

property owned or leased by the United States; and (5) the State program must represent "an effective program" to prevent underground injection which endangers drinking water sources, in accordance with section 1425(a). If a State can successfully demonstrate that its Class II program satisfies all of these requirements, the program has met all the statutory requirements for approval. As previously discussed, under section 1425, that program, or a component thereof, does not have to demonstrate that it contains requirements as stringent as, or identical to, each of the specific Class II requirements found in Parts 144 and 146 of EPA's regulations. Instead, a finding that such a program, or component thereof, meets the Class II approval requirements of section 1425 means that such a program, by virtue of that finding, necessarily complies with all applicable statutory and regulatory requirements for Class II wells.

EPA's determination that Alabama's hydraulic fracturing program related to coal bed methane production complied with the section 1425 requirements for Class II program approval was explained in great detail in the January 19, 2000, **Federal Register** final rule. The *LEAF II* Court held that EPA's determination that Alabama's UIC program complies with the SDWA's statutory requirements was not arbitrary. *LEAF v. EPA*, 276 F.3d at 1265. EPA is not reopening that earlier approval decision or soliciting additional comment on it. EPA is only seeking comment on its proposed response to the *LEAF II* Court's question on remand.

In reviewing and approving Alabama's coal bed methane-related hydraulic fracturing program, EPA was cognizant of the various regulatory provisions in Parts 144 and 146 designed to prevent Class II injection wells from causing the movement of fluid containing any contaminant into an underground source of drinking water (USDW). EPA generally expects traditional State Class II programs, *i.e.*, those regulating the injection of fluids brought to the surface either in connection with conventional oil and gas production or for enhanced recovery or storage of oil and gas, to demonstrate their "effectiveness" to prevent underground injection which endangers USDWs pursuant to Section 1425 by inclusion of statutory or regulatory provisions preventing fluid movement. EPA was concerned that according "full" Class II status to Alabama's hydraulically-fractured methane production wells could have been misconstrued as requiring a strict application of those "no fluid movement" provisions and could have

unnecessarily impeded methane gas production in Alabama within the meaning of SDWA section 1421(b)(2) because Alabama's revised program allowed injection of fracturing fluids into USDWs, provided they did not cause a violation of any maximum contaminant level (MCL) or otherwise adversely affect the health of persons. *LEAF v. EPA*, F.3d at 1264 n.12; EPA brief at 30–31. EPA thus decided to characterize wells used to inject hydraulic fracturing fluids into Alabama's coal bed formations as "Class II-like," rather than Class II. However, this characterization of Alabama's hydraulically-fractured methane production wells, while designed to further ensure that regulation of those wells did not unnecessarily interfere with or impede methane gas production, was unnecessary for purposes of EPA's approval due, in part, to the unique attributes of hydraulic fracturing in Alabama, and because EPA did, in fact, make a substantive finding, which was upheld by the *LEAF II* Court, that Alabama's program does not endanger USDWs because, among other requirements, the injection must not cause a violation of any MCL or otherwise adversely affect the health of persons. EPA thus appropriately exercised the discretion and flexibility inherent in SDWA section 1425 to approve Alabama's coal bed methane-related hydraulic fracturing program allowing such movement where: (1) EPA's Class II regulations were not designed to, and do not specifically address the unique technical and temporal attributes of hydraulic fracturing, and (2) EPA determined pursuant to section 1425 that Alabama's program is effective at preventing endangerment of USDWs.

In sum, SDWA gives Alabama more flexibility in developing a section 1425-approvable Class II program for the hydraulic fracturing of coal beds to produce methane than if it were developing the same program for approval under the criteria in section 1422. Similarly, EPA has more discretion to approve Alabama's revised Class II program relating to coal bed methane production under the criteria in section 1425, because that program does not have to "track" or be "as stringent as" each of the Class II-related requirements of 40 CFR parts 124, 144, 145, and 146. *See* 40 CFR 145.11(b)(1). Because Alabama made a satisfactory demonstration pursuant to section 1425 that its coal bed methane-related hydraulic fracturing program warranted approval, it did all that was required to

demonstrate that its program complies with the requirements for Class II wells.

