

quit TTN BBS with the <G>oodbye command.

IV. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate with estimated costs to the private sector of \$100 million or more, or to state, local, or tribal governments of \$100 million or more in the aggregate. 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 this direct final rule imposes no new federal requirements and does not include any federal mandate with costs to the private sector or to state, local, or tribal governments. Therefore, the Administrator certifies that this direct final rule does not require a budgetary impact statement.

V. Judicial Review

Under section 307(b) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements that are the subject of this document may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Gasoline, Motor vehicle pollution.

Dated: June 12, 1996.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 80 of the *Code of Federal Regulations*, is amended as set forth below.

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a), Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.22 is amended by revising paragraph (j) to read as follows:

§ 80.22 Controls and prohibitions.

* * * * *

(j) After July 1, 1996 every retailer and wholesale purchaser-consumer handling over 10,000 gallons (37,854 liters) of fuel per month shall limit each nozzle from which gasoline or methanol is introduced into motor vehicles to a maximum fuel flow rate not to exceed 10 gallons per minute (37.9 liters per minute). The flow rate may be controlled through any means in the pump/dispenser system, provided the nozzle flow rate does not exceed 10 gallons per minute (37.9 liters per minute). After January 1, 1998 this requirement applies to every retailer and wholesale purchaser-consumer. Any dispensing pump that is dedicated exclusively to heavy-duty vehicles, boats, or airplanes is exempt from this requirement.

[FR Doc. 96-16205 Filed 6-25-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 152

[OPP-300110; FRL-5372-8]

RIN 2070-AC98

Notification Procedures for Pesticide Registration Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends EPA's notification and non-notification procedures for certain registration modifications. The rule no longer specifies the types of modifications that may be accomplished by notification or without notification to EPA. The rule provides that EPA will issue procedures for notification and non-notification. EPA will thereafter designate modifications that may be accomplished through the notification and non-notification procedures by notice to registrants. This revision will streamline the regulations by eliminating listings of very specific modifications, and provide greater flexibility to expand the scope of the notification/non-notification process.

DATES: This action is effective on August 26, 1996 unless adverse comments are received by July 26, 1996. If the final rule is withdrawn, timely notice will be published in the Federal Register.

ADDRESSES: The Agency invites any interested person to submit written

comments to: By mail: Program Resources Section, Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-30110." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VI. of this preamble.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 713, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Telephone: 703-305-5448, e-mail: kempter.carlton@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated entities. Entities potentially regulated by this action are pesticide producers who register pesticides.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether you are subject to regulation by this action, you should carefully examine 40 CFR 152.44.

I. Background

In March 1995, President Clinton announced a new initiative under which all Federal agencies, including EPA, would review their existing regulations. This Regulatory Reinvention initiative is intended to identify opportunities for streamlining, simplifying, reducing reporting and recordkeeping burdens, and promoting partnerships and stakeholder involvement in EPA's regulation review.

In connection with this initiative, EPA has identified changes which could be made to its processes for reviewing and approving revisions to pesticide registration. One of these changes would be to give EPA greater flexibility to permit certain low risk, minor modifications to be accomplished by notification or without notification rather than by the amendment process. Today's action implements those changes to the regulations to provide this flexibility.

The provisions in today's rule affect the process through which the Agency approves or permits certain minor modifications to pesticide registrations and do not affect the substance of the types of amendments which may be made to pesticide registrations. Because EPA views this rule as non-controversial, it anticipates no adverse comments and is therefore publishing this action without prior proposal. If EPA receives such comments, the final rule will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. The public comments received will then be addressed in a subsequent final rule or EPA will seek additional comments. Any parties interested in commenting on this action should do so at this time in accordance with the instructions set forth above.

II. Rule Changes

The significant portion of today's action amends existing 40 CFR 152.46. Section 152.46 currently provides that the Agency will permit registrants to make certain minor changes to their registrations without prior Agency review and approval. Section 152.46(a) lists seven separate registration actions that may be accomplished by notifying the Agency of those changes before the product is distributed or sold. These actions are commonly referred to as "notifications." Section 152.46(b) allows five other minor changes in labeling or packaging to be made without notification to the Agency. These actions are commonly referred to as "non-notifications."

This rule amends § 152.46 so that it no longer lists the specific actions that may be accomplished through notification or non-notification. Rather, the rule as amended today provides that EPA will issue procedures, following an opportunity for public comment, specifying the types of registration amendments that may be accomplished by notification or non-notification. In fact, these procedures were issued following an opportunity for public comment in advance of this rule on May 31, 1995, as Pesticide Regulation (PR) Notice 95-2, which clarifies and expands the types of registration actions that may be made through notification. If EPA changes the procedures, it will issue a revised PR Notice (first in draft for public comment, then final) and a technical amendment to the rule.

As with current § 152.46(a), today's amendment continues to provide that upon the Agency's receipt of a notification, a registrant may distribute or sell the modified product. Similarly, as with current § 152.46(b), if the product is modified under the "non-notification" provisions of that section, a registrant is not required to notify the Agency before it distributes or sells the modified product.

In addition, consistent with the current § 152.46(a), § 152.46(a)(2) of today's amendments provides that EPA may, upon receipt of a notification, require the registrant to submit an application for amended registration. If it does so, the Agency will notify the registrant and request that the registrant submit an application for amended registration. If the registrant thereafter fails to submit an application, the Agency may determine that the product is not in compliance with the requirements of the Act.

It is important to note that the provision of § 152.46(a)(2) described above, as with current § 152.46, only applies to those notifications that are consistent with EPA instructions. It reserves EPA's right to request registrants to submit applications for amended registration for modifications that could otherwise be made through notification. It was not intended and does not provide registrants with a means to attempt to make modifications to registrations by notification that are not permitted by Agency procedures. Accordingly, new § 152.46(c) is intended to clarify this point by providing that if a registrant modifies a product by notification or non-notification in a manner inconsistent with § 152.46(a) and (b) and the procedures issued thereunder, the Agency may initiate regulatory and/or enforcement action without first

providing the registrant with an opportunity to submit an application for amended registration.

III. Statutory Review Requirements

In accordance with FIFRA section 25(a), a copy of this rule was provided to appropriate Congressional Committees, the U.S. Department of Agriculture and the FIFRA Scientific Advisory Panel.

IV. Public Record

A record has been established for this rule under docket number "OPP-30110" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the rule as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

V. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this rule is not "significant" and is not subject to OMB review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), EPA has determined that this regulatory action does not impose any adverse economic impacts on small entities. Any comments regarding the economic

impacts that this regulatory action may impose on small entities should be submitted to the Agency at the address listed under the ADDRESSES unit.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB Control No. 2070-0060. A copy may be obtained from the Information Policy Branch (7405), EPA, 401 M St., SW., Washington, DC 20460, or by calling (202) 260-2744.

D. Unfunded Mandates

Under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), this action does not result in the expenditure of \$100 million or more by any State, local or tribal governments, or by anyone in the private sector, and will not result in any "unfunded mandates" as defined by Title II. The costs associated with this action are described in the Executive Order 12866 unit above.

Under Executive Order 12875 (58 FR 58093, October 28, 1993), EPA must consult with representatives of affected State, local, and tribal governments before promulgating a discretionary regulation containing an unfunded mandate. This action does not contain any mandates on States, localities or tribes and is therefore not subject to the requirements of Executive Order 12875.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in Part 152

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

Dated: June 20, 1996.

Carol M. Browner,
Administrator.

Therefore, 40 CFR part 152 is amended as follows:

PART 152—[AMENDED]

1. The authority citation for part 152 continues to read as follows:

Authority: 7 U.S.C. 136-136y; subpart U is also issued under 31 U.S.C. 9701.

2. Section 152.44 is amended by adding new paragraph (b)(4), to read as follows:

§ 152.44 Applications for amended registration.

* * * * *

(b) * * *

(4) Permit an applicant to modify a registration by notification or non-notification in accordance with § 152.46.

3. Section 152.46 is revised to read as follows:

§ 152.46 Notification and non-notification changes to registrations.

(a) *Changes permitted by notification.*

(1) EPA may determine that certain minor modifications to registration having no potential to cause unreasonable adverse effects to the environment may be accomplished by notification to the Agency, without requiring that the registrant obtain Agency approval. If EPA so determines, it will issue procedures following an opportunity for public comment describing the types of modifications permitted by notification and any conditions and procedures for submitting notifications.

(2) A registrant may modify a registration consistent with paragraph (a)(1) of this section and any procedures issued thereunder and distribute or sell the modified product as soon as the Agency has received the notification. Based upon the notification, the Agency may require that the registrant submit an application for amended registration. If it does so, the Agency will notify the registrant and state its reasons for requiring an application for amended registration. Thereafter, if the registrant fails to submit an application the Agency may determine that the product is not in compliance with the requirements of the Act. Notification under this paragraph is considered a report filed under the Act for the purposes of FIFRA section 12(a)(2)(M).

(b) *Changes permitted without notification.* EPA may determine that certain minor modifications to registration having no potential to cause unreasonable adverse effects to the

environment may be accomplished without notification to or approval by the Agency. If EPA so determines, it will issue procedures following an opportunity for public comment describing the types of amendments permitted without notification (also known as non-notification). A registrant may distribute or sell a product changed in a manner consistent with such procedures without notification to or approval by the Agency.

(c) *Effect of non-compliance.*

Notwithstanding any other provision of this section, if the Agency determines that a product has been modified through notification or without notification in a manner inconsistent with paragraphs (a) or (b) of this section and any procedures issued thereunder, the Agency may initiate regulatory and/or enforcement action without first providing the registrant with an opportunity to submit an application for amended registration.

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40 CFR Parts 180 and 185

[PP 4F4380 and FAP 4H5703/R2240; FRL-5369-7]

RIN 2070-AB78

Flutolanil; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a time-limited tolerance, to expire on April 30, 1998 for combined residues of the fungicide flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl) benzoic acid and calculated as flutolanil in or on the raw agricultural commodities rice grain at 2.0 ppm and rice straw at 8.0 ppm; and in or on the processed food commodities rice hull at 7.0 ppm and rice bran at 3.0 ppm, when present therein as a result of application of the fungicide to growing crops. The regulation to establish a maximum permissible level for residues of the fungicide was requested in a petition submitted by the AgrEvo USA Company.

EFFECTIVE DATE: This regulation became effective April 30, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4F4380, FAP 4H5703/R2240], may be submitted