

**§ 291.510 Overview of the GNND Sales Program.**

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(b) *Eligible properties.* Under the GNND Sales Program, single-unit properties acquired by HUD located in HUD-designated revitalization areas (except occupied properties, those located in Asset Control Areas, or those that HUD has determined will be sold through an alternative sales method) will be made available to interested law enforcement officers, teachers, and firefighters/emergency medical technicians prior to listing the properties for sale to other purchasers.

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Dated: January 3, 2008.

**Brian D. Montgomery,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

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**DEPARTMENT OF THE TREASURY**

**31 CFR Part 103**

RIN 1506–AA88

**Financial Crimes Enforcement Network; Amendment Regarding Financial Institutions Exempt from Establishing Anti-Money Laundering Programs**

**AGENCY:** Financial Crimes Enforcement Network, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Financial Crimes Enforcement Network (“FinCEN”) is amending the provision in its regulations that defers, for certain categories of financial institutions, the application of the anti-money laundering program requirements in section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (“USA PATRIOT”) Act of 2001. Two of the categories of financial institutions specifically exempted from having to establish an anti-money laundering program subsequently have been required by regulation to establish such programs, and this rulemaking will amend the regulations to reflect those changes.

**DATES:** *Effective Date:* January 11, 2008.

**FOR FURTHER INFORMATION CONTACT:** Regulatory Policy and Programs Division (FinCEN), (800) 949–2732 (toll-free).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. USA PATRIOT Act Section 352*

On October 26, 2001, the President signed into law the USA PATRIOT Act (Pub. L. 107–56). Title III of the USA PATRIOT Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), which is codified in subchapter II of chapter 53 of title 31, United States Code. These amendments are intended to make it easier to prevent, detect, and prosecute money laundering and the financing of terrorism. Section 352(a) of the USA PATRIOT Act, amended section 5318(h) of the BSA, effective April 24, 2002, to require every financial institution to establish an anti-money laundering program that includes, at a minimum: (i) The development of internal policies, procedures, and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit function to test programs.

The definition of “financial institution” in sections 5312(a)(2) and (c)(1) of the BSA is broad. It includes categories of institutions that were already subject to some federal anti-money laundering regulations at the time the USA PATRIOT Act was passed, such as banks, savings associations, credit unions, and money services businesses (such as money transmitters and currency dealers or exchangers). The definition also includes: Registered securities broker-dealers; futures commission merchants; dealers in precious metals, stones, or jewels; pawnbrokers; loan or finance companies; trust companies; private bankers; insurance companies; travel agencies; telegraph companies; sellers of vehicles, including automobiles, airplanes, and boats; persons engaged in real estate closings and settlements; investment bankers; investment companies; and commodity pool operators and commodity trading advisors that are registered or require to register under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Section 352 of the USA PATRIOT Act requires *all* of these businesses to establish anti-money laundering programs.

Section 5318(h)(2) of the BSA, however, also grants the Secretary of the Treasury, and by extension his delegate FinCEN, the authority to exempt certain financial institutions from the requirement to institute anti-money laundering programs. In April 2002, FinCEN issued a series of interim final rules implementing section 352 of the

USA PATRIOT Act.<sup>1</sup> At the same time, FinCEN also exempted certain financial institutions, including dealers in precious metals, stones, or jewels, and insurance companies, from having to comply with section 352 of the USA PATRIOT Act for a six month period.<sup>2</sup> In November 2002, FinCEN replaced this six month exemption from the application of the anti-money laundering program requirements in section 352 with an open-ended exemption (“Temporary Exemption Rule”).<sup>3</sup>

*B. Updating 31 CFR Section 103.170*

In the years since the Temporary Exemption Rule was published, FinCEN has promulgated a number of rules that require two previously exempted categories of financial institutions (dealers in precious metals, stones, or jewels,<sup>4</sup> and insurance companies<sup>5</sup>) to establish anti-money laundering programs.<sup>6</sup> Although FinCEN has, through the publication of the above-mentioned rules, *ipso jure* revoked the exemptions previously issued to those categories of financial institutions,<sup>7</sup> the Temporary Exemption Rule is being amended to reflect these revocations and eliminate possible confusion.