Dated: April 5, 2004.

**Benjamin H. Grumbles,**

*Acting Assistant Administrator, Office of Water.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–2004–0025; FRL–7353–4]

#### Lambda-Cyhalothrin and an Isomer Gamma-Cyhalothrin; Tolerances for Residues

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending 40 CFR part 180 by promulgating a new tolerance expression for the isomer form of gamma-cyhalothrin. Gamma-cyhalothrin is the isolated active isomer of lambda-cyhalothrin under 40 CFR 180.438. Pytech Chemicals GmbH, 9330 Zionsville Rd., Indianapolis, IN 46268, requested this change in tolerance expression in support of the registration of a pesticide formulation enriched with the gamma isomer of lambda-cyhalothrin.

**DATES:** This regulation is effective April 8, 2004. Objections and requests for hearings, identified by docket ID number OPP–2004–0025, must be received on or before June 7, 2004.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** William G. Sproat, Jr., Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8587; e-mail address: [sproat.william@epa.gov](mailto:sproat.william@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this Action Apply to Me?*

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

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse,

nursery, and floriculture workers; farmers.

- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

#### *B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2004-0025. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA

Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select “search,” then key in the appropriate docket ID number.

## **II. Background and Statutory Findings**

In the **Federal Register** of February 25, 2004 (69 FR 8654) (FRL-7345-5), EPA issued a notice pursuant to section 408(d)(3) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4F6812) by Pytech Chemicals GmbH, 9330 Zionsville Rd., Indianapolis, IN 46268. That notice included a summary of the petition prepared by Pytech Chemicals GmbH, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.438 be amended by adding gamma-cyhalothrin, ((S)-a-cyano-3-phenoxybenzyl (Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoropropenyl)-2,2-dimethylcyclopropanecarboxylate) to the tolerance expression of lambda-cyhalothrin, ((S)-alpha-cyano-3-phenoxybenzyl-(Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,1-dimethylcyclopropanecarboxylate and (R)-alpha-cyano-3-phenoxybenzyl-(Z)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate). Gamma-cyhalothrin is a single, resolved isomer of the pyrethroid insecticide cyhalothrin, and as such shares physical, chemical, and biological properties with both cyhalothrin and lambda-cyhalothrin, which are mixtures of 4 and 2 isomers respectively. Gamma-cyhalothrin is the most insecticidally active isomer of cyhalothrin/lambda-cyhalothrin, and thus the technical gamma-cyhalothrin product may be considered a refined form of cyhalothrin/lambda-cyhalothrin in that it has been purified by removal of less active and inactive isomers. Thus, similar levels of insecticidal efficacy for gamma-cyhalothrin can be obtained with significantly reduced application rates as compared with either cyhalothrin or lambda-cyhalothrin.

The tolerance under 40 CFR 180.438 currently identifies lambda-cyhalothrin as a 1:1 mixture of two isomers and their epimers, one of which is the gamma isomer. The gamma isomer is

present at 42% in this mixture. By contrast in the proposed tolerance expression the gamma isomer is present at 98% in the mixture. The petitioner requested this change in tolerance expression to support the registration of a pesticide formulation enriched with the gamma isomer of lambda-cyhalothrin.

EPA is also moving the dried hop cone food additive tolerance under 40 CFR 180.438(a)(3) to the table under 40 CFR 180.438(a)(1) since the Agency no longer establishes tolerances for pesticide residues under section 409 of FFDCA. The remainder of 40 CFR 180.438(a)(3) is being removed.

Section 408(b)(2)(A)(i) of 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) of FFDCA 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) of FFDCA 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. . . .”

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL-5754-7).

## **III. Aggregate Risk Assessment and Determination of Safety**

Consistent with section 408(b)(2)(D) of FFDCA, 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 and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA. Aggregate risk assessment and determination of safety is discussed in this rule and the final rule on Lambda-cyhalothrin Tolerances (67 FR 60902, September 27, 2002) (FRL-7200-1).

