Dated: December 1, 1998.

Richard G. Bryson,

Acting Assistant Director.

[FR Doc. 98–32348 Filed 12–3–98; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6192–8]

RIN 2060–AC28

National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Today's action suspends the National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations (EO NESHAP) requirements for chamber exhaust and aeration room vents. The suspension allows affected sources subject to the EO NESHAP to defer compliance with the NESHAP requirements for chamber exhaust and aeration room vents for one year until December 6, 1999. This suspension does not affect the requirement for sources subject to the EO NESHAP to comply with provisions for sterilizer vents by December 6, 1998. This action does not change the level of the standards or the intent of the NESHAP promulgated in 1994.

DATES: This action is effective December 4, 1998.

Comments may be submitted until January 4, 1999.

ADDRESSES: Comments may be submitted to the Docket address which follows. Docket No. A–88–03, category VIII Amendments, containing information considered by the EPA in developing this rule, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, except for Federal holidays, at the EPA's Air and Radiation Docket and Information Center, room M1500, U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548. A reasonable fee may be charged for copying. This docket also contains information considered by the EPA in proposing and promulgating the original EO NESHAP.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact the appropriate EPA regional or Office of Enforcement and Compliance Assurance (OECA) representative:

Region I: Susan Lancey, Air Programs Enforcement Office Chief, U.S. EPA, Region I, JFK Federal Building (SEA), Boston, MA 02203–2211, PH: (617) 565–3587 Fax: (617) 565-4940

Region II: Umesh Dholakia, Air Compliance Branch Chief, U.S. EPA, Region II, 290 Broadway, New York, NY 10007–1866, PH: (212) 637–4023, Fax: (212) 637–3901

Region III: Dianne Walker, U.S. EPA, Region III (3AT12), 841 Chestnut Building, Philadelphia, PA 19107, PH: (215) 566–3297, Fax number (215) 566–2114

Region IV: Lee Page, U.S. EPA, Region IV (AR–4), 100 Alabama Street, SW, Atlanta, GA 30303–3104, PH: (404) 562–9131, Fax: (404) 562–9095

Region V: Bruce Vainer (AE–17J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, PH: (312) 886–6793, Fax: (312) 353–8289

Region VI: Robert Todd (6PD-R), U.S. EPA, Region VI (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, TX 75202–2733, PH: (214) 665–2156, Fax: (214) 665–7263

Region VII: Richard Tripp, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, PH: (913) 551–7566 Fax: (913) 551–7065

Region VIII: Victoria Parker-Christensen, U.S. EPA, Region VIII (8P2–A), 999 18th Street, Suite 500, Denver, CO 80202–2405, PH: (303) 312–6441, Fax: (303) 312–6064

Region IX: Mae Wang, U.S. EPA, Region IX (Air–4), 75 Hawthorne Street, San Francisco, CA 94105, PH: (415) 744–1200 Fax: (415) 744–1076

Region X: Andrea Wullenweber, Office of Air Quality (OAQ–107), U.S. EPA, Region X, 1200 Sixth Avenue, Seattle, WA 98101–9797, PH: (206) 553–8760 Fax: (206) 553–0110

OECA: Charlie Garlow, U.S. EPA, OECA (2242A), 401 M Street, SW, Washington, DC 20460, PH: (202) 564–1088, Fax: (202) 564–0068.

For information concerning the analyses performed in developing this interim final rule, contact Mr. David Markwordt, Policy, Planning and Standards Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, PH: (919) 541–0837 Fax: (919) 541–0942. For information concerning the accident investigations, contact Mr. Craig Matthiessen, Chemical Emergency Preparedness and Prevention Office (5101), Office of Solid Waste and Emergency Response, U.S. EPA, 401 M Street, SW, Washington, DC 20460, PH: (202) 260–9781 Fax: (202) 260 0927.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic version of this rule is available for downloading from the EPA Technology Transfer Network (TTN) at ''http://www.epa.gov/ttn/oarpg/ramain.html.'' For assistance in downloading files, call the TTN Help line at (919) 541–5384.

Regulated Entities

Regulated categories and entities include:

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Entity category	Description/SIC code
Industrial	Medical suppliers/3841, 3842. Pharmaceuticals/2834, 5122, 2831, 2833. Spice manufactures/2099, 5149, 2034, 2035, 2046. Contract Sterilizers/7399, 7218, 8091.
Federal Government	Not Affected.
State/Local/Tribal Gov	Not Affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities regulated by the NESHAP addressed in this interim final rule. If you have questions regarding the applicability of the NESHAP addressed in this interim final rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION** section.

