

Revision of FR Notice Published 01/13/2006: Correction to Wait Period from 02/13/2006 to 02/27/2006.

EIS No. 20060017, Final EIS, AFS, FL, Ocala National Forest Access Designation Process, Roads and Trails Systems Development, Implementation, Lake, Marion and Putnam Counties, FL. Wait Period Ends: 02/21/2006. Contact: Will Ebaugh 850-523-8557.

Revision to FR Notice Published 01/20/2006: Correction to Document Status from Draft to Final EIS.

Dated: January 31, 2006.

Ken Mittelholtz,

Environmental Specialist, Office of Federal Activities.

[FR Doc. E6-1510 Filed 2-2-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2004-0262; FRL-7682-4]

Federal Plan for Certification of Restricted Use Pesticide Applicators in Navajo Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its intention to implement a federal program to certify applicators of restricted use pesticides in Navajo Indian Country. The program will be administered by EPA Region 9 located in San Francisco, CA. EPA is soliciting comments on EPA's intent to implement a federal certification program in Navajo Indian Country and on its proposed Federal Plan for Certification of Restricted Use Pesticide Applicators in Navajo Indian Country (federal plan).

DATES: Written comments, identified by docket identification (ID) number EPA-HQ-OPP-2004-0262, must be received on or before March 6, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2004-0262, by one of the following methods:

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

- *E-mail:* opp.ncic@epa.gov.

- *Mail:* Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs

(OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA-HQ-OPP-2004-0262. 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. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2004-0262. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at <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 or e-mail. The www.regulations.gov website 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, your e-mail address will be captured automatically 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/docket.htm/>.

Docket: All documents in the docket are listed in the www.regulation.gov index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Public Information and Records

Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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:

Laurie Amaro, Environmental Protection Agency, Region 9, 75 Hawthorne St. (CED-5), San Francisco, CA 94105-3901; telephone number: (415) 947-4212; e-mail address: amaro.laurie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This notice applies to individuals and businesses who are seeking certification to apply restricted use pesticides (RUPs) as defined by EPA in Navajo Indian Country. This action may, however, be of interest to those involved in agriculture, and anyone involved with the distribution and application of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. 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 the Federal Plan, Other Related Documents, and Additional Information?

You may view copies of the federal plan, other related documents, or request additional information by contacting:

1. *By mail:* Laurie Amaro at the address listed under **FOR FURTHER INFORMATION CONTACT**.

Michelle Devaux, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7666; e-mail: devaux.michelle@epa.gov.

2. *In person.* Copies of the entire EPA Plan for the Certification of Pesticide Applicators in Navajo Indian Country, together with all attached appendices, may be examined at the following locations during normal business hours:

- i. United States Environmental Protection Agency, Region 9 Library, 75 Hawthorne St., San Francisco, CA 94105. Contact: Region 9 Library, telephone number: (415) 947-4406, e-mail: library-region9@epa.gov.

ii. Navajo Nation Pesticide Regulatory Program, Navajo Nation Environmental Protection Agency, P.O. Box 529, Fort Defiance, AZ 86504. Contact: Glenn Lee, telephone number: (928) 871-7815, e-mail: glennalee@yahoo.com.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov, or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity, obscene language, or personal threats.

viii. Make sure to submit your comments by the comment period deadline.

II. Introduction

A. What is the Background for this Plan?

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. 136 *et seq.*, the Administrator of EPA has the authority to classify all registered

pesticide uses as either "restricted use" or "general use." A restricted use pesticide is defined as one which "may generally cause, . . . unreasonable adverse effects on the environment, including injury to the applicator," unless it is subject to additional regulatory restrictions beyond labeling requirements. Section 3(d)(1)(C), 7 U.S.C. 136a(d)(1)(C). To help prevent such adverse effects, restricted use pesticides may only be applied by a certified applicator or someone acting under the direct supervision of a certified applicator. 7 U.S.C. 136a(d)(1)(C), 136j(a)(2)(F). To be certified, an individual must be determined to be competent with respect to the use and handling of pesticides covered by the certification. 7 U.S.C. 136i(a)(1).

