

US EPA ARCHIVE DOCUMENT

establish a maximum permissible level for residues of chlorpyrifos in or on the commodity was requested, pursuant to a petition, by Dow Chemical Company.

EFFECTIVE DATE: Effective on November 23, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the *Federal Register* of September 14, 1983 (48 FR 41184), which announced that the Dow Chemical Company, PO Box 1706, Midland, MI 48640, had submitted pesticide petition 3E2766 to EPA proposing to amend 40 CFR 180.342 by establishing a tolerance for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity kiwifruit imported from New Zealand at 2.0 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The scientific data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: November 9, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding alphabetically the raw agricultural commodity kiwifruit to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

Commodities	Parts per million
Kiwifruit.....	2.0

[FR Doc. 83-31486 Filed 11-22-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

(SW-3-FRL 2476-7)

Maryland; Phase II, Component A Interim Authorization of the State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Approval of State program.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Maryland has applied for Interim Authorization Phase II, Component A. The Environmental Protection Agency (EPA) has reviewed Maryland's application for Phase II, Component A Interim Authorization and has determined that Maryland's hazardous waste program is substantially equivalent to the Federal program covered by Phase II, Component A.

The State of Maryland is hereby granted Interim Authorization for Phase II, Component A to operate the State's hazardous waste program in lieu of the Federal program for facilities which treat or store hazardous waste in containers, tanks, surface impoundments and waste piles.

EFFECTIVE DATE: November 23, 1983.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Donatoni, Chief, State Programs Section, Waste Management Branch, U.S. EPA Region III, 8th and Walnut Streets, Philadelphia, PA 19108, (215) 597-7937.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980 *Federal Register* (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which States would be granted interim program authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program has taken effect. Phase I of the Federal program, published in the May 19, 1980 *Federal Register* (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The State of Maryland received Interim Authorization for Phase I on July 8, 1981. In the January 26, 1981 *Federal Register* (26 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. EPA made the second phase of Interim Authorization available in components, in order to authorize State programs as expeditiously as possible and because some of the standards for hazardous waste treatment, storage, and disposal facilities (40 CFR Part 264) have been promulgated at different times. Component A, published in the *Federal Register* January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B, published in the *Federal Register* January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the *Federal Register* July 26, 1982 (47 FR 32274),

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contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Component A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981. However, States that submitted a complete application for Component A to EPA and for which EPA had published a notice of public hearing prior to the effective date of the Component C standards (January 26, 1983) could receive Interim Authorization for Component A based upon the standards promulgated on January 12, 1981 (see 47 FR 32379). The State of Maryland applied for Phase II, Component A Interim Authorization, which would enable them to permit the storage and treatment of hazardous waste in containers, tanks, surface impoundments and waste piles.

A notice of public comment period and hearing was published in the State's major newspapers and was sent to those persons on the State and EPA mailing list at least 30 days prior to the hearing. A Federal Register notice announcing the public comment period and the public hearing was published on January 25, 1983 (48 FR 3383) and the public hearing was held on March 9, 1983. The comment period was held open until March 16, 1983.

Discussion

The State of Maryland submitted its complete application for Phase II, Component A on January 19, 1983. EPA reviewed that State's application and prepared comments. The issues which EPA identified for the State to address included: (1) more detail about certain program areas described in the Program Description, (2) a commitment in the Memorandum of Agreement to announce permit actions over the radio and also notify local government officials, (3) clarification of citations and explanations in the Attorney General's Statement, and (4) correcting numerous regulatory inaccuracies.

Through letters dated March 4, 1983, April 14, 1983, June 2 and 23, 1983, and an amendment to the Attorney General's Statement received by EPA on October 20, 1983, the State of Maryland satisfactorily responded to the issues raised by EPA. In those letters, the State clarified certain issues and amended portions of the State's application. The amended Program Description now more clearly explains how new permit standards, established to support

Component A, will interface with existing State permits and permit conditions. In addition, a more detailed explanation of the use of an "Operations Manual" as part of a facility permit is provided in the amended Program Description.

The amended Memorandum of Agreement now contains provisions requiring the State to pay for radio announcements of permit actions and to notify local government officials of the same.

A supplemental Attorney General's Certification adequately addressed EPA's concerns regarding specific items like the adoption of Federal regulations by reference, the imposition of financial responsibility on permittees, a ban on constructing facilities without permits, and binding owners of facilities to permit conditions. The supplemental certification also incorporated numerous other items previously considered by the Assistant Attorney General.

Lastly, the State modified its Authorization Plan describing a procedure to correct minor regulatory deficiencies in response to EPA comments. On May 27, 1983 the State published a regulatory errata in the Maryland Register. In Addition, the amended Authorization Plan commits the State to correcting the more substantive elements of its regulations in a formal regulation proposal under a specific schedule.

Responsiveness Summary

EPA Region III conducted a public hearing on the Maryland complete application for Phase II Component A Interim Authorization on March 9, 1983, in Baltimore, Maryland.

The hearing was attended by twelve (12) members of the public in addition to EPA Region III and Maryland agency representatives. Three people provided testimony. Two of the three people testifying at the hearing also provided written comments. Two additional written comments were received during the public comment period. All comments were reviewed and considered by EPA in reaching the decision on Maryland's application. The public comment period closed on March 16, 1983.