The information presented in this preamble is organized as follows:

I. Background and Summary of Action

On December 6, 1994 (59 FR 62585), the EPA promulgated the EO NESHAP which regulates emissions of ethylene oxide from new and existing commercial sterilization and fumigation operations using one ton or more of EO per year. The regulated category and entities affected by today's action are the sources described in 40 CFR 63.360. That provision includes commercial operations using ethylene oxide as a sterilant and fumigant in the production of medical equipment and supplies, and in miscellaneous sterilization and fumigation operations at both major and area sources. Note that this description is not intended to be exhaustive but, rather, to provide a guide for readers interested in this compliance extension. To determine whether your facility is affected by today's action, you should carefully examine the applicability criteria in 40 CFR 63.360 and the explanation provided in this document. If you have questions about the applicability of today's action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

In July 1997, the Agency learned of reports of explosions at ethylene oxide sterilization and fumigation facilities. EPA subsequently suspended the EO NESHAP for one year until December 6, 1998 to provide time to determine the appropriate action necessary to mitigate the cause of the explosions. 62 FR 64736

II. Summary of and Rationale for Suspension of Chamber Exhaust and Aeration Room Vent Requirements

As noted above, in July 1997, the Agency learned of reports of explosions at ethylene oxide facilities. Several of these explosions occurred at facilities subject to the EO NESHAP. The Agency immediately began conducting a preliminary investigation to determine if the emission control equipment mandated by 40 CFR part 63, Subpart O was in any way associated with the cause of the problems at these facilities. The Agency, on December 9, 1997, wishing to adopt a cautious approach in order to assure public and worker safety, published in the **Federal Register** an interim final rule suspending 40 CFR Part 63, Subpart O. 62 FR 64736. Since publication of the December 9, 1997 rule, both EPA and industry have continued to investigate the cause of the accidents.

In a June 2, 1998 letter to the Agency, the Ethylene Oxide Sterilization Association (EOSA) recommended, ''additional time to consider safe and economical control, installation, operation and maintenance alternatives applicable to aeration and chamber exhaust (backvent) emissions . . . ''(see Docket No. A–88–03, Item No. VIII–D–2). The Health Industries Manufacturers Association (HIMA) reviewed the recommendation. EOSA and HIMA membership represent most of the ethylene oxide sterilization and fumigation industry. EOSA ''concluded that the oxidizer systems had not been properly integrated with traditional EtO sterilization process operations, that is, installation, operation and maintenance issues had not been sufficiently addressed by sterilizer operators.'' EOSA also concluded that ''improperly overfeeding the oxidizer system from the chamber backvent was the primary safety concern.''

The Agency also conducted an independent investigation of the accidents and reviewed reports prepared by EPA Regional Offices and by EOSA member sterilization companies and, based on that investigation and review, concurred with the industry conclusion and recommendation quoted above (see Docket No. A–88–03, Item No. VIII–B–1). The Agency agrees that, in the cases where explosions occurred, the catalytic oxidizer units were overfed with ethylene oxide in concentrations above the safe operations limit due to abnormal activation of the chamber exhaust (backvent). Normally, EO rich effluent drawn (vented) from the sterilizer chamber at low flow is metered or mechanically restricted and diluted with air to prevent high concentrations of EO from entering the emissions control unit. The much greater backvent or chamber exhaust flow, often in combination with aeration room exhaust, generally is not restricted or diluted before entering the emissions control unit. Aeration room concentrations typically are well below the lower flammability limit for EO and the backvent is supposed to be activated only when an extremely low concentration of EO is present in the chamber during loading/unloading of products. Although all units functioned as intended, the abnormal activation of the backvent at high EO concentrations in the sterilization chamber led to the explosions. The Agency also concludes main vent emissions routed through the vacuum pump played no role in the explosions.

The Agency also concludes that any emissions control technology necessary to comply with this rule needs to be properly integrated into the sterilization system and operations, and must reflect the full range of normal and abnormal conditions that may occur. Investigations and safety reviews, conducted independently by EPA and EOSA members, confirmed that, as currently designed and operated, there still is a possibility that backvents could be activated while high EO concentrations are present in the sterilization chamber. Consequently, sterilization chamber operators will need to further evaluate the integration of the emission control technology with sterilizer operation to ensure prevention of future explosions. Total system safety issues can be addressed by conducting a comprehensive process hazard analysis (PHA) for each sterilizer process and developing and instituting safeguards that address these hazards. Additional time is required to complete these analyses and install safeguards.

