

(e) An export pesticide device is not required to bear an ingredients statement.

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2005-0174; FRL-8867-9]

Sulfuryl Fluoride; Addendum to Proposed Order Granting Objections to Tolerances and Denying Request for a Stay; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed order and extension of comment period.

SUMMARY: In this document, EPA is supplementing its proposed order published January 19, 2011, regarding sulfuryl fluoride and fluoride tolerances promulgated under the Federal Food, Drug, and Cosmetic Act (FFDCA) to include proposed effective dates for the termination of tolerances for rice commodities. In order to provide a 90-day comment period on the proposed effective date for terminating the rice tolerances, while also maintaining a consistent closing date for all comments on the proposed sulfuryl fluoride actions and accommodating several comment period extension requests, the Agency will accept comment on both the proposed order and this addendum for 90 days following publication of this notice in the **Federal Register**. In addition, EPA is clarifying that all tolerances for sulfuryl fluoride and the associated fluoride tolerances were intended to be covered by the proposed order despite discrepancies in the way those tolerances are described in EPA's regulations.

DATES: Comments must be received on or before July 5, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2005-0174, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S.

Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2005-0174. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., 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 either 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 hours of operation of this Docket Facility are 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: Meredith Laws, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-7038; e-mail address: laws.meredith@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, pesticide manufacturer, or consumer. Potentially affected entities may include, but are not limited to:

- Food manufacturing (NAICS code 311), e.g., grain and oilseed milling; animal food manufacturing; flour milling; bread and bakery product manufacturing; cookie, cracker, and pasta manufacturing; snack food manufacturing.
- Pesticide manufacturing (NAICS code 32532), e.g., pesticide manufacturers; commercial applicators.
- Community Food Services (NAICS code 624210), e.g., food banks.
- Farm Product Warehousing and Storage (NAICS 493130), e.g., grain elevators, private and public food warehousing and storage.

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. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not

contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

II. Supplement to the Proposed Order

On January 19, 2011 (76 FR 3422, Jan. 19, 2011), EPA issued a proposed order granting objections and denying a stay request filed by the Fluoride Action Network (FAN), Beyond Pesticides/National Coalition Against the Misuse of Pesticides, and the Environmental Working Group with regard to all tolerances established for sulfuryl fluoride and all tolerances for fluoride associated with the use of sulfuryl fluoride. In that order, EPA proposed a range of effective dates for termination of sulfuryl fluoride and fluoride tolerances that were based on several factors, including the potential for disruption or contamination of some commodities in the food supply and the availability of alternatives. For cancelled uses, EPA proposed to terminate tolerances associated with those uses immediately upon publication of the final order. For commodities for which there is little to no use of sulfuryl fluoride, EPA proposed to make the effective date for termination of the tolerances associated with those uses 90 days following publication of the final order in the **Federal Register**. For direct commodity

treatments and for structural fumigation for which there is significant sulfuryl fluoride use and no readily available alternative, EPA proposed an effective date of 3 years following publication of the final order in the **Federal Register**.

In proposing effective dates, EPA inadvertently failed to address the sulfuryl fluoride/fluoride tolerances for rice commodities associated with direct fumigation of rice that were covered by the objections and came within the scope of EPA's proposed order to grant the objections. In this document, EPA is supplementing its proposed order to add a proposed effective date of the grant of the objections as to these rice commodities (rice, bran, postharvest; rice, flour, postharvest; rice, grain, postharvest; rice, hulls, postharvest; rice, polished rice, postharvest; and rice, wild, grain, postharvest). (40 CFR 180.145(a)(3), 180.575). Based on available information, EPA concludes that very little to no sulfuryl fluoride is being used on rice. Most rice is fumigated with aluminum phosphide (or phosphine) rather than sulfuryl fluoride. (See Office of Prevention, Pesticides, and Toxic Substances, US EPA, Memorandum from Colwell A. Cook, Jonathan Becker, and Elisa Rim to Kable Davis/Venus Eagle and Michael Doherty/Christina Swartz, "Revised Assessment of Percent Commodity Treated Values used in the Registrant's Dietary Exposure Assessment for Fluoride (DP# 361041)" (May 1, 2009).

Therefore, EPA is proposing that termination of the rice tolerances be effective 90 days following publication of the final order in the **Federal Register**. Given the low level of sulfuryl fluoride usage on rice and the availability of phosphine as an alternative, 90 days should be sufficient for affected parties to come into compliance. This proposed termination date applies to the rice tolerances associated with direct fumigation of rice. The proposed termination date for commodities receiving incidental treatment as a result of structural fumigation of food processing facilities remains unchanged from the January 19, 2011 proposed order.

As with the effective dates contained in its proposed order, EPA requests public comment on the effective date for terminating tolerances associated with rice.