It was the intent of Congress that persons desiring to use restricted use pesticides should be able to obtain certification under programs approved by EPA, as reflected in sections 11 and 23 of FIFRA. 7 U.S.C. 136i, 136u. The regulations addressing Tribal and State development and submission of certification plans to EPA are contained at 40 CFR part 171. It is EPA's position that Tribal and State plans are best suited to the needs of that particular Tribe or State and its citizens. Tribes and States, however, are not required to develop their own plans. Where EPA has not approved a State or Tribal certification plan, the Agency is authorized to implement an EPA plan for the federal certification of applicators of restricted use pesticides pursuant to sections 11 and 23 of FIFRA. 7 U.S.C. 136i, 136u; 40 CFR 171.11.

The Navajo Nation is in the process of determining the best approach to implementing a Tribal certification plan. The Navajo Nation Tribal Government has consulted with EPA regarding implementation of a federal certification plan that provides for federal certification based on other EPA-approved certification plans pursuant to 40 CFR 171.11 until such time as an EPA-approved certification plan is in place for Navajo Indian Country. Consistent with FIFRA, EPA regulations, and "EPA Policy for the Administration of Environmental Programs on Indian Reservations," November 8, 1984, EPA intends to implement such a federal plan as summarized in this notice.

The primary mechanism for certifying applicators will be the use of the reciprocity provision of 40 CFR part 171.11(e). This provision allows EPA to issue a federal certificate to an individual possessing any other valid

State or Tribal certificate without further demonstration of competency. Thus, where appropriate, EPA will issue federal certificates where the standards of competency for the other State or Tribal certificate are sufficiently comparable to the requirements in 40 CFR part 171 to justify waiving further demonstration of competency.

As explained below, EPA will use in the federal plan the 10 commercial applicator categories set forth in 40 CFR 171.3(b). In addition, EPA adopts in the federal plan five additional categories of commercial applicators designated by the State of Utah; and seven subcategories of commercial applicators used by the States of Arizona and Utah. EPA has determined that all the standards of competency for private applicators, and for all of the commercial applicator categories and subcategories in Arizona's and Utah's plans meet the federal requirements.

B. What is the Statutory Authority for this Plan?

The plan will be implemented under the authority of sections 11(a)(1) and 23 FIFRA, as amended by the Food Quality Protection Act of August 3, 1996, and regulations in 40 CFR 171.1-171.11. Additional enforcement authorities are found in sections 8, 9, and 12 of FIFRA.

C. Summary of the Plan

1. *Applicability.* EPA intends to implement this federal certification plan in "Indian Country," as defined in 18 U.S.C. 1151, that is associated with the Navajo Nation. "Indian Country" is defined in 18 U.S.C. 1151 as:

(a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

(b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.

Indian Country associated with the Navajo Nation includes, but is not limited to:

- Land within the exterior boundaries of the formal Navajo Indian Reservation, including the three satellite Reservations of Alamo, Canoncito, and Ramah, but excluding areas of Indian

Country associated with the Hopi Tribe; and

- Lands in the Eastern Navajo Agency that are held in trust by the United States government for the use of the Navajo Nation or for the benefit of individual members of the Navajo Nation or that are dependent Indian communities.

Today's announcement reflects where EPA intends to directly implement its federal certification plan, and is not a determination as to where the Navajo Nation would have the authority to implement a certification plan under FIFRA. The scope of the Navajo Nation's authority to implement such a certification plan would be addressed if, and when, the Tribe applies for approval of a Tribal certification program.

2. *General information.* EPA, via Region 9, San Francisco, CA (hereinafter Region 9), will be the lead agency for the administration of the plan in Navajo Indian Country. EPA has legal authority to conduct this plan. See Unit II.B.

Region 9 has adequate resources to implement a certification plan in Navajo Indian Country which is consistent with the requirements of FIFRA and regulations at 40 CFR part 171. These resources include funding, database systems, and staff. Region 9 personnel, including the Certification and Training Program Manager, the Tribal Project Officer, the Tribal Enforcement Liaison, and administrative staff, will be responsible for the maintenance of the federal certification program in Navajo Indian Country. Program maintenance activities include application processing, database management, recordkeeping, enforcement and oversight of the Navajo Nation's inspection program.

Region 9 will prepare an annual report on or before March 31 of each year. Copies of this report will be made available to the Navajo Nation EPA, and the U.S. EPA's Office of Pesticide Programs. Copies of this report will be available on the EPA Internet website and in hard copy for public inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays at the Environmental Protection Agency, Region 9 Library, 75 Hawthorne St., San Francisco, CA 94105-3901.

Region 9 estimates that approximately 45 commercial applicators and 5 private applicators will need to be certified in Navajo Indian Country. Qualified commercial and private applicators will be issued federal certificates.

3. *Legal framework for the plan.* The certification and training requirements are not self-implementing. Rather, a prospective applicator of a restricted use

pesticide can only become certified if a certification and training program has been approved by EPA for the area in which he or she seeks to apply the pesticide. Among other things, EPA regulations, provide for implementation of the certification and training programs in Indian Country in the following ways.

i. The Tribe may develop its own plan for certifying applicators and submit the plan, through the U.S. Department of the Interior, to EPA for approval.

ii. The Tribe may choose to utilize a State certification program in which case it should enter into a cooperative agreement with the State which shall be incorporated into the State plan and forwarded to EPA for approval.

iii. EPA may implement a federal certification and training program where there is no approved plan in effect. See 40 CFR 171.10 and 171.11. As discussed above, EPA intends to implement a federal certification and training program in Navajo Indian Country.

There are two types of applicators of restricted use pesticides: private and commercial. A "private applicator" is defined as:

A certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing an agricultural commodity on property owned or rented by the applicator or the applicator's employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person. 7 U.S.C. 136(e)(2).

A "commercial applicator" is defined as:

An applicator (whether or not the applicator is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property" other than as set forth in the definition of a private applicator. 7 U.S.C. 136(e)(3).

Where EPA, as opposed to a Tribe or a State, implements a certification and training program, both FIFRA and the regulations require that EPA offer private applicators an option to be certified without taking an examination. See 7 U.S.C. 136i(a)(1), 40 CFR 171.11(d)(1).

Because Utah and Arizona do not offer private applicators an option to be certified without taking an examination, EPA, as discussed below, will offer a "non-exam" option to private applicators.

4. *Commercial applicators.* For individuals seeking certification as commercial applicators under the federal certification program in Navajo Indian Country, EPA will utilize the

authority contained at 40 CFR 171.11(e). This section of the regulation permits EPA to issue a federal certificate based upon the pesticide applicator holding a valid certificate issued under any other EPA-approved program without further demonstrating competency. However, under this provision, the Agency may deny issuance of such certificate if the standards of competency for each category or subcategory of commercial applicator identified in the other State or Tribal certificate are not sufficiently comparable to the federal requirements to justify waiving further demonstration of competency.

i. *Categories and subcategories of commercial applicators used in Navajo Indian Country federal plan.* EPA regulations set forth a system of categorizing commercial applicators by occupation. Specifically, the regulations establish 10 categories that are intended to encompass the spectrum of commercial applicators. 40 CFR 171.3(b). In addition to setting general standards of competency that are applicable to all commercial applicators, the regulations set forth category-specific standards that require differing levels of capability depending on, among other things, the nature of the activity and the potential hazard posed by the pesticide. 40 CFR 171.4. Certificates may only be issued to commercial applicators who have demonstrated competency by passing a written examination, and where appropriate, a performance test.

Region 9 will use the commercial applicator categories as outlined at 40 CFR 171.3(b), all of which have been adopted by the States of Arizona and Utah, as well as five other categories designated by the State of Utah which include: Aerial Application Pest Control, Vertebrate Animal Pest Control, Fumigation/Stored Commodities Pest Control, Wood Preservation Pest Control, and Wood-Destroying Organisms Pest Control.

In addition, Region 9 has reviewed the subcategories of commercial applicators currently in use by these two States. These subcategories are: From Arizona, General Pest Control; Termites and Wood-destroying Pests; Wood Products Preservation; Fumigation; Weed Control; M-44 Pest Control; and Rodent Pest Control and from Utah, Surface Water and Sewer Root. Based on consultation with the Navajo Nation Pesticide Program, these subcategories of commercial applicators meet the needs in Navajo Indian Country, and adopts them per 40 CFR 171.11(c)(2). No other additional major categories or subcategories will be used

in Navajo Indian Country at the present time.

However, EPA may deem other categories or subcategories of commercial applicators necessary in the future, consonant with the needs of the Navajo Nation and applicators in Navajo Indian Country, as provided in 40 CFR 171.11(c).

ii. *Submitting evidence of certification as a commercial applicator authorized to apply federally designated restricted use pesticides in Arizona or Utah.* The Agency has determined that for Arizona and Utah, the standards of competency for each category or subcategory of commercial applicators in those certification programs are sufficiently comparable to the federal requirements to justify waiving further demonstration of competency. EPA has made this determination based on the State plans in effect as of the publishing of this notice. If Arizona or Utah revises its State plan, EPA may revisit this determination. Therefore, under this federal certification plan, Region 9 may issue a certificate for restricted use pesticide application in Navajo Indian Country to an individual possessing a certificate issued by one of these two States for the same applicator categories and/or subcategories described in their State certificate. The applicator will be required to submit an EPA pesticide applicator certification form, written evidence (copy of certificate, credential, license, or other documentation) of valid certification, and a passport-size photograph to the Region 9 Office.

EPA has developed and included in the public docket for this action a draft certification form titled "Request for Pesticide Applicator Certification in Navajo Indian Country" (draft EPA Form 8500-17-N). This draft form is being developed specifically for pesticide applicators who wish to be certified in Navajo Indian Country. Using this form, EPA intends to collect certain information from pesticide applicators, including: Contact information (name, address, telephone number), State certification identification number, date of expiration and designation of category or subcategory under which applicator is requesting federal certification. Copies of the final certification form will be available from the Region 9 Office, both in hard copy and on the Internet, and from the Navajo Nation Environmental Protection Agency. Region 9 will verify with the appropriate State certifying agency with whom the applicant is claiming to hold a valid/current certificate, to assure that the certificate on which EPA would base

its federal certification is in fact valid and current.

iii. *Submitting evidence of certification as a commercial applicator authorized to apply federally designated restricted use pesticides under any other federal or EPA-approved State or Tribal applicator certification program.* Region 9 may also issue commercial certification credentials in the appropriate commercial applicator category(ies) or subcategory(ies) valid in Navajo Indian Country to applicators who have been certified in the same or similar category(ies) or subcategory(ies) as described herein and in the detailed plan under any other federal or EPA-approved State or Tribal certification plan. The applicator will be required to submit the EPA certification form and written evidence of valid certification to Region 9. Region 9 will verify with the appropriate federal, State, or Tribal certifying agency with whom the applicant is claiming to hold a valid/current certificate, to assure that the certificate on which EPA would base its federal certification is in fact valid and current. The Regional Administrator may deny issuance of such certificate, if the standards of competency for each commercial applicator category or subcategory identified in the other State or Tribal certificate are not sufficiently comparable to the federal requirements.

iv. *Length of certification.* Unless suspended or revoked, a certificate issued under the preceding two paragraphs is valid for 2 years from the date of issuance of the federal certificate, or until the expiration date of the original certificate on which the federal certificate is based, whichever occurs first. The Regional Administrator will review the EPA-issued certificate for revocation or suspension when the State or Tribal certificate upon which it is based is revoked, suspended, or modified. The Administrator may also deny, suspend, modify, or revoke a certificate pursuant to 40 CFR 171.11(f).

v. *Renewal/recertification.* Applicators may be recertified by successful completion of one of the options available for original certification during the 12-month period preceding expiration of his/her certificate.

6. *Private applicators.* For individuals seeking certification as private applicators under the federal certification program in Navajo Indian Country, EPA will utilize the authority contained in 40 CFR 171.11(e), as set forth in Option 1 and Option 2, below. If the individual does not wish to take an examination, he or she may choose to follow the procedures set forth in Option 3, below.

The standards of competency for private applicators will be those at 40 CFR 171.5 and 171.6. Individuals may be certified as private applicators in Navajo Indian Country by one of the following options:

i. *Option 1.—Submitting evidence of certification as a private applicator authorized to apply federally designated restricted use pesticides by Arizona or Utah.* Under this option, a private applicator will be required to submit written evidence (copy of certificate, credential, license, or other documentation) of certification from Arizona or Utah and a completed copy of EPA Form 8500-17-N to Region 9 before being eligible to receive private applicator certification in Navajo Indian Country. Copies of EPA Form 8500-17-N will be available from the Region 9 Office, both in hard copy and on the Internet, and from the Navajo Nation Environmental Protection Agency. EPA has determined that private applicators certified by either of these two States have met requirements equal to those established under this program (under 40 CFR 171.5 and 171.6). EPA has made this determination based on the State plans in effect as of the publishing of this notice. If Arizona or Utah revises its State plan, EPA may revisit this determination.

ii. *Option 2.—Submitting evidence of certification as a private applicator under any other federal or EPA-approved State or Tribal plan.* Region 9 may also issue a certificate to a private applicator valid in Navajo Indian Country to private applicators who have been certified as described herein and in the detailed plan under any other federal or EPA-approved State or Tribal certification plan. The applicator will be required to complete and submit EPA Form 8500-17-N and written evidence (copy of certificate, credential, license, or other documentation) of valid certification to Region 9. The Regional Administrator may deny issuance of such certificate, if the standards of competency for private applicators identified in the other federal, State or Tribal certificate are not sufficiently comparable to the EPA standards of competency.

iii. *Option 3.—Non-examination option.* Under this option, a private applicator may complete a self-study learning program. The prospective private applicator will be able to obtain a self-study learning packet and EPA Form 8500-17-N through Region 9, both in hard copy and on the Internet, and from the Navajo Nation Environmental Protection Agency. This option will require the applicator, upon completion of the program, to return the

completed program to the EPA Region 9 Certification & Training Program Manager, who will review any unresolved questions with the applicator, verify that the manual has been completed by the applicator, and determine that the applicator is competent to be certified. The applicator must also complete, sign, and submit EPA Form 8500-17-N, through which the applicator attests that he or she personally completed the self-study learning program. Under this option, successful completion of the self-study learning program is required before receiving private applicator certification in Navajo Indian Country.

iv. Length of certification. Unless suspended or revoked, a certificate issued to a private applicator under paragraphs i. or ii. of this paragraph is valid for 3 years from the date of issuance of the federal certificate, or until the expiration date of the original certificate on which the federal certification is based, whichever occurs first. A certificate issued under paragraph iii. of this paragraph is valid for 4 years, unless suspended or revoked. The Regional Administrator will review the EPA-issued certificate for revocation or suspension, when the State or Tribal certificate upon which it is based is revoked, suspended, or modified. The Administrator may also deny, suspend, modify, or revoke a certificate pursuant to 40 CFR 171.11(f).

v. Renewal/recertification. Private applicators may be recertified by successful completion of one of the options available for original certification during the 12-month period preceding expiration of his/her certificate.

7. Other provisions of the Plan. In addition to the certification provisions summarized above, this plan also requires that all reporting and recordkeeping requirements contained at 40 CFR 171.11 that apply to certified commercial applicators, see 40 CFR 171.11(c)(7), and restricted use pesticide retail dealers in Navajo Indian Country, see 40 CFR 171.11(g), are met. In complying with the 40 CFR 171.11(g) requirements for the submission of reports, the dealer or dealership must send such reports to EPA, Region 9, 75 Hawthorne St., Mail Code CMD-5, San Francisco, CA 94105, Attention: FIFRA Certification and Training Program Manager.

8. Compliance and enforcement. EPA has the authority to take action, as appropriate, to ensure that restricted use pesticides are used in a way that complies with the requirements of FIFRA and the implementing regulations, including provisions of this

federal program specified in 40 CFR 171.11, in Navajo Indian Country. However, in accordance with section 23(a)(1) of FIFRA, the Regional Administrator may enter into cooperative agreements with Indian Tribes to delegate to such Tribes the authority to cooperate in the enforcement of the Act. EPA and the Navajo Nation have entered into a cooperative agreement whereby EPA has duly designated individuals of the Navajo Nation's Pesticide Regulatory Program as representatives of EPA. As such, they may, on behalf of EPA, conduct inspections for the purpose of determining compliance with the requirements of the Act and the regulations, including those specified in 40 CFR 171.11.

Accordingly, to help ensure that certified applicators comply with standards for the use of restricted use pesticides and to provide adequate supervision of noncertified applicators, federally credentialed Tribal inspectors may investigate incidents, accidents, and complaints related to pesticide use in Navajo Indian Country. Federally credentialed Tribal inspectors may also make routine inspections of pesticide manufacturers, distributors, dealers, and users in Navajo Indian Country.

In cases where misuse occurs, EPA may, if appropriate, deny, modify, suspend, or revoke a certificate, see 40 CFR 171.11(f), or take an enforcement action under FIFRA. Under section 14 of FIFRA, 7 U.S.C. 136, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461, and the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461, and the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 (effective January 31, 1997), EPA has the authority to assess both civil and criminal penalties. Commercial applicators, wholesalers, dealers, retailers, or other distributors can be assessed up to a \$6,500 fine for each offense as civil penalties and up to a \$25,000 fine or imprisonment, for not more than 1 year, or both, for each offense as criminal penalties. Private applicators, subsequent to receiving a written warning, can be assessed a civil penalty up to \$1,200, or a criminal penalty of not more than a \$1,000 fine and/or imprisonment for not more than 30 days, for each offense.

III. Consultation with the Navajo Nation

In the absence of an EPA-approved certification program in Navajo Indian Country, EPA, consistent with its statutory responsibilities and the federal government's trust responsibility to

federally recognized Tribes, has worked with the Navajo Nation, on a government-to-government basis, to appropriately implement the certification program to help ensure the protection of human health, natural resources, and the environment in Navajo Indian Country. The Navajo Nation has consulted with EPA regarding implementation of a federal certification plan until such time as an EPA-approved certification plan is in place for Navajo Indian Country. EPA has consulted with the Navajo Nation on periodic conference calls and face-to-face meetings to ensure development of a federal plan that effectively meets the needs of the Navajo Nation and restricted use pesticide applicators in Navajo Indian Country.

EPA drafted the federal plan in consultation with the Navajo Nation consistent with, among other things, the following policies, orders and memoranda: EPA Policy for the Administration of Environmental Programs on Indian Reservations, November 8, 1984, which was reaffirmed by Administrator Johnson on September 26, 2005; Presidential Memorandum, Government-to-Government Relations with Native American Tribal Governments, April 29, 1994; Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000; Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy, January 17, 2001; and Administrator memorandum reaffirming EPA Indian Policy on July 11, 2001.

IV. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection activities described in this document are currently approved under OMB Control Number 2070-0029. However, EPA is proposing to implement a new form, EPA Form 8500-17-N, designed specifically for pesticide applicators who wish to be certified in Navajo Indian Country. EPA estimates the paperwork burden associated with completing this new form to be 10 minutes per response. Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information;

adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. With regard to the new form, which is included in the public docket for this action, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed form is necessary for the proper performance of the functions of the Agency, including whether the information EPA intends to collect will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 23, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E6-1511 Filed 2-2-06; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2006-0051; FRL-7761-2]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing

exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from January 1, 2006 thru January 13, 2006, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments, identified by the docket ID number EPA-HQ-OPPT-2006-0051 and the specific PMN number or TME number, must be received on or before March 6, 2006.

ADDRESSES: Comments/may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. 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 EPA-HQ-OPPT-2006-0051. 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 EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566-0280.

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/>.

EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005 by an enhanced federal-wide electronic docket management and comment system located at <http://www.regulations.gov/>. Follow the on-line instructions.

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 submit or 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.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. 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. EPA intends to work towards providing electronic access to all of the publicly