In this matter, the Agency wishes to err, if at all, on the side of safety. Accordingly, the Agency is today suspending the EO NESHAP emission limitation requirements in 40 CFR Part 63, Subpart O, for chamber exhaust and aeration room vents, as those emission points are defined at 40 CFR 63.361, for one year, until December 6, 1999, pursuant to EPA's general rulemaking authority under CAA Section 301(a), 42 U.S.C. 7601(a). Sources must comply with the EO NESHAP emission limitation requirements in 40 CFR part 63, Subpart O, for sterilization chamber vents, as those emission points are defined at 40 CFR 63.361 by December 6, 1998 because EPA has determined that they do not pose a safety concern.

CAA Section 301(a) grants the Administrator of the EPA the authority ''to prescribe such regulations as are necessary to carry out his functions under this Act.'' Given the unique circumstances and uncertainty surrounding the EO NESHAP, as described in this document, EPA believes that it is necessary to further suspend this rule's requirements for chamber exhaust and aeration room vent for the safety of the public and workers in and around EO facilities. As EOSA's and EPA's investigations have shown, the control requirements of the EO NESHAP for chamber exhaust and aeration room vents continue to pose potential problems for which solutions are being developed. These solutions include the redesign of control systems to prevent the overfeeding of EO in concentrations above safe operating limits. The EOSA is also exploring an alternative control strategy for back draft vent emissions. This control approach does not require an abatement device thus completely eliminating the possibility of overfeeding (see Docket No. A–88–03, Items No.VIII–D–2 & 6).

The further extension provided in this document allows time for those solutions to be perfected and finalized. This action is consistent with the objectives of the Clean Air Act as stated in Section 101(b), 42 U.S.C. 7401(b). ''The purposes of this sub chapter are . . . to promote the public health and welfare and the productive capacity of its population. . . .''

The original EO NESHAP and today's action are promulgated pursuant to CAA Section 307(d), 42 U.S.C. 7607(d), which requires that any rule subject to that section be issued only after the public has received notice of, and an opportunity to comment on, the rule. However, Section 307(d)(1) exempts from those requirements any rule for which the Agency finds under the Administrative Procedure Act, 5 U.S.C. 553(b), that providing prior notice-and-comment would be impracticable, unnecessary or contrary to the public interest.

EPA believes the circumstances presented here provide good cause to take this action without prior notice-and-comment. EPA finds that providing prior notice-and-comment would be impracticable and contrary to the public interest based on the potential ongoing danger to public and worker safety posed by the recent incidents at ethylene oxide facilities. There is simply not enough time to provide notice-and-comment procedures before the current compliance date of December 6, 1998 arrives, and until the compliance date is extended, sources are faced with having to install control equipment in time to meet the current compliance date. Only by omitting notice-and-comment from this action can EPA provide sources affected by the EO NESHAP with timely legal relief from the current compliance date, while EPA investigates the situation. Consequently, this action is being promulgated without prior notice-and-comment as provided for in CAA Section 307(b)(1) and is effective December 4, 1998 as provided for in CAA Section 112(d)(10).

Nonetheless, EPA is providing 30 days for submission of public comments. EPA will consider all written comments submitted in the allotted time period to determine if any change to this action is necessary.

In suspending the EO NESHAP requirements for chamber exhaust and aeration room vents, the Administrator wishes to remind the public and the regulated community that the role of the EPA has been and continues to be protection of public health and the environment in a way that is consistent with safety concerns.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the EO NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 2060–0283) may be obtained from Ms. Sandy Farmer, Information Policy Branch (2136); U.S. EPA; 401 M Street, SW, Washington, DC 20460, or by calling (202) 260–2740.

Today's action has no impact on the information collection burden estimates made previously. Today's action merely suspends the EO NESHAP requirements for chamber exhaust and aeration room vents for one year. This change does not impose new requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to review by OMB on the basis of the requirements of the Executive Order in addition to its normal review requirements. The Executive 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.

