

types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for five named sources.

**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 October 24, 2005. 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 approving source-specific VOC and NO<sub>x</sub> RACT requirements for five sources in the Commonwealth of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 17, 2005.  
**Donald S. Welsh,**  
*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

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

**Subpart NN—Pennsylvania**

2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for R.H. Sheppard Co., Inc., Wheatland Tube Company, and three Transcontinental Gas Pipeline Corporations at the end of the table to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
R.H. Sheppard Co., Inc	67-2016	York	8/4/95	8/24/05	52.2020(d)(1)(i)
Wheatland Tube Company	OP 43-182	Mercer	7/26/95	8/24/05	52.2020(d)(1)(i)
Transcontinental Gas Pipeline Corporation.	OP-53-0006	Potter	10/13/95	8/24/05	52.2020(d)(1)(i)
Transcontinental Gas Pipeline Corporation.	OP-19-0004	Columbia	5/30/95	8/24/05	52.2020(d)(1)(i)
Transcontinental Gas Pipeline Corporation.	PA-41-0005A	Lycoming	8/9/95	8/24/05	52.2020(d)(1)(i)

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R05-OAR-2005-MN-0002; FRL-7958-3]

**Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Withdrawal of Direct Final Rule**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to the receipt of an adverse comment the EPA is withdrawing the July 1, 2005 (70 FR 38025), direct final rule approving

revisions to the sulfur dioxide requirements for Flint Hills Resources, L.P. of Dakota County, Minnesota. In the direct final rule, EPA stated that if adverse comments were submitted by August 1, 2005, the rule would be withdrawn and not take effect. On July 28, 2005, EPA received a comment from the Leech Lake Band of Ojibwe. EPA believes the comment is adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on July 1, 2005 (70 FR 38071). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published at 70 FR 38025 on July 1, 2005 is withdrawn as of August 24, 2005.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch

(AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6524, e-mail: [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

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

Dated: August 8, 2005.

**Norman R. Niedergang,**  
*Acting Regional Administrator, Region 5.*

**PART 52—[AMENDED]**

**§ 52.1220 [Amended]**

Accordingly, the revision of 40 CFR 52.1220(d) (which published in the **Federal Register** on July 1, 2005 at 70

FR 38025) is withdrawn as of August 24, 2005.

[FR Doc. 05-16810 Filed 8-23-05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2005-0225; FRL-7731-2]

### Myclobutanil; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of myclobutanil in or on soybeans. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on soybeans. This regulation establishes a maximum permissible level for residues of myclobutanil in this food commodity. The tolerance will expire and is revoked on December 31, 2009.

**DATES:** This regulation is effective August 24, 2005. Objections and requests for hearings must be received on or before October 24, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket identification (ID) number OPP-2005-0225. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., 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 electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

**FOR FURTHER INFORMATION CONTACT:** Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9367; e-mail address: *Sec-18-Mailbox@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

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

- 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 Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgrstr/>. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

##### II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the fungicide myclobutanil alpha-butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile and its alcohol metabolite (alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (free and bound), in or on soybean at 0.05 parts per million (ppm). EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA 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 FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA 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 information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

##### III. Emergency Exemption for Myclobutanil on Soybeans and FFDCA Tolerances

The States of Minnesota and South Dakota, as lead state agencies in what is essentially a "national" section 18 request for all soybean growing states, have petitioned the Agency requesting an emergency exemption for myclobutanil to control soybean rust