operations) must be filed in the United States Court of Appeals for the appropriate circuit by November 22, 1999. 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, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: September 3, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52, subpart V of chapter I, title 40 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 V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c) (137) and (138) as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(137) Revision to the Maryland State Implementation Plan submitted on April 7, 1998 by the Maryland Department of the Environment establishing reasonably available control technology (RACT) for two additional VOC source category under COMAR 26.11.19, ''Volatile Organic Compounds from Specific Processes.''

(i) Incorporation by reference.

(A) Letter dated April 7, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's air quality regulation COMAR 26.11.19, adopted by the Secretary of the Environment on July 15, 1997 and effective August 11, 1997.

(B) New regulations COMAR 26.11.19.22 ''Control of Volatile Organic Compounds from Vinegar Generators''.

(ii) Additional Material—Remainder of Maryland Department of the Environment's April 7, 1998 submittals pertaining to Vinegar Generators.

(138) Revision to the Maryland State Implementation Plan submitted on April 7, 1998 by the Maryland Department of the Environment establishing reasonably available control technology (RACT) for an additional VOC source category under COMAR 26.11.19, ''Volatile Organic Compounds from Specific Processes.''

(i) Incorporation by reference.

(A) Letter dated April 7, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's air quality regulation COMAR 26.11.19, adopted by the Secretary of the Environment on July 15, 1997 and effective August 11, 1997.

(B) New regulation COMAR 26.11.19.24 ''Control of Volatile Organic Compounds from Leather Coating Operations''.

(ii) Additional Material—Remainder of Maryland Department of the Environment's April 7, 1998 submittals pertaining to Leather Coating Operations.

[FR Doc. 99–24686 Filed 9–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA 013–MSWa; FRL–6439–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the California State Plan for implementing the emissions guidelines (EG) applicable to existing municipal solid waste (MSW) landfills. The Plan was submitted by the California Air Resources Board (CARB) for the State of California to satisfy requirements of section 111(d) of the Clean Air Act (the Act).

DATES: This direct final rule is effective on November 22, 1999 without further notice, unless EPA receives relevant adverse comments by October 25, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the submitted Plan and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted Plan are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Act, EPA has established procedures whereby States submit plans to control certain existing sources of ''designated pollutants.'' Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not ''criteria pollutants'' (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes EG in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the ''designated facility'' as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On March 12, 1996, EPA promulgated NSPS for new MSW landfills at 40 CFR part 60, subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) and EG for existing MSW landfills at 40 CFR part 60, subpart Cc (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (see 61 FR 9905). The pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOC), other organic compounds, methane, and HAPs. VOC emissions contribute to ozone formation which can result in adverse effects to

human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOC) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required within nine months after promulgation of subpart Cc (by December 12, 1996) to submit either a plan to implement and enforce the EG or, if there are no existing MSW landfills subject to the EG in the State, a negative declaration letter.

EPA published a direct final rulemaking on June 16, 1998, in which EPA amended 40 CFR part 60, subpart Cc (and subpart WWW) to add clarifying language, make editorial amendments, and to correct typographical errors (see 63 FR 32743). EPA published additional technical amendments and corrections on February 24, 1999 (see 64 FR 9258). These amendments did not change the submittal date or the requirements for State plans for existing MSW landfills.

On September 26, 1997, CARB submitted to EPA the California State Plan for implementing subpart Cc. CARB submitted amendments to the California State Plan on June 26, 1998; November 9, 1998; and July 14, 1999.

The submitted Plan controls existing MSW landfills in the following sixteen (16) air districts: Amador County Air Pollution Control District (APCD), Butte County Air Quality Management District (AQMD), Feather River AQMD, Glenn County APCD, Kern County APCD, Lake County AQMD, Monterey Bay Unified APCD, Placer County APCD, Sacramento Metropolitan AQMD, San Diego County APCD, Santa Barbara County APCD, Shasta County AQMD, South Coast AQMD, Tehama County APCD, Ventura County APCD, and Yolo-Solano AQMD.