<sup>1</sup> These rules prescribed requirements for anti-money laundering programs for banks, savings associations, credit union, registered securities broker-dealers, futures commission merchants, and introducing brokers that are regulated by a federal functional regulator or a self-regulatory organization, and casinos. 67 FR 21110 (Apr. 29, 2002) (interim final rules). At the same time, FinCEN also issued interim final rules that required money services businesses (67 FR 21114 (Apr. 29, 2002)), mutual funds (67 FR 21117 (Apr. 29, 2002)), and operators of credit card systems (67 FR 21121 (Apr. 29, 2002)) to establish anti-money laundering programs.

<sup>2</sup> *Id.*

<sup>3</sup> 31 CFR 103.170, 67 FR 67547 (Nov. 6, 2002), corrected at 67 FR 68953 (Nov. 14, 2002).

<sup>4</sup> 31 CFR 103.170(b)(i)

<sup>5</sup> 31 CFR 103.170(b)(ix). Only those insurance companies falling within the definition contained in 31 CFR 103.137(a)(9) are required to have an anti-money laundering program. The removal of the entire category of “insurance companies” from the exempted list should not be read to limit the breadth of the definition for purposes of the availability of the safe harbor under 31 U.S.C. 5318(g)(3) for voluntary reports of suspicious activities. See 70 FR 66755 (Nov. 3, 2005), fn 4.

<sup>6</sup> FinCEN issued rules in 2005 requiring dealers in precious stones, metals, and jewels ((See 70 FR 33702 (June 9, 2005) (interim final rule)), and certain insurance companies (See 70 FR 66754 (Nov. 3, 2005) (final rule)) to establish anti-money laundering programs.

<sup>7</sup> The removal of the temporary exemption occurs automatically pursuant to 31 CFR section 103.170(c), which states that “[t]he exemptions described in paragraphs (a)(2) and (b) of [this rule] shall not apply to any financial institution that is otherwise required to establish an anti-money laundering program by this subpart I.”

## II. Administrative Procedure Act

Under the Administrative Procedure Act ("APA"), notice of a proposed rulemaking is not required when the agency, for good cause, finds "that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."<sup>8</sup> FinCEN is making technical amendments to the Temporary Exemption Rule to ensure that the list of temporarily exempted financial institutions is accurate and not confusing. FinCEN, therefore, finds that publishing the amendments for comment is unnecessary.

In addition, publication of a substantive rule not less than 30 days before its effective date is required by the APA except as otherwise provided by the agency for good cause.<sup>9</sup> For the same reasons described above with respect to notice and opportunity for comment, FinCEN finds that there is good cause for making these technical amendments effective on January 11, 2008.

## III. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.<sup>10</sup>

## IV. Executive Order 12866

This final rule is not a "significant regulatory action" as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required.

### List of Subjects in 31 CFR Part 103

Banks and banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirements.

### Authority and Issuance

■ For the reasons set forth above, FinCEN is amending 31 CFR part 103 as follows:

### PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

<sup>8</sup> 5 U.S.C. 553(b).

<sup>9</sup> 5 U.S.C. 553(d).

<sup>10</sup> See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Act analyses, the term "rule" means any rule for which the agency publishes a general notice of proposed rulemaking).

## Subpart I—Anti-Money Laundering Programs

### § 103.170 [Amended]

- 2. Section 103.170 is amended by:
  - a. Removing paragraphs (b)(1)(i) and (b)(1)(ix); and
  - b. Redesignating paragraphs (b)(1)(ii) as (b)(1)(i); (b)(1)(iii) as (b)(1)(ii); (b)(1)(iv) as (b)(1)(iii); (b)(1)(v) as (b)(1)(iv); (b)(1)(vi) as (b)(1)(v); (b)(1)(vii) as (b)(1)(vi); (b)(1)(viii) as (b)(1)(vii); (b)(1)(x) as (b)(1)(viii); (b)(1)(xi) as (b)(1)(ix); and (b)(1)(xii) as (b)(1)(x).

Dated: December 20, 2007.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2007–0546; FRL–8347–7]

### Thiabendazole; Threshold of Regulation Determination

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes by rule that there is no need for a tolerance or tolerance exemption under the Federal Food Drug and Cosmetic Act (FFDCA) for the use of the fungicide thiabendazole as a seed treatment on dry peas. This determination is based on EPA's finding that any residues that remain in food from this use will be both non-detectable and below the level of regulatory concern.

**DATES:** This regulation is effective January 11, 2008. Objections and requests for hearings must be received on or before March 11, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0546. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in

[www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@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 those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 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 to provide 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