### 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 toxicological evaluation of gamma-cyhalothrin can be accomplished by studies with gamma-cyhalothrin itself as well as by studies on lambda-cyhalothrin and/or cyhalothrin (the unpurified isomer compounds). Cyhalothrin and lambda-cyhalothrin have been reviewed by EPA

for toxicity endpoint selection for the various exposure scenarios. Because gamma-cyhalothrin is a component of the other two mixed-isomer compounds, gamma-cyhalothrin essentially has been evaluated in the previous toxicological studies with cyhalothrin and lambda-cyhalothrin. The nature of the toxic effects caused by lambda-cyhalothrin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed are discussed in detail in the **Federal Register** of September 27, 2002 (67 FR 60902) (FRL-7200-1). The toxicological profile for cyhalothrin in the September 27, 2002 **Federal Register** remains current and can therefore be referenced as

background information in support of this action.

Gamma-cyhalothrin is a single resolved isomer of cyhalothrin. In order to select toxicity endpoints for the purposes of risk assessment, bridging data on gamma-cyhalothrin were submitted so that the toxicity of gamma cyhalothrin could be compared with that of cyhalothrin and the data bases could be combined to form one complete data base for both chemicals. In the selection of toxicity endpoints, studies conducted with gamma-cyhalothrin were used whenever possible. The nature of the toxic effects of the data on gamma-cyhalothrin are discussed in Table 1 of this unit as well as the NOAEL and the LOAEL from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.1200	21-Day Dermal Toxicity - Rabbit Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	NOAEL: 100 mg/kg/day LOAEL: 1,000 mg/kg/day (significant weight loss) None
870.3100	13-Week Dietary -Rat - Cyhalothrin	NOAEL: 2.5 mg/kg/day LOAEL: 12.5 mg/kg/day (decreased body weight gain in males).
870.3100	13-Week Dietary - Rat Lambda cyhalothrin	NOAEL: 2.5 mg/kg/day LOAEL: 12.5 mg/kg/day (reduced body weight gain and food consumption in both sexes and food efficiency in females).
870.3100	13-Week Dietary - Rat Gamma cyhalothrin	NOAEL: male/female =3.4/4.2 mg/kg/day LOAEL: male/female = 6.6/8.8 mg/kg/day (mortality in males, neuromuscular effects in both sexes, dermatitis, and gross and microscopic skin lesions in females).
870.3150	26-Week Dietary - Dog Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	NOAEL: 1.0 mg/kg/day LOAEL: 2.5 mg/kg/day (increase in liquid feces. At 10.0 mg/kg/day, clinical signs of neurotoxicity). None
None	4-Week Dietary - Mouse Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	NOAEL: 64.2/77.9 mg/kg/day LOAEL: 309/294 mg/kg/day (mortality, clinical signs of toxicity, decreases in body weight gain and food consumption, changes in hematology and organ weights, minimal centrilobular hepatocyte enlargement). None
None	Chronic Toxicity - Dog Lambda cyhalothrin Cyhalothrin Gamma cyhalothrin	NOAEL: 0.1 mg/kg/day LOAEL: 0.5 mg/kg/day (clinical signs of neurotoxicity). Note: For one or two days of dosing, the NOEL is 0.5 mg/kg. None
870.3200	21-Day Dermal Toxicity - Rat Lambda cyhalothrin Cyhalothrin Gamma cyhalothrin	NOAEL: 10 mg/kg/day LOAEL: 50 mg/kg/day (clinical signs of toxicity, decreased body weight and body weight gain) None
870.3200	28-Day Dietary - Rat Cyhalothrin	NOAEL: 2 mg/kg/day LOAEL: 10 mg/kg/day (clinical signs of neurotoxicity). At higher doses, decreases in body weight gain and food consumption and changes in organ weights
870.3200	28-Day Dietary - Rat Cyhalothrin Lambda cyhalothrin	NOAEL: 1.0 mg/kg/day LOAEL: 2.0 mg/kg/day (decreases in mean body weight gain in females). None