In addition, to avoid potential confusion, EPA is clarifying that it intended to cover all existing tolerances for sulfuryl fluoride and all associated fluoride tolerances despite some discrepancies in the way tolerances for sulfuryl fluoride and fluoride are described in 40 CFR 180.575 and

180.145, respectively. In its proposed order, EPA proposed 90-day effective dates for termination of the coffee, bean, green, postharvest and oats, groats/rolled oats tolerances. This language is used to describe the fluoride tolerances for these commodities (§ 180.145(a)(3)). The similar tolerances for sulfuryl fluoride are described as coffee, bean, roasted bean, postharvest and oats, groats/rolled oats, postharvest (§ 180.575). EPA clarifies that it intended to propose a 90-day effective date for termination of these tolerances as well. EPA also proposed a 90-day effective date for termination of the grape, raisin, postharvest and a 3-year effective date for dried fruit other than raisins. EPA's regulation lists distinct tolerances for these commodities for fluoride (§ 180.145(a)(3)), whereas EPA's regulation for sulfuryl fluoride lists a single tolerance for dried fruit (§ 180.575). EPA clarifies that it intended to propose that 90 days following publication of a final order, the sulfuryl fluoride dried fruit tolerance would be revised to narrow its coverage to dried fruit, except grape, raisin, postharvest, and that the effective date for termination of this narrowed dried fruit tolerance would be 3 years following publication of a final order. Finally, EPA clarifies that the 3-year effective date for cocoa applies to the sulfuryl fluoride/fluoride tolerances for cacao bean, roasted bean, postharvest (§ 180.145(a)(3), and § 180.575).

III. Request of Extension of Comment Period

EPA has received four requests for a 90-day extension of the comment period on the January 19, 2011, proposed order. The requests were filed by the National Pest Management Association, The American Farm Bureau Federation, the North American Millers' Federation, and Dow AgroSciences LLC. They have requested additional time in order to gather, process, and report to EPA information relevant to the proposed order. In response, EPA notes that it established a comment period longer than the statutory minimum in issuing its proposed order. Nonetheless, given that the comment period is being extended to address the issue discussed above with regard to the rice commodity tolerances and the overall complexity of this matter, EPA has decided to extend the overall comment period on the January 19, 2011, proposed order so that all comments on the proposed order are due at the same time. Thus, comments on the proposed termination date of the rice commodity tolerances as well as all other comments on the January 19,

2011, proposed order are now due on July 5, 2011.

IV. Regulatory Assessment Requirements

As indicated in the proposed order, this action is an adjudication and not a rule. The regulatory assessment requirements imposed on rulemaking do not, therefore, apply to this action.

V. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

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 30, 2011.

William R. Diamond,

Acting Director, Office of Pesticide Programs.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[EPA-HQ-RCRA-2010-0851; FRL-9290-5]

Land Disposal Restrictions: Nevada and California; Site Specific Treatment Variances for Hazardous Selenium Bearing Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to issue both a site-specific treatment variance to U.S. Ecology Nevada (USEN) located in Beatty, Nevada and withdraw an existing site-specific treatment variance issued to Chemical Waste Management, Inc. (CWM) located in Kettleman Hills, California. This proposal pertains to the treatment of a hazardous waste generated by the Owens-Brockway Glass Container Company in Vernon, California that is unable to meet the concentration-based treatment standard for selenium established under the Land Disposal Restrictions program. The site-specific treatment variance proposed to be issued to USEN would provide an alternative treatment standard of 59 mg/L for selenium as measured by the Toxicity Characteristic Leaching Procedure. EPA has determined that the

treatment performed by USEN provides the best demonstrated treatment available for this waste by reducing the amount of selenium potentially released to the environment, while minimizing the total volume of hazardous waste land disposed. In the "Rules and Regulations" section of this **Federal Register**, EPA has also published a direct final rule granting a site-specific treatment variance to USEN, and withdrawing the site-specific treatment variance previously granted to CWM for this same waste without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule and the direct final rule will become effective as provided in that action.

DATES: Written comments must be received by May 6, 2011. Comments postmarked after the close of the comment period will be stamped "late" and may or may not be considered by the Agency.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2010-0851, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* rcra-docket@epa.gov and miller.jesse@epa.gov. Attention Docket ID No. EPA-HQ-RCRA-2010-0851.

- *Fax:* 202-566-9744. Attention Docket ID No. EPA-HQ-RCRA-2010-0851.

- *Mail:* RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-RCRA-2010-0851. Please include a total of 2 copies.

- *Hand Delivery:* Please deliver 2 copies to EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA-2010-0851. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The

<http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the HQ-Docket Center, Docket ID No. EPA-HQ-RCRA-2010-0851, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Jesse Miller, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery (MC 5304 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308-1180; fax (703) 308-0522; or miller.jesse@epa.gov.

SUPPLEMENTARY INFORMATION: