

does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and “Categorical Exclusion Determination” are required for this rule and are available for review in the public docket for this rulemaking.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.1315 revise the heading and paragraph (a)(8) and add paragraphs (a)(9)–(14) to read as follows:

#### § 165.1315 Safety Zones: Fireworks displays in the Captain of the Port Portland Zone.

(a) \* \* \*

##### (8) Florence Chamber 4th of July Fireworks Display, Florence, OR

(i) *Location.* All water of the Siuslaw River enclosed by the following points: 43°58'05" N, 124°05'54" W following the shoreline to 43°58'20" N 124°04'46" W then south to 43°58'07" N 124°04'40" W following the shoreline to 43°57'48" N 124°05'54" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

##### (9) Oaks Park July 4th Celebration, Portland, OR

(i) *Location.* All water of the Willamette River enclosed by the following points: 45°28'26" N 122°39'43" W following the shoreline to 45°28'10" N 122°39'54" W then west to 45°28'41" N 122°40'06" W following the shoreline to 45°28'31" N 122°40'01" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

##### (10) Rainier Days Fireworks Celebration, Rainier, OR

(i) *Location.* All water of the Columbia River enclosed by the following points: 46°06'04" N, 122°56'35" W following the shoreline to 46°05'53" N 122°55'58" W then south to 46°05'24" N 122°55'58" W following the shoreline to 46°05'38" N 122°56'35" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on the second Saturday of July each year from 9 p.m. to 11 p.m. (PDT). Except that when the first Saturday falls on July 1, this section will be enforced on the third Saturday of July.

##### (11) Ilwaco July 4th Committee Fireworks, Ilwaco, WA

(i) *Location.* All water of the Columbia River extending out to a 700' radius from the launch site at 46°18'17" N 124°01'55" W.

(ii) *Enforcement Period.* This section is enforced annually on the first Saturday of July from 9 p.m. to 11 p.m. (PDT).

##### (12) Milwaukie Centennial Fireworks Display, Milwaukie, OR

(i) *Location.* All water of the Willamette River enclosed by the

following points: 45°26'41" N, 122°38'46" W following the shoreline to 45°26'17" N 122°38'36" W then west to 45°26'17" N 122°38'55" W following the shoreline to 45°26'36" N 122°38'50" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on the third Saturday of July each year from 9 p.m. to 11 p.m. (PDT). Except that when the first Saturday falls on July 1, this section will be enforced on the fourth Saturday of July.

##### (13) Splash Aberdeen Waterfront Festival, Aberdeen, WA

(i) *Location.* All water of the Chehalis River extending out to 500 feet of the following points: 46°58'40" N, 123°47'45" W.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

##### (14) City of Coos Bay July 4th Celebration, Coos Bay, OR

(i) *Location.* All water of the Coos River extending out to 1200 feet of the following points: 43°22'12" N, 124°12'39" W.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

\* \* \* \* \*

Dated: May 9, 2006.

**Patrick G. Gerrity,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.*

[FR Doc. E6–8218 Filed 5–30–06; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06–OAR–2005–NM–0003; FRL–8175–6]

### Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving two separate State Implementation Plan (SIP) revisions submitted by the Governor of New Mexico. The first submittal, dated September 7, 2004, adopts local Ambient Air Quality Standards (AAQS) and incorporates by reference the Federal National Air Quality Standards (NAAQS) for the Albuquerque/Bernalillo County, New Mexico area. The second submittal,

dated July 28, 2005, revises the Variance Procedure for the Albuquerque/Bernalillo County, New Mexico area. We are approving these two separate revisions in accordance with the requirements of the Clean Air Act (the Act), section 110.

**DATES:** This direct final rule is effective on July 31, 2006 without further notice, unless EPA receives relevant adverse comment by June 30, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2005-NM-0003, by one of the following methods:

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

U.S. EPA Region 6 "Contact Us" web site: <http://epa.gov/region6/r6comment.htm> Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

E-mail: Mr. Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R06-OAR-2005-NM-0003. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](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.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

The City of Albuquerque, Environmental Health Department, One Civic Plaza, Albuquerque, NM 87102.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar of the Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733 at (214) 665-6691, or [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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- I. Background
- II. Evaluation of New Mexico's Submittal
  - A. 20.11.8 NMAC, Ambient Air Quality Standards
  - B. 20.11.7 NMAC, Variance Procedure
- III. Final Action
- IV. Statutory and Executive Order Reviews

Throughout this document "we," "us," and "our" refer to EPA.