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3200	Gamma cyhalothrin	NOAEL: male/female = 4.2/4.5 mg/kg/day LOAEL: male/female = 8.8/10.2 mg/kg/day. (decreased body weight, body weight gain, food consumption, clinical and biochemical effects).
870.3200	Gamma cyhalothrin	Maternal NOAEL: 0.5 mg/kg/day Maternal LOAEL: 2.0 mg/kg/day (clinical signs, reduced body weight and body weight gain and food consumption). Developmental NOAEL: 2.0 mg/kg/day Developmental LOAEL: Not established
870.3465	21-Day Inhalation Toxicity - Rat Lambda cyhalothrin Cyhalothrin Gamma cyhalothrin	NOAEL: 0.08 mg/kg/day LOAEL: 0.90 mg/kg/day (clinical signs of neurotoxicity, decreased body weight gains, increased incidence of punctate foci in cornea, slight reductions in cholesterol in females, slight changes in selected urinalysis parameters). None
870.3700	Developmental Toxicity - Rat Cyhalothrin Lambda cyhalothrin	Maternal NOAEL: 10 mg/kg/day Maternal LOAEL: 15 mg/kg/day (uncoordinated limbs, reduced body weight gain and food consumption). Developmental NOAEL: 15 mg/kg/day Developmental LOAEL: Not established None
870.3700	Developmental Toxicity - Rabbit Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	Maternal NOAEL: 10 mg/kg/day Maternal LOAEL: 30mg/kg/day (reduced body weight gain and food consumption). Developmental NOAEL: 30 mg/kg/day Developmental LOAEL: Not established None
870.3800	3-Generation Reproduction - Rat Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	Parental NOAEL: 1.5 mg/kg/day Parental LOAEL: 5.0 mg/kg/day (decreased parental body weight and body weight gain during premating and gestation periods). Reproductive NOAEL: 5.0 mg/kg/day Reproductive LOAEL: Not established. Offspring NOAEL: 1.5 mg/kg/day Offspring LOAEL: 1.5 mg/kg/day (reduced pup weight and weight gain during lactation). None
870.4100	Chronic Toxicity/Carcinogenicity - Rat Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	NOAEL: 2.5 mg/kg/day LOAEL: 12.5 mg/kg/day (decreases in mean body weight) No evidence of carcinogenicity. None
870.4200	Carcinogenicity - Mouse Cyhalothrin Lambda cyhalothrin Gamma cyhalothrin	NOAEL: 15 mg/kg/day LOAEL: 75 mg/kg/day (increased incidence of piloerection, hunched posture; decreased body weight gain in males). No evidence of carcinogenicity. None
870.6200	Sub Neurotoxicity - Rat Lambda cyhalothrin Cyhalothrin Gamma cyhalothrin	NOAEL: 11.4 mg/kg/day LOAEL: Not Established None
870.7485	Metabolism and Pharmacokinetics Lambda cyhalothrin Cyhalothrin	In the rat, approximately 55% of the oral dose is absorbed. It is extensively metabolized when absorbed. After subcutaneous administration, the urinary/fecal excretion ratio is 2.5:1.0. Over 50% of the dose remained in the carcass 7 days after a subcutaneous dose. Metabolism includes cleavage of the ester to cyclopropylcarboxylic acid and a phenoxybenzyl derivative. The distribution patterns and excretion rate in the multiple oral dose studies are similar to the single oral dose studies. There is accumulation of unchanged compound in the fat upon chronic administration. Otherwise, cyhalothrin is rapidly metabolized and excreted. Cyclopropyl carboxylic 3-4'-hydroxyphenoxy benzoic acid and a sulfate conjugate were identified in the urine. Cyhalothrin is taken up slowly by the fat and released slowly. It is rapidly released by blood, kidney, liver.

These data indicate that bridging to the single resolved isomer is possible and endpoints for risk assessment may

be from the gamma isomer toxicity data itself or in accordance with the Agency's "Draft Policy for Determining

Toxicology Data Requirements for Enriched Isomer Technical Products" (Revised April 1999) which states that

once we determine that the data can be bridged, toxicity endpoints can conservatively be estimated by assigning all toxic effects seen in the isomer mixture to the resolved isomer (in this case gamma-cyhalothrin).

It is noted that in the developmental toxicity study in the rat that the resolved gamma isomer is over an order of magnitude more toxic than in cyhalothrin. Since there were no effects on the fetus in either study and these studies are not used for toxicity endpoint selection, the impact of this difference is marginal.

