

Dated: September 25, 2001.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (b) in the entry for Delaware to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**Delaware**

\* \* \* \* \*

(b) The Delaware Department of Natural Resources and Environmental Control submitted program amendments on November 14, 2000 and November 20, 2000. The rule amendments contained in the November 14, 2000 and November 20, 2000 submittals adequately addressed the conditions of the interim approval effective on January 3, 1996. The State is hereby granted final full approval effective on November 19, 2001.

\* \* \* \* \*

[FR Doc. 01–24707 Filed 10–2–01; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 70**

[WV–T5–2001–01a; FRL–7073–7]

**Clean Air Act Full Approval of Operating Permit Program; West Virginia**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to fully approve the operating permit program of the State of West Virginia. West Virginia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of West Virginia's operating permit program on November 15, 1995. West Virginia amended its operating permit program to address deficiencies identified in the interim

approval action and this action approves those amendments. Any parties interested in commenting on this action granting full approval of West Virginia's title V operating permit program should do so at this time. A more detailed description of West Virginia's submittal and EPA's evaluation are included in a Technical Support Document (TSD) in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

**DATES:** This rule is effective on November 19, 2001 without further notice, unless EPA receives adverse written comment by November 2, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

**FOR FURTHER INFORMATION CONTACT:** David Campbell, Permits and Technical Assessment Branch at (215) 814–2196 or by e-mail at [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

**SUPPLEMENTARY INFORMATION:** On June 1, 2001, the State of West Virginia submitted amendments to its State operating permit program. These amendments are the subject of this document and this section provides additional information on the amendments by addressing the following questions:

*What is the State operating permit program?*

*What are the State operating permit program requirements?*

*What is being addressed in this document?*

*What is not being addressed in this document?*

*What changes to West Virginia's operating permit program is EPA approving?*

*What action is being taken by EPA?*

**What Is the State Operating Permit Program?**

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet

certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of "major" sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

**What Are the State Operating Permit Program Requirements?**

The minimum program elements for an approvable operating permit program are those mandated by title V of the Clean Air Act Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—"State Operating Permit Programs" in the Code of Federal Regulations (40 CFR part 70). Title V required state and local air pollution control agencies to develop operating permit programs and submit them to EPA for approval by November 15, 1993. Under title V, State and local air pollution control agencies that implement operating permit programs are called "permitting authorities".

Where an operating permit program substantially, but not fully, met the program approval criteria outlined at 40 CFR part 70, EPA granted interim approval contingent on the permit authority revising its program to correct

those programmatic deficiencies that prevented full approval. West Virginia's original operating permit program substantially, but not fully, met the requirements of 40 CFR part 70.

Therefore, EPA granted final interim approval of the program in a rulemaking published on November 15, 1995. (See 60 FR 57352.) The interim approval notice identified 11 outstanding deficiencies that had to be corrected in order for West Virginia's program to receive full approval. On June 1, 2001, the State of West Virginia submitted amendments to its operating permit program to EPA to address its outstanding program deficiencies.

West Virginia's June 1, 2001 submittal satisfies the State's requirement to submit program amendments to EPA by June 1, 2001. This deadline was established by EPA in order to allow for time for EPA review and action on program amendments such that operating permit programs with interim approval status could be considered for full approval by December 1, 2001. After December 1, 2001, those jurisdictions lacking fully-approved operating permit programs will, by operation of law, be subject to a federal operating permit program implemented by EPA under 40 CFR part 71. (See 65 FR 32035.)

#### **What Is Being Addressed in This Document?**

On June 1, 2001, West Virginia submitted amendments to its currently EPA-approved title V operating permit program. In general, West Virginia amended its operating permit program regulations to address deficiencies identified by EPA when it granted final interim approval of West Virginia's program in 1995. In the June 1, 2001 submittal, West Virginia also provided revisions to its existing program that make minor regulatory corrections. These additional revisions are the subject of a separate rulemaking action as more fully discussed below.

#### **What Is Not Being Addressed in This Document?**

As part of its June 1, 2001 submittal, West Virginia also submitted additional revisions to its currently EPA-approved title V operating permit program which are unrelated to the interim approval deficiencies. These program revisions are comprised of technical and administrative corrections which do not bear on the program's ability to fully meet the substantive requirements of 40 CFR part 70. These revisions were submitted pursuant to 40 CFR 70.4(i) which authorizes States with approved programs to initiate program revisions. Since these revisions do not directly

affect the approval status of West Virginia's program according to 40 CFR 70.4(d) and 40 CFR 70.4(e), they will be considered in a separate rulemaking action.