Today's action does not fall within any of the four categories described above. Instead, it reduces the burden on certain sources by temporarily suspending the EO NESHAP requirements for chamber exhaust and aeration vents. Consequently, under Executive Order 12866, this action is not a ''significant regulatory action'' and is, therefore, not subject to review by the Office of Management and Budget.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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 the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objects 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 publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of 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.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. Instead, this rule provides additional time to comply with some requirements of the EO NESHAP. Because the rule is not expected to result in the expenditure by State, local, and tribal governments or the private sector of $100 million or more in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most 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. For the reasons stated above, the requirements of the UMRA do not apply to this section.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (or RFA), Public Law 96–354, whenever an Agency publishes any proposed or final rule in the **Federal Register**, it must, except under certain circumstances, prepare a Regulatory Flexibility Analysis (RFA) that describes the impact of the rule on small entities (i.e., small businesses, organizations, and governmental jurisdictions). That analysis is not necessary if the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA believes that there will be little or no adverse impact on any small entities as a result of the promulgation of this rule because, rather than imposing additional requirements, this rule provides additional time to comply with parts of the EO NESHAP. Because the impacts are anticipated to be insignificant or beneficial, pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, an RFA is not required.

E. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that (1) OMB determines is ''economically significant'' as defined under Executive Order 12866, and (2) EPA determines the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety aspects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This interim final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

F. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act of 1995 (NTTAA) requires federal agencies to evaluate existing technical standards when developing new regulations. To comply with the NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that the use of VCS in this interim final rule is impractical. The suspension of the EO NESHAP requirements for chamber exhaust and aeration room vents is merely a procedural action that does not require sources to take substantive steps that lend themselves to VCS.

G. Executive Order 12875—Enhancing the Intergovernmental Partnership

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 EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to 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 rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Rather, the rule temporarily suspends certain regulatory requirements. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

H. 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 EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 officials 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 rule imposes no enforceable duties on these entities. Rather, the rule temporarily suspends certain regulatory requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective December 4, 1998.

J. Petitions for Judicial Review

Under Section 307(b)(1) of the Clean Air Act (Act), judicial review of this final action is available only by filing a petition for review in the U.S. Court of

Appeals for the District of Columbia Circuit within 60 days of today's publication of this interim final rule. Under Section 307(b)(2) of the Act, the actions taken in today's document may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Ethylene oxide sterilization, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 18, 1998.

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 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart O—[Amended]

2. Section 63.360 is amended by revising paragraphs (g)(1), (g)(2), and (g)(3) and adding paragraphs (g)(4), (g)(5), and (g)(6) to read as follows:

§ 63.360 Applicability.

* * * * *

(g) * * *

(1) All sterilization chamber vents subject to the emissions standards in § 63.362 with an initial startup date before December 6, 1998, no later than December 6, 1998.

(2) All sterilization chamber vents subject to the emissions standards in § 63.362 with an initial startup date on or after December 6, 1998, immediately upon initial startup of the source.

(3) All sterilization chamber vents at sources using less than 1 ton of ethylene oxide that increase their ethylene oxide usage after December 6, 1998 such that the sterilization chamber vent becomes subject to the emissions standards in § 63.362(c), immediately upon becoming subject to the emission standards.

(4) All aeration room and chamber exhaust vents subject to the emissions standards in § 63.362 with an initial startup date before December 6, 1999, no later than December 6, 1999.

(5) All aeration room and chamber exhaust vents subject to the emissions standards in § 63.362 with an initial startup on or after December 6, 1999, immediately upon initial startup of the source.

(6) All aeration room and chamber exhaust vents at sources using less than 10 tons of ethylene oxide that increase their ethylene oxide usage after December 6, 1999 such that the aeration room and chamber exhaust vents become subject to the emissions standards in § 63.362(d) and § 63.362(e), immediately upon becoming subject to the emission standards.

[FR Doc. 98–31396 Filed 12–3–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300757; FRL–6044–5]

RIN 2070–AB78

Thiabendazole; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the fungicide thiabendazole and its metabolites in or on lentils at 0.1 part per million (ppm) for an additional 18–month period, to April 30, 2000. 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 on lentils. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (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.

DATES: This regulation becomes effective December 4, 1998. Objections and requests for hearings must be received by EPA, on or before February 2, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300757], 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–300757], 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 requests to 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 electronic 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 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300757]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail:Andrea Beard, 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: Rm. 267, CM 2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308–9356; e-mail:beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of February 25, 1998 (63 FR 9435) (FRL–5767–6), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of thiabendazole and its metabolites in or on lentils at 0.1 ppm, with an expiration date of October 31, 1998. EPA established the tolerance because 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.

EPA received requests to extend the use of thiabendazole on lentils for this year's growing season due to the situation remaining an emergency. The Applicants (Idaho, Washington, and