#### B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL of concern identified is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

Three other types of safety or UFs may be used: "Traditional UFs;" the "special FQPA safety factor;" and the "default FQPA safety factor." By the term "traditional UFs," EPA is referring to those additional UFs used prior to FQPA passage to account for database deficiencies. These traditional UFs have

been incorporated by the FQPA into the additional safety factor for the protection of infants and children. The term "special FQPA safety factor" refers to those safety factors that are deemed necessary for the protection of infants and children primarily as a result of the FQPA. The "default FQPA safety factor" is the additional 10X safety factor that is mandated by the statute unless it is decided that there are reliable data to choose a different additional factor (potentially a traditional UF or a special FQPA safety factor).

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by an UF of 100 to account for interspecies and intraspecies differences and any traditional UFs deemed appropriate ( $RfD = NOAEL/UF$ ). Where a special FQPA safety factor or the default FQPA safety factor is used, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures margin of exposure (MOE) =  $NOAEL/exposure$  is calculated and compared to the LOC.

The linear default risk methodology ( $Q^*$ ) is the primary method currently

used by the Agency to quantify carcinogenic risk. The  $Q^*$  approach assumes that any amount of exposure will lead to some degree of cancer risk. A  $Q^*$  is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk). An example of how such a probability risk is expressed would be to describe the risk as one in one hundred thousand ( $1 \times 10^{-5}$ ), one in a million ( $1 \times 10^{-6}$ ), or one in ten million ( $1 \times 10^{-7}$ ). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ( $MOE_{cancer} = \text{point of departure}/\text{exposures}$ ) is calculated.

A summary of the toxicological endpoints for gamma cyhalothrin used for human risk assessment is shown in Table 2 of this unit. The toxicity studies submitted and reviewed were a battery of acute toxicity studies, 90-day feeding study in the rat, a developmental toxicity study in the rat, and a battery of mutagenicity studies. These studies taken together with those for cyhalothrin and lambda-cyhalothrin (i.e. a combination of studies) were used for hazard assessment of gamma-cyhalothrin for human health risk assessment.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR GAMMA-CYHALOTHRIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	Special FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary general population including (infants and children)	Dose = 0.25 UF = 100 Acute RfD = 0.0025 milligrams(mg)/kilograms (kg)	FQPA SF = 1 X aPAD acute RfD FQPA SF = 0.0025 mg/kg/day	Chronic oral study in the dog (lambda-cyhalothrin) Clinical signs of neurotoxicity (ataxia) observed from day 2, 3 to 7 hours post-dosing.
Chronic dietary (all populations)	NOAEL = 0.1 UF = 100 Chronic RfD = 0.001 mg/kg/day	FQPA SF = 1 X cPAD = chronic RfD FQPA SF = 0.001 mg/kg/day	Chronic oral study in the dog (lambda-cyhalothrin) Gait abnormalities observed in two dogs.
Short-term Incidental oral (1–30 days) Intermediate-term Incidental Oral (1–6 months)	NOAEL = 0.1 mg/kg/day	Residential LOC for MOE = 100 Occupational = NA	Chronic oral study in the dog (lambda-cyhalothrin) Gait abnormalities observed in two dogs.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR GAMMA-CYHALOTHRIN FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	Special FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Short-term dermal (1 to 30 days) Long-term dermal (< 6 months)	Dermal dose a = 5.0 mg/kg/day	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	21-Day dermal toxicity study in the rat (lambda-cyhalothrin) Clinical signs of neurotoxicity (observed from day 2) and decreased body weight and body weight gain.
Short-term inhalation (1 to 30 days) Intermediate-term dermal (1 to 6 months) Long-term dermal (< 6 months)	Inhalation dose a = 0.04 mg/kg/day	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	21-Day inhalation study in rats (lambda-cyhalothrin) Clinical signs of neurotoxicity, and systemic toxicity.
Cancer (oral, dermal, inhalation)	Classified as "Not likely to be Carcinogenic to Humans"		

Dose<sup>a</sup> = The values indicated above for acute dietary, dermal and inhalation exposure scenarios are the adjusted NOAELs (multiplied by a factor of  $\frac{1}{2}$  based on the purity of the lambda isomer compared to the enriched isomer gamma-cyhalothrin. This was not done for the chronic effect dose in the dog study since it was determined by the OPPTS Hazard Identification Assessment review Committee that the NOAEL was very conservative and based on marginal effects at the LOEL of 0.5 mg/kg/day.