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. (See 65 FR 77376.) The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The EPA Region III did not receive comments germane to West Virginia's currently-approved operating permit program.

#### **What Changes to West Virginia's Program Is EPA Approving?**

The EPA has reviewed West Virginia's June 1, 2001 program amendments in conjunction with the portion of West Virginia's program that was earlier approved on an interim basis. Based on this review, EPA is granting full approval of West Virginia's amended operating permit program. The EPA has determined that the amendments to West Virginia's operating permit program adequately address the 11 deficiencies identified by EPA in its November 15, 1995 rulemaking granting interim approval. West Virginia's operating permit program, including the amendments submitted on June 1, 2001, fully meets the minimum requirements of 40 CFR part 70.

The following describes the changes made to West Virginia's operating permit program. Please note, West Virginia revised the numbering scheme of 45CSR30 subsequent to EPA's November 15, 1995 rulemaking action. For purposes of the following discussion, rule references are made using the original numbering scheme followed by brackets containing the corresponding current references, where different.

#### **Changes to Correct Interim Approval Deficiencies**

##### *1. Clarify That the Section 2.18 Definition of "Emissions Unit" Includes Activities or Parts of Activities Which Emit or Potentially Emit Pollutants Listed Under Section 112(b) of the CAA*

West Virginia's original 45CSR30, section 2.18 definition of "Emissions unit" did not specifically include activities or parts of activities which emit or potentially emit pollutants listed under section 112(b) of the Clean Air Act. West Virginia revised the definition of "Emissions unit" in section 2.8 to

specifically include activities or parts of activities which emit or potentially emit pollutants listed under section 112(b) of the Clean Air Act. With this revised definition, West Virginia's 45CSR30 fully meets the requirements of 40 CFR 70.2 for definitions.

##### *2. Clarify in Section 3.2.d That Permit Applications Will Contain Sufficient Information Needed to Determine the Applicability of, or to Impose, all Applicable Requirements*

West Virginia must also ensure that the insignificant activities list approved as part of the State's program will not be modified without prior EPA approval. Moreover, West Virginia must clarify that potential emissions from all insignificant activities or emissions units, whether included in section 3.2.d or determined by the Chief on an application-by-application basis, will be included in determining whether a source is a major source.

West Virginia's original 45CSR30, section 3.2.d list of "insignificant activities" included several units and activities which were not "intrinsically insignificant" in that they could potentially be subject to applicable requirements depending on characteristics excluded in permit applications. While 40 CFR 70.5(c) allows insignificant activities to be excluded from permit applications or identified if based on size or production rates, the permit application may not omit information necessary for the permitting authority to determine the applicability of, or to impose applicable requirements, or to determine fees. West Virginia revised section 3.2.d [section 3.2(e)] to clarify that units subject to applicable requirements shall not be deemed to be "insignificant activities", and that permit applications must include sufficient information to verify that the unit or activity is insignificant.

West Virginia's original 45CSR30, section 3.2.d provided the Director with unbounded discretion to approve additional sources and activities as part of the program's insignificant activity list. West Virginia revised section 3.2.d [section 3.2(e)] to clarify that units subject to applicable requirements shall not be deemed to be "insignificant activities", and that the program's insignificant activity list shall not be expanded without EPA approval.

West Virginia's original 45CSR30, section 3.2.d did not clearly indicate that potential emissions from all insignificant activities, including emissions from new activities determined by the Director and approved by EPA, must be included in determining whether a source is a major

source. West Virginia's revised section 3.2.d [section 3.2(e)] to clarify that potential emissions from all such activities shall not be excluded in the determination of major source status under 45CSR30. With these revisions, West Virginia's 45CSR30 fully meets the requirements of 40 CFR 70.5 for permit applications.