Each of the following nine (9) districts submitted a negative declaration letter to CARB certifying that there are no existing MSW landfills in the district that are subject to the control requirements of the emission guidelines: Colusa County APCD, El Dorado County APCD, Great Basin Unified APCD, Lassen County APCD, Mariposa County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, and Tuolumne County APCD. Because these districts have no existing MSW landfills, they are not required to develop enforceable mechanisms to implement the EG.

The California State Plan, as submitted, does not apply to landfills in the following ten (10) air districts: Antelope Valley APCD, Bay Area AQMD, Calaveras County APCD, Imperial County APCD, Mendocino County AQMD, Modoc County APCD, Mojave Desert AQMD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, and Siskiyou County APCD. Existing landfills in these districts will be subject to the requirements of the Federal Plan upon its promulgation until EPA receives and approves each district's portion of the California State Plan.

The following provides a brief discussion of the requirements for an approvable State plan for existing MSW landfills and EPA's review of the California State Plan with respect to those requirements. A detailed discussion of the State Plan and EPA's evaluation can be found in the Technical Support Document for the California Plan (8/99).

II. Review of the California MSW Landfill Plan

EPA has reviewed the California section 111(d) plan for existing MSW landfills against the requirements of 40 CFR part 60, subparts B and Cc, as follows:

A. Identification of Enforceable State Mechanism for Implementing the EG

Subpart B at 40 CFR 60.24(a) requires that the section 111(d) plan include emissions standards, defined in 40 CFR 60.21(f) as ''a legally enforceable regulation setting forth an allowable rate of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions.'' In the State of California, local air quality management and air pollution control districts (districts) have primary responsibility for control of stationary air pollution sources, such as MSW landfills. Therefore, each district with designated facilities is required to develop a regulation or other enforceable mechanism to implement the EG. The districts in the following table have adopted local rules to control air emissions from existing landfills in their jurisdictions and thus, have met the requirement of 40 CFR 60.24(a) to have legally enforceable emission standards:

District name	Rule No.	Date of adoption
Amador County APCD	1000	February 25, 1997.
Butte County AQMD	246	January 15, 1998.
Feather River AQMD	3.18	June 2, 1997.
Glenn County APCD	104	May 18, 1999.
Kern County APCD	422.1	January 8, 1998.
Lake County AQMD	411	October 15, 1996.
Monterey Bay Unified APCD	437	October 16, 1996.
Placer County APCD	237	August 14, 1997.
Sacramento Metropolitan AQMD	485	November 6, 1997.
San Diego County APCD	59.1	June 17, 1998.
Santa Barbara County APCD	341	September 18, 1997.
Shasta County AQMD	3.29	February 25, 1997.
South Coast AQMD	1150.1	April 10, 1998.
Tehama County APCD	4.33	June 3, 1997.
Ventura County APCD	74.17.1	March 10, 1998.
Yolo-Solano AQMD	2.38	March 12, 1997.

B. Demonstration of Legal Authority

Subpart B at 40 CFR 60.26 requires that the section 111(d) plan demonstrate that the State has legal authority to adopt and implement the emission standards and compliance schedules. The State's Attorney General has certified that the districts have sufficient legal authority to adopt and enforce rules governing MSW landfills and that CARB has sufficient legal authority to develop this MSW landfill plan. The State statutes providing such authority are contained in the California Health and Safety Code (H&SC).

C. Inventory of Existing MSW Landfills in the State Affected by the State Plan

Subpart B at 40 CFR 60.25(a) requires that the section 111(d) plan include a complete source inventory of all designated facilities regulated by the EG: existing MSW landfills (i.e., those MSW landfills that constructed, reconstructed, or modified prior to May 30, 1991) that have accepted waste since November 8, 1987 or have additional capacity for future waste deposition (see 40 CFR 60.32c(a)(1)). CARB has submitted an inventory of all existing MSW landfills in California as part of the State Plan.

D. Inventory of Emissions From Existing MSW Landfills in the State

Subpart B at 40 CFR 60.25(a) requires that the 111(d) plan include an emissions inventory that estimates emissions of the designated pollutant regulated by the EG: NMOC. CARB has submitted an estimate of annual NMOC emissions from the landfills in the source inventory as part of the State Plan. CARB used the Landfill Air Emissions Estimation Model and AP–42 emission factors to estimate the NMOC emissions.

E. Emission Standards for MSW Landfills

Subpart B at 40 CFR 60.24(c) specifies that the State plan must include emission standards that are no less stringent than the EG (except as specified in 40 CFR 60.24(f) which allows for less stringent emission limitations on a case-by-case basis if certain conditions are met). In general, the districts' regulations require existing MSW landfills to comply with the same equipment design criteria and level of control as prescribed in subpart Cc. In some cases, district rules contain emission standards that are more stringent than subpart Cc, as allowed by 40 CFR 60.24(g). These requirements are discussed in more detail in EPA's evaluation report.

In addition, most of the rules in the California State Plan incorporate the wording in 40 CFR 60.33c(a)(2) as published on March 16, 1996 and, therefore, may be construed as more stringent than Subpart Cc, as amended. The June 16, 1998 amendments changed the wording ''or'' in 40 CFR 60.33c(a)(2) to ''and'' to clarify that if a landfill design capacity is less than either 2.5 million Mg or 2.5 million cubic meters, the landfill is exempt from all provisions of subpart Cc except the requirement to submit a design capacity report. This issue is discussed in more detail in EPA's evaluation report.

Because the California State Plan contains emission standards that are no less stringent than the EG, EPA has determined that the Plan meets the requirements of 60.24(c).

F. A Process for State Review and Approval of Site-Specific Gas Collection and Control System Design Plans

Subpart Cc at 40 CFR 60.33c(b) requires State plans to include a process for State review and approval of site-specific design plans for required gas collection and control systems. The process for district review and approval of site-specific gas collection and control systems is specified in the State Plan. Thus, California's section 111(d) plan adequately addresses this requirement.

G. Compliance Schedules

The State's section 111(d) plan must include a compliance schedule that owners and operators of affected MSW landfills must meet in complying with the requirements of the plan. Subpart Cc at 40 CFR 60.36c provides that planning, awarding of contracts, and installation of air emission collection and control equipment capable of meeting the EG must be accomplished within 30 months of the date on which the NMOC emission rate equals or exceeds 50 megagrams per year. The district regulations contain the same compliance schedule as subpart Cc.

H. Testing, Monitoring, Recordkeeping and Reporting Requirements

Subpart Cc at 40 CFR 60.34c specifies the testing and monitoring provisions that State plans must include (60.34c specifically refers to the requirements found in 40 CFR 60.754 to 60.756), and 40 CFR 60.35c specifies the reporting and recordkeeping requirements (60.35c refers to the requirements found in 40 CFR 60.757 and 60.758). The California district landfill regulations incorporate by reference the requirements found in 40 CFR 60.754 to 60.758. Thus, the State Plan satisfies the requirements of 40 CFR 60.34c and 60.35c.

I. A Record of Public Hearings on the State Plan

Subpart B at 40 CFR 60.23 contains the requirements for public hearings that must be met by the State in adopting a section 111(d) plan. California fulfilled the public process requirements for section 111(d) State Plans through the district rulemaking procedures. CARB included documents in the Plan submittal demonstrating that the districts complied with these requirements, as well as the State's administrative procedures. Therefore, EPA finds that California has met this requirement.

J. Submittal of Annual State Progress Reports to EPA

Subpart B at 40 CFR 60.25(e) and (f) requires States to submit to EPA annual reports on the progress of plan enforcement. The first progress report must be submitted by the State one year after EPA approval of the State plan. California committed in its section 111(d) plan to submit annual progress reports to EPA through the reporting of data to CEIDARS II and AIRS/AFS. Therefore, EPA finds that California has adequately met this requirement.