One of the five persons who submitted comments favored the delegation of regulatory authority to the State of Maryland unconditionally. Two commenters favored delegation, but provided comments. The two remaining commenters neither supported nor opposed interim authorization, but identified their concerns about the

State's program application.

One commenter was concerned that the State might not have enough health and science professionals on its staff to appreciate the public health and toxicologic aspects of a hazardous waste management program. EPA has assessed the classification and quantity of resources available to implement Phase I and Phase II Component A of the RCRA program and has determined they are adequate.

Two commenters raised concerns about the State's regulations, COMAR 10.51.01-.09. One issue involved the uncertainties about the requirement for, and contents of, a facility Operations Manual. The State amended its Program Description to explain how the Operations Manual is part of the permit and what information is contained within. General comments on the regulations fell into three categories. The first included comments related to the editorial errors identified within the State's regulations. Although the errors in the regulations may affect their clarity, EPA has determined the regulations are substantially equivalent to the federal regulations. Where specific legal clarifications were necessary, the State has provided them to EPA. In addition, the State prepared a regulatory errata for editorial errors which was published in the Maryland Register on May 27, 1983 and has committed, in an amended Authorization Plan, to correct other parts of the regulations through an official regulation proposal/adoption procedure. The two other categories of regulation comments included concerns about State provisions being more stringent than EPA's and the fact that Maryland adopted additional regulations which had only been proposed by EPA. Federal regulations clearly allow State programs to be more stringent than the Federal program (40 CFR Part 271.121(i)) and, as mentioned earlier, EPA has determined the State's regulations for Phase II Component A are at least substantially equivalent to the federal program.

One commenter had a particular concern about the State basing its regulations for storage surface impoundments and waste piles on EPA's original Component A regulations promulgated January 12, 1981. The issue involves the fact that EPA superseded the January 12, 1981 regulations when the Component C regulations for surface impoundments and waste piles were promulgated on July 26, 1983 and subsequently took effect on January 26,

1983. The Component C regulations provided more flexibility for permitting storage surface impoundments and waste piles, especially for existing facilities. However, Maryland elected to adopt EPA's original January 12, 1981 Component A regulations to permit storage surface impoundments and waste piles. In addition, the State remained eligible to apply for Component A, to permit these facilities, based on EPA's original promulgation, as long as two conditions were met (See 47 FR 32379). EPA regulations allowed Maryland to receive interim authorization for the original Component A to permit storage surface impoundments and waste piles since: (1) a complete application for Component A was submitted to EPA and (2) EPA published its public hearing notice before January 26, 1983. EPA's regulations also clearly explain, in a clarifying footnote, that the Agency will consider State programs based on the January 12, 1981 standards for storage surface impoundments and waste piles substantially equivalent to the amended analogous provisions of Component C.

Several commenters also provided suggestions on ways to possibly improve the administration of the State's program, but these comments were beyond the scope of the RCRA program authorization requirements and deemed to be inappropriate for consideration by EPA.

One of Maryland's regulations requires Federal facilities to comply with the financial responsibility requirements for owners and operators of treatment, storage, and disposal facilities. Federal facilities are exempted from this requirement in the Federal program (40 CFR 264.140(c)).

State programs are allowed to be more stringent or more extensive in scope than the Federal program (40 CFR 271.121(1)). More stringent or more extensive programs are reviewed as part of the final authorization process to determine whether they are consistent with the Federal program and other authorized State programs. See 40 CFR 271.4 (42 U.S.C. 6926(b)). The consistency review involves an examination of the basis for the State requirement. However, there is no interim authorization provision analogous to the consistency requirement of 40 CFR 271.4 for final authorization. Consequently, the Maryland financial responsibility requirement is not a barrier to interim authorization.

EPA's decision to grant Maryland interim authorization does not mean that EPA agrees with the factual or legal basis for Maryland's decision to require

Federal facilities to comply with its financial responsibility regulations. However, under our regulations and statute, consistency with the Federal program is an issue with respect to final, not interim, authorization. The Agency may reexamine this issue during final authorization.

Decision

I have determined that the State of Maryland's program is substantially equivalent to the Federal program for Phase II, Component A Interim Authorization as defined in 40 CFR Part 271, Subpart B (formerly 40 CFR 123, Subpart F). In accordance with Section 3006(c) of RCRA, the State of Maryland is hereby granted Interim Authorization to operate its hazardous waste program in lieu of Phase II, Component A of the Federal hazardous waste program.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Maryland's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926 and 6974(b).

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 83-31480 Filed 11-22-83. 8:45 am]

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21 CFR Part 561

[FAP 3H5381/R6245 PH-FRL-2476-4]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Flucythrinate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation to permit residues of the insecticide flucythrinate in apple pomace (dry). This regulation to establish the maximum permissible level for residues of the insecticide in apple pomace was requested by the American Cyanamid Co.

EFFECTIVE DATE: Effective on November 23, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Timothy A. Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2890).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the *Federal Register* of February 9, 1983 (48 FR 6018), that announced that the American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted food additive petition FAP 3H5381 to the Agency proposing to amend 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide (±)cyano(3-phenoxy-phenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in the food commodity apple pomace (dry at 10.0 parts per million (ppm)).

The American National Standards Institute (ANSI) has adapted the common name "flucythrinate" for the above chemical name.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicity and other relevant data pertaining to this insecticide are included in a related document [PP 3F2806/R623] establishing tolerances in or on various raw agricultural commodities which appears