### I. Background

A revision to the New Mexico SIP concerning Title 20, Chapter 11, Part 8 of the New Mexico Administrative Code (20.11.8 NMAC) was submitted to us by the Governor of New Mexico on September 7, 2004. This SIP revision establishes and adopts local AAQS for the Albuquerque/Bernalillo County, New Mexico area. These AAQS are similar to the New Mexico AAQS adopted by the New Mexico Environment Department (NMED). It also incorporates by reference the Federal NAAQS at 40 CFR part 50, as amended through July 18, 1997.

The EPA approved the NMED-adopted state AAQS and incorporated Federal NAAQS in Title 20, Chapter 2, Air Quality, Part 3 Ambient Air Quality Standards on 09/26/97 (62 FR 50518) at § 52.1620(c)(66) and became effective 11/25/1997 for the State of New Mexico excluding the Albuquerque/Bernalillo County area. See our Technical Support Document (TSD) prepared in conjunction with this SIP revision for more information concerning our evaluation of this part.

Initially, EPA approved the New Mexico Regulation 24 Variance Procedure for the Albuquerque/Bernalillo County area on April 10, 1980. See April 10, 1980 (45 FR 24460) at § 52.1620(c)(11) to (c)(15). The Albuquerque/Bernalillo Board adopted and replaced its Variance Procedure rules on October 1, 2002 as Title 20, Chapter 11, Part 7 (20.11.7 NMAC) and adopted changes on August 1, 2004. A revision to the New Mexico SIP 20.11.7 NMAC concerning Variance Procedure for the Albuquerque/Bernalillo County area was submitted to us by the Governor of New Mexico on July 28, 2005. This SIP revision makes the Variance Procedure more stringent than the original SIP-approved rule. Among other things, it precludes issuance of variances from enumerated Federal emissions limitations and programs, and clarifies that approval or granting of a variance does not mean automatic approval by the EPA, for the Albuquerque/Bernalillo County area.

## II. Evaluation of New Mexico's Submittal

### A. 20.11.8 NMAC, Ambient Air Quality Standards

A revision to the New Mexico SIP concerning 20.11.8 NMAC was submitted to us by the Governor of New Mexico on September 7, 2004. This SIP revision establishes and adopts local AAQS for the Albuquerque/Bernalillo County. It also incorporates by reference the federal NAAQS as amended through July 18, 1997. The current Federally-approved SIP, for the Albuquerque/Bernalillo County area, does not contain the local or National AAQS for this area. As stated in section I of this document, the local standards we are approving today are similar to those that EPA has already approved for the remaining parts of the New Mexico State. See September 26, 1997 (62 FR 50518). The local AAQS are for hydrogen sulfide, total reduced sulfur, a 24-hour average for nitrogen dioxide, a 24-hour average, 7-day average, 30-day average, and annual geometric mean for particulate matter, and limitations more stringent than the Federal NAAQS for the 8-hour and 1-hour average for carbon monoxide, and the 24-hour average and annual arithmetic mean for sulfur dioxide. Approval of these local standards will lead to improved air quality. We are approving the incorporation of the Federal NAAQS because it will make the Albuquerque/Bernalillo County SIP consistent with the latest Federally-promulgated NAAQS.

This SIP revision will provide for consistency between the NMED-adopted SIP and the Albuquerque/Bernalillo County SIP. Thus, by approving the SIP revision, all sources within the County that are emitting, or wish to emit, any of the locally regulated pollutants and precursors are required to comply with the same AAQS as all sources anywhere within the geographical boundaries of the State. This SIP revision will enhance the County's air quality. This SIP revision will add more stringent requirements to the current Federally-approved SIP and ensure that the SIP contains the most up-to-date Federal NAAQS. For these reasons, we are approving, as a part of the SIP, the local AAQS for the Albuquerque/Bernalillo County, New Mexico area under sections 110 and 116, and approving the incorporation of the Federal NAAQS under section 110 of the Act.

### B. 20.11.7 NMAC, Variance Procedure

A revision to the New Mexico SIP concerning 20.11.7 NMAC was submitted to us by the Governor of New

Mexico on July 28, 2005. This SIP revision includes a rule that replaces and revises the previous Variance Procedure rule and imposes additional restrictions on the Variance Procedures for the Albuquerque/Bernalillo County area.