In summary, EPA finds that the California State Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc.

III. Final Action

Based on the rationale discussed above, EPA is approving the State of California section 111(d) plan for the control of landfill gas emissions from existing MSW landfills.[1] As provided by 40 CFR 60.28(c), any revisions to the California State Plan or associated regulations will not be considered part of the applicable plan until submitted by the CARB in accordance with 40 CFR 60.28 (a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action 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 111(d) plan should relevant adverse or critical comments be filed. This rule will be effective November 22, 1999 without

[1] The State did not submit evidence of authority to regulate existing MSW landfills in Indian Country; therefore, EPA is not approving this Plan as it relates to those sources.

further notice unless the Agency receives relevant adverse comments by October 25, 1999.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 22, 1999 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any section 111(d) plan. Each request for revision to the section 111(d) plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because State Plan approvals under section 111(d) of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

G. 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 to 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).

H. 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 November 22, 1999. 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Non-methane organic compounds, Methane, Municipal solid waste landfills, Reporting and recordkeeping requirements.

Dated: September 10, 1999.

David P. Howekamp,

Acting Regional Administrator, Region IX.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. The heading of subpart F is revised to read as follows:

Subpart F—California

3. Subpart F is amended by adding a new undesignated center heading preceding § 62.1100 to read as follows:

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

4. Section 62.1100 is amended by adding and reserving paragraphs (b)(4) and (c)(4) and by adding paragraphs (b)(5) and (c)(5) to read as follows:

§ 62.1100 Identification of plan.

* * * * *

(b) * * *

(4) [Reserved]

(5) State of California's Section 111(d) Plan For Existing Municipal Solid Waste Landfills, submitted on September 26, 1997, June 26, 1998, November 9, 1998, and July 14, 1999 by the California Air Resources Board.

(c) * * *

(4) [Reserved]

(5) Existing municipal solid waste landfills.

5. Subpart F is amended by adding a new undesignated center heading and § 62.1115 to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.1115 Identification of sources.

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 99–24257 Filed 9–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300920; FRL–6381–9]

RIN 2070–AB78

Spinosad; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of spinosad in or on succulent shelled pea and bean legumes at 0.02 parts per million (ppm), dried shell pea and bean (except soybean) legumes at 0.02 ppm, and wheat (flour, bran, middlings, and shorts, only) at 0.15 ppm; cucurbit vegetables at 0.30 ppm; edible-podded legume vegetables at 0.30 ppm; soybeans at 0.02 ppm; stone fruits at 0.20 ppm; corn, grain, including field, and pop at 0.020 ppm; sorghum, grain at 1.0 ppm; wheat, grain at 0.020 ppm; forage, fodder, hay, stover, and straw of cereal grains at 1.0 ppm; aspirated grain fractions at 20 ppm; poultry, fat at 0.20 ppm; and poultry, meat, meat byproducts, and eggs at 0.020 ppm. This regulation increases current livestock residue tolerances as follows: meat of cattle, goats, hogs, horses and sheep from 0.04 to 0.15 ppm, meat by-products of cattle, goats, hogs, horses and sheep from 0.20 ppm to 1.0 ppm; fat of cattle, goats, hogs, horses and sheep from 0.6 ppm to 3.5 ppm; milk, whole from 0.04 ppm to 0.50 ppm and milk fat from 0.5 ppm to 5 ppm. This regulation also removes time limitations for residues of spinosad on corn, sweet; kernel plus cob with husk removed, stover and forage, which expire on June 20, 2001 and raises the tolerance on corn, sweet, forage to 1.0 ppm. Dow AgroSciences requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 23, 1999. Objections and requests for hearings, identified by docket control number OPP–300920, must be received by EPA on or before November 22, 1999.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300920 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: William Sproat, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 703-308-8587; and e-mail address: sproat.william@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311	Crop production Animal production Food manufacturing