*3. Clarify in Section 3.3.a That Permits Issued to Major Sources Will Include All Applicable Requirements That Apply to the Source, Including Those Applicable Requirements Which May Be Later Found To Be Applicable to One or More "Insignificant Activities"*

West Virginia's original 45CSR30, section 3.3.a appeared to allow title V operating permits issued to major sources to exclude applicable requirements for insignificant activities. This exclusion was in conflict with 40 CFR 70.3(c)(1) and with other provisions of 45CSR30 which require permits to include all applicable requirements. West Virginia revised section 3.3.a [section 3.3(a)] to no longer include a reference to insignificant activities. As a result, it is clear that major source permits must include all applicable requirements. With this revision, West Virginia's revised 45CSR30 is internally consistent and fully meets the corresponding requirements of 40 CFR 70 for permit content.

*4. Either Remove the Section 5.1.j.D. Provision for Volatile Organic Compounds (VOCs) Category Substitution or Clarify How it Will Be Implemented Within the Context of Emissions Trading*

West Virginia's original 45CSR30, section 5.1.j.D. mistakenly provided for Director-approved emissions trades involving substitutions of categories of VOCs in production processes. West Virginia removed section 5.1.j.D. [section 5.1.j.4]. With this revision, 40CSR30 fully meets the corresponding requirements of 40 CFR 70 for emissions trading.

*5. Clarify in Section 5.3.e.A. That Permits Will Contain Provisions Requiring Compliance Certifications To Be Submitted at Least Annually or Such More Frequent Periods as Specified by an Applicable Requirement or by the Permitting Authority*

West Virginia's original 45CSR30, section 5.3.e.A required each permit to specify the frequency of submitting compliance certifications, but did not specifically require the frequency to be at least annually or more frequently if required by underlying applicable

requirements. West Virginia revised section 5.3.e.A [section 5.3.e.1] to clarify that permits must include provisions requiring compliance certifications to be submitted at least annually or more frequently if required by underlying applicable requirements or by the Director. With this clarification, West Virginia's 45CSR30 fully meets the requirements of 40 CFR 70.6(c)(5) for compliance certifications.

*6. Clarify in Section 5.5 That for Temporary Sources That Do Not Obtain a New Preconstruction Permit Prior to Each Change in Location, the Operating Permits Shall Include a Requirement That the Owner Operator Notify the Chief at Least Ten (10) Days in Advance of Each Change in Location*

West Virginia's original 45CSR30, section 5.5 did not specifically require permits issued to temporary sources to include a requirement that owners or operators notify the Chief at least 10 days in advance of each change of location. Although the 10-day notification requirement was not specifically required, section 5.5 requires temporary sources to comply with preconstruction review requirements of 45CSR13, 45CSR14, and 45CSR19. For the most part, these preconstruction review requirements inherently satisfy the part 70 10-day advance notification requirement. West Virginia revised section 5.5 to further clarify that owners or operators with temporary operating permits must notify the Director at least 10 days in advance of each such change. With this clarification, West Virginia's 45CSR30 fully meets the corresponding requirements of 40 CFR 70.6(e) for temporary permits.

*7. Clarify in Section 4.1 That Sources Which Become Subject to the Permitting Program After the Effective Date Are Required To Submit Permit Applications Within 12 Months*

West Virginia's original 45CSR30, section 4.1 did not specifically require sources which become subject to the permitting program after the effective date of the permit program to submit permit applications within 12 months. West Virginia revised section 4.1.a.B [section 4.1a.2] to clarify that sources which become subject to the permitting program after the effective date shall file a complete application within 12 months after becoming subject to the program. As revised, West Virginia's 45CSR30 meets the requirements of 40 CFR 70.5(a) for submittal of timely applications.

*8. Remove Section 6.5.a.A(c)*

West Virginia's original 45CSR30, section 6.5.a.A(c) provided "de minimis" levels for source changes below which no permit revision would be required. West Virginia revised 45CSR30 by removing section 6.5.a.A(c) [6.5.a.1.C]. With this revision, 45CSR30 is consistent with 40 CFR part 70.

*9. Clarify in Section 6.8.a.A.(a).(B) That Public Notice Will Be Given for All Scheduled Public Hearings, Not Just Those Public Hearings Which Have Been Scheduled at the Request of an Interested Person*

West Virginia's original 45CSR30, section 6.8.a.A(a)(B) indicated that public notice would be provided for hearings requested by interested persons. The regulation did not specifically require that public notice be provided for public hearings to be held for reasons other than at the request of interested parties. West Virginia revised section 6.8.a.A(a)(B) [6.8.a.1.A.2] to clarify that public notice be provided for any hearing held pursuant to 45CSR30. With this clarification, West Virginia's 45CSR30 fully meets the corresponding requirements of 40 CFR 70.7 for public participation.

