

DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Parts 48 and 75**

RIN 1219-A33

Emergency Temporary Standard; Correction

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Emergency Temporary Standard; correction.

SUMMARY: This document corrects errors that appeared in MSHA's preamble for Emergency Evacuations; Emergency Final Rule.

EFFECTIVE DATE: December 26, 2002.

FOR FURTHER INFORMATION CONTACT:

Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, (202) 693-9440.

SUPPLEMENTARY INFORMATION: On December 12, 2002, we (MSHA) published in the **Federal Register** (67 FR 76658) an Emergency Temporary Standard on Emergency Evacuations. In a separate document, the Office of the Federal Register has corrected a printing error in the regulatory text: On p. 76665, third column, next to last line of the last paragraph, the **Federal Register** has corrected "(a)(1)" to read "(a)(1) through (4)". The preamble contained errors; therefore, we are correcting the preamble to the rule as follows:

1. On p. 76659, third column, last line, change "determined" to "concluded".

2. On p. 76660, first column, 17th & 18th lines, correct "report concluded" to read "team also determined".

3. On p. 76662, first column, 8th line in second full paragraph beginning with "Because", correct "(a)(1) through (3)" to read "(a)(1)(i) through (iii)".

Dated: December 19, 2002.

John R. Caylor,

Deputy Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 02-32583 Filed 12-24-02; 8:45 am]

BILLING CODE 4510-43-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[OPP-2002-0276; FRL-7284-3]

Urea: Revocation of Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final rule.

SUMMARY: EPA is amending 40 CFR part 180 subpart D to revoke four exemptions from the requirement of a tolerance for urea because these tolerance exemptions are no longer necessary. The Agency is acting on its own initiative. This direct final rule is being published today with a companion final rule titled "Urea: Exemption From The Requirement of A Tolerance."

DATES: This final rule is effective on March 26, 2003 without further notice, unless EPA receives adverse comment within 30 days after publication in the **Federal Register**. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

FOR FURTHER INFORMATION CONTACT:

Treva C. Alston, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8373; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information**

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:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

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-2002-0276. 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 http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr180_00.html, a beta site currently under development.

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 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. Authority**A. What is the Agency's Authority for Taking this Action?**

This direct final rule is issued pursuant to section 408(e) of the Federal Food Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) (21 U.S.C. 346a(e)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore, "adulterated" under section 402(a) of the FFDCA. If food containing

pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342 (a)).

B. Why is EPA Issuing this as a Direct Final Rule?

EPA is issuing this action as a direct final rule without prior proposal because the Agency believes that this action is not controversial and is not likely to result in any adverse comments. This action removes four exemptions from the requirement of a tolerance for the pesticide chemical, urea. These tolerance exemptions are not necessary.

III. Background

A. What Action is the Agency Taking?

In a companion final rule published in today's **Federal Register**, the Agency discussed the reasons and rationale for establishing a tolerance exemption for urea in 40 CFR 180.950. Given the establishment of this unlimited tolerance exemption, the tolerance exemptions for urea in 40 CFR 180.1001 (c), (d), and (e) and 180.1117 are no longer needed. Therefore, the Agency is removing these exemptions. No uses are lost through the removal of these tolerance exemptions. All uses are covered under the tolerance exemption established today in 40 CFR 180.950.

B. Which Tolerance Exemptions are Being Removed?

1. In 40 CFR 180.1001 (c) and (e), there are two exemptions from the requirement of a tolerance for urea. These exemptions are restricted to use as a stabilizer and inhibitor.

2. There is an exemption from the requirement of a tolerance for urea in 40 CFR 180.1001 (d). This exemption is for its use as an adjuvant/intensifier for herbicides.