UF = uncertainty factor, FQPA SF = special FQPA safety factor, NOAEL = no-observed-adverse-effect-level, LOAEL = lowest-observed-adverse-effect-level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, MOE = margin of exposure, LOC = level of concern.

### C. Exposure Assessment

Tolerances are established under 40 CFR 180.438 for residues of lambda-cyhalothrin on the same crops for which use is requested for the enriched isomer gamma-cyhalothrin. These tolerances for lambda-cyhalothrin will be adequate to cover residues of the enriched isomer based on the relative application rates and the results of the side-by-side field trials comparing residues from the two products. Based on the submitted comparison studies of gamma- and lambda-cyhalothrin for tomato (gamma - 0.018 ppm: lambda 0.038 ppm), sweet corn (gamma - 0.68 ppm: lambda - 1.55 ppm), broccoli (gamma - 0.042 ppm: lambda - 0.13 ppm), and cottonseed (gamma - 0.018: lambda - 0.058), EPA concludes that on average, residues from the gamma uses are not greater than half of the residues from lambda uses (the application rates for gamma-cyhalothrin are half of those of lambda-cyhalothrin for all field trials). Further, toxicological endpoints selected for gamma-cyhalothrin are not less than half of the lambda-cyhalothrin endpoints (i.e., gamma-cyhalothrin is not more than twice as toxic as lambda-cyhalothrin). Therefore, risks from the two products are expected to be similar. EPA's previous risk assessment on lambda-cyhalothrin (cited in 67 FR 60902, (FRL-7200-1)) is sufficient to cover gamma-cyhalothrin. Accordingly, a new aggregate risk assessment for gamma-cyhalothrin is not needed. Acute dietary exposure, chronic dietary exposure, cancer risk, and anticipated

residues and percent crop treated (PCT) information, dietary exposure from drinking water, cumulative exposure to substances with a common mechanism of toxicity, and safety factors for infants and children are discussed in detail in the **Federal Register** of September 27, 2002 (67 FR 60902) (FRL-7200-1) and are not repeated here.

### D. Aggregate Risks and Determination of Safety

Based on the toxicological endpoints selected for gamma-cyhalothrin, which are not less than half of those selected for lambda-cyhalothrin, and the residue data from the comparison studies, which showed that residues from gamma uses are, on average, no more than half of those of lambda-cyhalothrin, EPA concludes that the previous risk assessment on lambda-cyhalothrin sufficiently covers the gamma-cyhalothrin uses and no new aggregate risk assessment is needed for gamma-cyhalothrin.

## IV. Other Considerations

### A. Analytical Enforcement Methodology

Adequate enforcement methods are available for determination of lambda-cyhalothrin residues in plant and animal commodities. (ICI) Method 81 (PRAM) 81 is used to determine the residues of lambda-cyhalothrin and its epimer in plant matrices and ICI Method 86 is used to determine residues of lambda-cyhalothrin and its epimer in animal matrices. Both methods have been validated by EPA as adequate

enforcement methods for determination of parent lambda-cyhalothrin and its epimer in the respective matrices. ICI Method 96 is used to determine lambda-cyhalothrin metabolites in eggs, meat, milk, and poultry. The LOQ for all three methods is 0.01 ppm. Since gamma- and lambda-cyhalothrin differ only in the relative content of enantiomer and the enforcement methods do not use chiral columns, the lambda methods are applicable to gamma-cyhalothrin.