*10. Clarify in Section 6.8.a.C That for all Permit Modification Proceedings, Except Those Modifications Qualifying for Minor Permit Modifications or Fast-track Modifications Under the Acid Rain Program, Public Notice Will Be Given by Publication in a Newspaper of General Circulation in the Area Where the Source Is Located (or in a State Publication Designed To Give General Public Notice), and to Persons on a Mailing List Developed by the Permitting authority Including Those Who Request in Writing To Be on the List*

West Virginia's original 45CSR30, section 6.8.a.C. indicated that permit issuance would not be delayed or denied if proper notice was not provided to any person. West Virginia revised section 6.8.a.C [6.8.a.3] to remove the exception that permit modifications could proceed without proper notice. Consistent with 40 CFR part 70, proper public notice is required for all permit modification proceedings other than minor permit modifications or fast-track modifications under the Acid Rain Program. With this correction, West Virginia's 45CSR30 fully meets the corresponding requirements of 40 CFR 70 for public participation for permit modifications.

11. Clarify W. Va. Code Section 22-5-6(b)(1) as Necessary To Provide for a Maximum Criminal Penalty in an Amount of not less than Ten Thousand Dollars per Day per Violation Against any Person who Knowingly Makes any False Material Statement, Representation or Certification in any Forms, in any Notice or Report Required by a Permit, or who Knowingly Renders Inaccurate any Required Monitoring Device or Method

West Virginia's original W. Va. Code section 22-5-6(b)(1) indicated that the maximum criminal fine for violations shall not be more than twenty-five thousand dollars. West Virginia amended the statute to clearly state that if the violation occurs on separate days or is continuing in nature, the fine shall not exceed twenty-five thousand dollars for each day of such violation. The revision to West Virginia's statute clearly meets the requirements of 40 CFR 70.11.

#### What Action Is Being Taken By EPA?

The State of West Virginia has satisfactorily addressed the program deficiencies identified when EPA granted final interim approval of its operating permit program on November 15, 1995. The operating permit program amendments that are the subject of this document considered together with that portion of West Virginia's operating permit program that was earlier approved on an interim basis fully satisfy the minimum requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is taking direct final action to fully approve the West Virginia title V operating permit program in accordance with 40 CFR 70.4(e).

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the operating permits program approval if adverse comments are filed relevant to the issues discussed in this action. This rule will be effective on November 19, 2001 without further notice unless EPA receives adverse comment by November 2, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on

this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### Administrative Requirements

##### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 F.R. 28355 (May 22, 2001)). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State operating permit program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove an operating permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

##### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2001. Filing a petition for

reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action fully approving West Virginia's title V operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 70**

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 25, 2001.

**Donald S. Welsh,**  
Regional Administrator, Region III.

Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraphs (b) and (c) in the entry for West Virginia to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**West Virginia**

\* \* \* \* \*

(b) The West Virginia Department of Environmental Protection submitted nonsubstantial program revisions to its program on February 11, 1997. The revisions involved additions to West Virginia's "insignificant activity" list. The revisions were approved on October 6, 1997 by letter from W. Michael McCabe, Regional Administrator, EPA Region III.

(c) The West Virginia Department of Environmental Protection submitted program amendments on June 1, 2001. The rule revisions contained in the June 1, 2001 submittal adequately addressed the conditions of the interim approval effective on December 15, 1995. The State is hereby granted final full approval effective on November 19, 2001.

\* \* \* \* \*

[FR Doc. 01-24709 Filed 10-2-01; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-301181; FRL-6804-3]

[RIN 2070-AB78]

**Tebufenozide; Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation re-establishes a time-limited tolerance for residues of the insecticide tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide in or on sweet potatoes at 0.25 parts per million (ppm) for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2002. 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 sweet potatoes. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act 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 the Federal Insecticide, Fungicide, and Rodenticide Act.

**DATES:** This regulation is effective October 3, 2001. Objections and requests for hearings, identified by docket control number OPP-301181, must be received by EPA on or before December 3, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301181 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9367; and e-mail address: ertman.andrew@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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 the table 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 might apply to certain entities. If you have 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 Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* 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 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301181. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in