3. Another exemption from the requirement of a tolerance is listed in 40 CFR 180.1117. This tolerance exemption was established for residues of urea when used as a frost protectant in or on the following raw agricultural commodities when used before harvest in the production of: Alfalfa, almonds, apples, apricots, artichokes, asparagus, avocados, beans, bell peppers, blackberries, blueberries, broccoli, brussels sprouts, boysenberries, cranberries, canola, cantaloupes, carrots, cauliflower, casaba, celery, cherries, chili peppers, chinese cabbage (bok choy, napa), cooking peppers, corn, cotton, crenshaw, cucumbers, figs, grapefruit, grapes, honeydew melon, hops, kiwifruit, kohlrabi, lemons, lentils, lettuce, limes, macadamia nuts,

musk melon, nectarines, olives, onions, oranges, peaches, pears, peanuts, peas, persian melon, pistachios, plums, potatoes, pumpkin, prunes, radish, raspberries, rice, safflower, sorghum, spinach, spinach (New Zealand), squash (winter and summer), strawberries, sugar beets, sunflower, sweet pepper, table beets, tangerines, tomatoes, walnuts, watermelon, and zucchini.

IV. Statute and Executive Order Reviews

Under Executive Order 12866, entitled *Planning and Review* (58 FR 51735, October 4, 1993), it has been determined that this direct final rule is not a "significant regulatory action" under section 3(f) of the Executive Order, because EPA is removing four tolerance exemptions that are no longer necessary given the publication of the companion final rule that establishes a broader tolerance exemption that will cover these four tolerance exemptions. This direct final rule is not expected to have any adverse impact and does not otherwise impose any new requirements. Since it is not significant under Executive Order 12866, it is not subject to review by the Office of Management and Budget (OMB) under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), or Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This direct final rule directly regulates food processors, food handlers, and food retailers, but does not affect States, local or Tribal governments directly. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal government and States or Indian tribes. As a result, this action does not require any action under Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Nor does it 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 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 Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988).

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).

Under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that these revocations will not have significant negative economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. The rationale here is that we are replacing these exemptions with a broader one.

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, 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 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).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 12, 2002.

Peter Caulkins,

*Acting Director, Registration Division
Director, 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), 346 (a) and 374.

§ 180.1001 [Amended]

2. In subpart D, § 180.1001 is amended by:

- i. Removing from the table in paragraph (c) the entry for urea “use as a stabilizer and inhibitor.”
- ii. Removing from the table in paragraph (d) the entry for urea “use as an adjuvant/intensifier for herbicides.”
- iii. Removing from the table in paragraph (e) the entry for urea “use as a stabilizer and inhibitor.”

§ 180.1117 [Removed]

3. Section 180.1117 is removed.

[FR Doc. 02–32563 Filed 12–24–02; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[OPP–2002–0277; FRL–7284–2]

Urea; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of urea when used in pesticide formulations. Ecolab, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of urea. This final rule is being published in today’s **Federal Register** with a companion Direct Final Rule entitled “Urea: Revocation of Tolerance Exemptions”

DATES: This regulation is effective December 26, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0277, must be received on or before February 24, 2003.

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

FOR FURTHER INFORMATION CONTACT:

Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8373; e-mail address: alston.treva@epa.gov.

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

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B. How Can I Get Copies of This Document and Other Related Information?

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II. Background and Statutory Findings

In the **Federal Register** of April 7, 2000 (65 FR 18324) (FRL–6499–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170), announcing the filing of a pesticide tolerance petition (PP 9E6028) by Ecolab, Inc., 370 N. Wabasha Street, St. Paul, MN 55102. This notice included a summary of the petition prepared by the petitioner Ecolab. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001 be amended by establishing an exemption from the requirement of a tolerance for residues of urea in or on raw agricultural commodities, in processed commodities, and in or on meat and meat by products of cattle, sheep, hogs, goats, horses, poultry, milk, dairy products, eggs, seafood and shellfish, and fruits and vegetables when such residues result from the use of urea as a component of a food contact surface sanitizing solution for use in food handling establishments.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption from tolerance is “safe.” Section 408(b)(2)(A)(ii) 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