### B. International Residue Limits

There are currently no Mexican, Canadian, or Codex MRLs (maximum residue limits) for gamma- or lambda-cyhalothrin; however, there are MRLs for cyhalothrin from which lambda-cyhalothrin is derived as an enriched isomer. A Codex MRLs of 0.2 part per million (ppm) has been established for pome fruits for cyhalothrin, which is inconsistent with the proposed U.S. lambda-cyhalothrin tolerance of 0.3 ppm for pome fruits. It is unclear if harmonization can be achieved because residues up to 0.25 ppm were found in the U.S. trials for apples. Codex MRLs were not established for the other crops presently under consideration.

### C. Magnitude of Residues

The submitted residue comparison studies on broccoli, cottonseed, sweet corn, and tomato indicated that on average, residues from the gamma uses are not greater than half of the residues from lambda uses. The application rates for gamma-cyhalothrin are half of those

of lambda-cyhalothrin for all field trials. The analytical method validation for the determination of gamma- and lambda-cyhalothrin has also been submitted. This method determines the active isomer and its enantiomer as one peak and the two epimers as a separate peak. The two peaks are summed to give total residues.

## V. Conclusion

EPA concludes that the data on gamma-cyhalothrin in conjunction with that on lambda-cyhalothrin show that aggregate risks from dietary exposure is basically the same as lambda-cyhalothrin and that existing crop tolerances for lambda-cyhalothrin are adequate to account for the use of gamma-cyhalothrin on the same crops. Therefore, the tolerance expression under 40 CFR 180.438 is being amended to include the isomer gamma-cyhalothrin.

## VI. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2004-0025 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 7, 2004.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). 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.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP-2004-0025, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a 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(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. 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). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). 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) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance 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. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have

"substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

#### VIII. Congressional Review Act

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 this final rule in the **Federal Register**. This final 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: March 31, 2004.

**Lois Rossi,**

*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. 321(q), 346a and 371.

■ 2. Section 180.438 is amended by:

- a. Revising the section heading.
- b. Removing "hop, dried cone" from the table in paragraph (a)(3) and alphabetically adding it to the table in paragraph (a)(1).
- c. Removing paragraph (a)(3).
- d. Redesignating paragraph (a)(2) as new paragraph (a)(3).
- e. Adding a new paragraph (a)(2).

The amendments read as follows:

#### § 180.438 Lambda-cyhalothrin and an isomer gamma-cyhalothrin; tolerances for residues.

- (a) \* \* \*
- (1) \* \* \*

Commodity	Parts per million
Hop, dried cone	10

(2) Tolerances<sup>1</sup> are established for the combined residues of the pyrethroid [gamma-cyhalothrin (the isolated active isomer of lambda-cyhalothrin) ((S)-

cyano-3-phenoxybenzyl (Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate)) and its epimer (R)-'-cyano-3-phenoxybenzyl

(Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in/on the following commodities

Commodity	Parts per million
Alfalfa, forage	5
Alfalfa, hay	6
Almond, hulls	1.5



Commodity	Parts per million
Apple pomace, wet .....	2.50
Aspirated grain fractions .....	2.0
Avocados (imported) .....	0.20
Brassica, head and stem, subgroup .....	0.4
Canola, seed .....	0.15
Cattle, fat .....	3
Cattle, meat .....	0.2
Cattle, meat byproducts .....	0.2
Corn, grain (field and pop) .....	0.05
Corn, fodder .....	1.0
Corn, forage .....	6.0
Corn, grain flour .....	0.15
Corn, sweet, kernel plus cob with husks removed .....	0.05
Cottonseed .....	0.05
Dry bulb onion .....	0.1
Egg .....	0.01
Fruit, pome, group .....	0.30
Fruit, stone, group .....	0.50
Garlic .....	0.10
Goat, fat .....	3.0
Goat, meat .....	0.2
Goat, meat byproducts .....	0.2
Hog, fat .....	3.0
Hog, meat .....	0.2
Hog, meat byproducts .....	0.2
Horse, fat .....	3.0
Horse, meat .....	0.2
Horse, meat byproducts .....	0.2
Lettuce, head .....	2.0
Lettuce, leaf .....	2.0
Milk fat (reflecting 0.20 ppm in whole milk .....	5.0
Nut, tree, group .....	0.05
Pea and bean, dried shelled,(except soybean), subgroup .....	0.10
Pea and bean, succulent shelled, subgroup .....	0.01
Peanut .....	0.05
Peanut, hay .....	3.0
Poultry, fat .....	0.03
Poultry, meat .....	0.01
Poultry, meat byproducts .....	0.01
Rice, grain .....	1.0
Rice, hulls .....	5.0
Rice, straw .....	1.8
Sheep, fat .....	3.0
Sheep, meat .....	0.2
Sheep, meat byproducts .....	0.2
Sorghum, grain .....	0.20
Sorghum, grain, forage .....	0.30
Sorghum, grain, stover .....	0.50
Soybean .....	0.01
Sugarcane .....	0.05
Sunflower, forage .....	0.20
Sunflower, seed hulls .....	0.50
Sunflower, oil .....	0.30
Sunflowers, seed .....	0.20
Tomato .....	0.10
Tomato, pomace (dry or wet) .....	6.0
Vegetables, fruiting, group (except cucurbits) .....	0.20
Vegetables, legume, edible podded, subgroup .....	0.20
Wheat, grain .....	0.05
Wheat, forage .....	2.0
Wheat, hay .....	2.0
Wheat, straw .....	2.0
Wheat, bran .....	2.0