As stated in section I of this document, EPA initially approved the New Mexico Regulation 24 Variance Procedure for the Albuquerque/Bernalillo County area on April 10, 1980 (45 FR 24460). The Variance Procedure rule, adopted in 2002 and revised in 2004, adds more extensive public participation requirements, including several forms of public notification, newspaper publications, public comment periods, and adds a requirement for an evidentiary hearing versus a public comment hearing. The granting of a variance still cannot either result in a condition injurious to health or safety, or cause or contribute to an air contaminant level in excess of any primary NAAQS. The petitioner, however, now has the burden of proof in the evidentiary hearing to show the need for a variance and now must prove by a preponderance of evidence the facts relied upon to justify the requested relief. Another significant improvement is that there no longer is an automatic stay of enforcement pending the Board's decision. Sections 20.11.7.2 (Scope) and 20.11.7.6 (Objective) add the requirement to this SIP revision that variance from a limitation, order, or permit condition does not apply to enumerated Federally promulgated emissions standards and programs; *e.g.*, the requirements to obtain a minor preconstruction permit, a nonattainment preconstruction permit, a Prevention of Significant Deterioration preconstruction permit, or an operating permit and the requirements to meet the Federal acid rain program, the Federal New Source Performance Standards, and the Federal National Emission Standards for Hazardous Air Pollutants. Furthermore, section 20.11.7.2 (Scope) specifies that approval or granting of a variance to a source does not mean automatic approval by EPA. Our TSD prepared in conjunction with this SIP revision contains detailed information concerning our evaluation of this part. This SIP revision greatly improves the current Federally-approved SIP rule, adds many more safeguards to protect the existing air quality, *e.g.*, no automatic stay of enforcement, no variance from Federal programs, more stringent public participation, and evidentiary hearings. We find that approving 20.11.7 NMAC into the SIP meets section 110(l) of the Act. For this

reason, we are approving, as a part of the SIP, the Variance Procedure 20.11.7 NMAC, as adopted in 2002 and revised in 2004, for the Albuquerque/Bernalillo County, New Mexico area.

## III. Final Action

The EPA is approving the revisions to the New Mexico's Albuquerque/Bernalillo County SIP because the revisions are consistent with the Act and EPA regulatory requirements. The EPA is publishing this rule without prior proposal because the EPA views this as a non-controversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 31, 2006 without further notice, unless EPA receives relevant adverse comment by June 30, 2006.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 31, 2006, and no further action will be taken on the proposed rule.

## IV. Statutory and Executive Order Reviews

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 FR 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 (Pub. L. 104-4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP 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 a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP 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. 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.*).

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. The 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 July 31, 2006.

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 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 19, 2006.

**Richard E. Greene,**  
Regional Administrator, Region 6.

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 GG—New Mexico**

■ 2. Section 52.1620, paragraph (c), the second table entitled "EPA Approved Albuquerque/Bernalillo County, NM Regulations," is amended by revising the entry for Part 7 and adding an entry for Part 8 to read as follows:

**§ 52.1620 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS**

| State citation  | Title/subject                       | State approval/effec-<br>tive date | EPA approval date                                | Explanation |
|---|-------------------------------------|------------------------------------|--|-------------|
| Albuquerque/Bernalillo County, Air Quality Control Regulations  |                                     |                                    |  |             |
| * * * * *   |                                     |                                    |  |             |
| New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 11-Albuquerque/Bernalillo County Air Quality Control Board |                                     |                                    |  |             |
| * * * * *   |                                     |                                    |  |             |
| Part 7 (20.11.7 NMAC) ..  | Variance Procedure .....            | 09/07/04                           | 05/31/06 [Insert FR page where document begins]. |             |
| Part 8 (20.11.8 NMAC) ..  | Ambient Air Quality Standards ..... | 09/07/04                           | 05/31/06 [Insert FR page where document begins]. |             |
| * * * * *   |                                     |                                    |  |             |

[FR Doc. 06-4921 Filed 5-30-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2005-0487; FRL-8062-3]

### Pesticides; Minimal Risk Tolerance Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This rule reorganizes the existing tolerance exemptions for 12 chemical substances that are now classified as "minimal risk." The Agency is shifting the existing tolerance exemptions for these chemicals to 40 CFR 180.950(e). The Agency is merely moving certain tolerance exemptions from one section of the CFR to another section. No tolerance exemptions are lost or added as a result of this action.

**DATES:** This regulation is effective May 31, 2006. Objections and requests for hearings must be received on or before July 31, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0487. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 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 Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Docket Facility is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Boyle, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number:

(703) 305-6304; fax number: (703) 305-0599; e-mail address: [boyle.kathryn@epa.gov](mailto:boyle.kathryn@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?

In addition to accessing an electronic copy of this *Federal Register* document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

##### C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-

OPP-2005-0487 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 31, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2005-0487, 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 Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket'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 telephone number for the Docket Facility is (703) 305-5805.

#### II. Background and Statutory Findings

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

This final rule is issued pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by 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 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. What Action is the Agency Taking?

In the **Federal Register** of January 25, 2006 (71 FR 4087) (FRL-7754-8), EPA