to HOE-107892 from food will utilize <1% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. EPA's DWLOC for chronic exposure to HOE-107892 is 5,100 ppb for children, ages 1-6, the subgroup with the highest food exposure of all the infant and children subgroups. The chronic EEC, GENEEC 56-day, value of 0.15 ppb is lower than this chronic DWLOC. Therefore, the Agency concludes with reasonablecertainty that exposure to HOE-107892 in drinking water is less than our level of concern for infants and children and that the chronic aggregate risk (food and water) is less than the level of concern.

4. *Short- or intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are no residential uses. Short- and intermediate-term endpoints were not identified for infants and children. Therefore, short- and intermediate-term aggregate risk assessments are not required.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants is adequately understood. The residue of concern is parent HOE-107892 and metabolites HOE-113225, HOE-109453, and HOE-094270.

For the purposes of this section 18 only, the residues of concern in poultry and ruminants are HOE-107892 and metabolites HOE-113225, HOE-109453, and HOE-094270.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method involves extraction, methylation, separation by gas chromoatography (GC), and detection by Mass Spectroscopy (MS).

C. Magnitude of Residues

As a result of this section 18 use, residues of mefenpyr-diethyl (HOE-107892) and its regulated metabolites (HOE-113225, 109453, and 094270) are not expected to exceed the following levels: 0.05 ppm in grain, 0.5 ppm in hay, and 1.0 ppm in straw. In addition, residues of HOE-107892 and its regulated metabolites are not expected to exceed the following levels in processed by-products of barley grain: 0.1 ppm in pearled barley, 0.4 ppm in bran, and 0.1 ppm in flour. The tolerance levels on processed barley by-products are based on the tolerance level for barley grain and theoretical concentration factors.

EPA does not expect detectable residues in livestock commodities as a result of this section 18 use.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRLs) for HOE-107892 on barley. Thus, harmonization is not an issue for this section 18 request.

E. Rotational Crop Restrictions

For this section 18 only, a 60 day plant back interval will be required for all crops other than wheat and barley. This decision is based on results of laboratory environmental fate studies and the long PHI which is stipulated. Within 1-month of application of HOE-107892, 14C activity from both mefenpyr diethyl and a major metabolite, HOE-113225, decreased to less than 6% of the original activity. A second major metabolite, HOE-094270, had a longer residence time in soil. It reached maximum activity of about 72% after 30-60 days of incubation, and has a much longer estimated DT50 (time required for compound to decay to 50% of the initial quantity) of 100-200 days. In this section 18 a 60 day PHI is stipulated. In effect, HOE-107892 automatically has 60 days to decay before re-planting can be done. For the purposes of this section 18 only, EPA is willing to allow rotation to any crops 60 days after application. For section 3 registration, actual rotational crop data will need to be reviewed to determine an appropriate plant back interval for crops other than wheat and barley.

VI. Conclusion

Therefore, the tolerance is established for residues of HOE-107892 and its metabolites HOE 113225, HOE-109453, and HOE-094270 in barley grain at 0.05 ppm, barley hay at 0.5 ppm, barley straw at 1.0 ppm, and the processed by-products of barley grain: pearled barley at 0.1 ppm, bran at 0.4 ppm, and flour at 0.1 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require

some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by November 9, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300703] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(l)(6). 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). This final 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) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Executive Order 12875. Under Executive Order 12875, entitled Enhancing Intergovernmental Partnerships (58 FR 58093, October 28, 1993), 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. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) 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 rule does not create an unfunded federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

Executive Order 13084. Under Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19,1998), 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. If the mandate is unfunded, EPA must provide OMB, 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. This action

does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the Comptroller General

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**. This 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: August 19, 1998.

James Jones,

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. 346a and 371.

2. Section 180.509 is amending paragraph (b) by alphabetically adding the following entries to the table to read as follows:

§ 180.509 HOE-107892 (mefenpyrdiethyl; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/Revocation Date
Barley, bran	0.4	2/1/00
Barley, flour	0.1	2/1/00
Barley, grain	0.05	2/1/00
Barley, hay	0.5	2/1/00
Barley, pearled	1.0	2/1/00
Barley, straw	0.1	2/1/00
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[FR Doc. 98–24150 Filed 9–8–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–6155–7]

Characteristic Slags Generated From Thermal Recovery of Lead by Secondary Lead Smelters; Land Disposal Restrictions; Final Rule; Extension of Compliance Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of compliance date of final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing an extension of the compliance date until November 26, 1998 for a limited portion of the Phase IV Final Rule, published on May 26, 1998 (63 FR 28556), which, in part, amended the Land Disposal Restriction (LDR) treatment standards for metal-bearing hazardous wastes exhibiting the toxicity characteristic. EPA is extending the date for treatment standards only for secondary lead slags exhibiting the toxicity characteristic for one or more metals that are generated from thermal recovery of lead-bearing wastes (principally batteries). The Agency is taking this action because there appear to be short-term logistical difficulties resulting in a temporary shortage of available treatment capacity for these particular wastes. In the interim, the slags affected by this extension remain subject to the treatment standards for toxicity characteristic metals promulgated in the Third Third Final Rule (55 FR 22520; June 1, 1990) and codified at 40 CFR 268.40.

EFFECTIVE DATE: August 28, 1998.

ADDRESSES: The public docket for this document extending the effective date is available for public inspection at EPA's RCRA Information Center, located at Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia. The regulatory docket contains a number of background materials pertinent to this action. To obtain a list of these items, contact the RCRA Docket at (703) 603–9230 and request the list of references in EPA Docket #F–98-LABS-FFFFF.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For information on this notice contact Elaine Eby, Anita Cummings or Katrin Kral (5302W), Office of Solid Waste, 401 M Street, SW, Washington DC 20460. Elaine Eby may be reached at (703) 308–8449; Anita Cummings may be reached at (703) 308–8303; and Katrin Kral may be reached at (703) 308–6120.

SUPPLEMENTARY INFORMATION:

Availability of Rule on Internet

This notice is available on the internet, at:

www: http://www.epa.gov/oswer/hazwaste/ldrmetal/facts.htm

FTP: ftp.epa/gov