<sup>1</sup> The analytical enforcement methods for lambda-cyhalothrin are applicable for determination of gamma-cyhalothrin residues in plant and animal commodities.

\* \* \* \* \*

[FR Doc. 04-7979 Filed 4-7-04; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 745**

[OPPT-2003-0061; FRL-7341-5]

RIN 2070-AD31

**Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** Under the authority of section 407 of the Toxic Substances Control Act (TSCA), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as "Title X (ten)," EPA is issuing this final rule to establish notification procedures for certified lead abatement professionals conducting lead-based paint abatement activities, and accredited training programs providing lead-based paint activities courses. Specifically, this rule establishes the procedures that must be used to provide notification to EPA prior to the commencement of lead-based paint abatement activities. This rule also establishes provisions that require accredited training programs to notify EPA under the following conditions: Prior to providing initial or refresher lead-based paint activities training courses; and following completion of lead-based paint activities training courses. These notification requirements are necessary to provide EPA compliance monitoring and enforcement personnel with information necessary to track lead-based paint abatement and training activities, and to prioritize compliance inspections. This rule will help to prevent lead poisoning in children under the age of 6 by supporting EPA's implementation of the mandate in Title X to ensure that lead professionals involved in inspecting, assessing or removing lead-based paint, dust or soil are trained and certified to conduct these activities. This rule applies only in States and Tribal areas that do not have authorized programs pursuant to 40 CFR 745.324.

**DATES:** This final rule is effective on May 10, 2004.**FOR FURTHER INFORMATION CONTACT:** *For general information contact:* Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics,Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: *TSCA-Hotline@epa.gov*.

*For technical information contact:* Mike Wilson, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566-0521; e-mail address: *wilson.mike@epa.gov*.

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you operate a training program required to be accredited under 40 CFR 745.225, or if you are a firm which must be certified to conduct lead-based paint abatement activities in accordance with 40 CFR 745.226. Specifically, the procedure for notification of the commencement of lead-based paint abatement activities applies to the certified firm conducting lead-based paint abatement activities. The procedure for notification of lead-based paint activities training courses applies to the training manager of an accredited training program. This rule applies only in States and Indian Tribes that do not have authorized programs pursuant to 40 CFR 745.324. For further information regarding the authorization status of States and Indian Tribes contact the National Lead Information Center (NLIC) at 1-800-424-LEAD(5323). Potentially affected categories and entities may include, but are not limited to:

- Lead abatement professionals (NAICS 562910); firms and supervisors engaged in lead-based paint activities
- Training programs (NAICS 611519); training programs providing training services in lead-based paint activities

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 745. If you have any questions regarding the applicability of this action to a particular entity, consult the

technical person listed under **FOR FURTHER INFORMATION CONTACT**.*B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2003-0061 (legacy number OPPT-62165). The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register--Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 745 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr745\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr745_00.html), a beta site currently under development. To access information about lead-based paint and the Lead Program, go directly to the Home Page at <http://www.epa.gov/lead>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available