

SUPPLEMENTARY INFORMATION: The Newburyport US1 Bridge has a vertical clearance in the closed position of 35 feet at mean high water and 42 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.605(a).

The bridge owner, Massachusetts Highway Department (MHD), requested a temporary deviation from the drawbridge operation regulations to facilitate emergency structural maintenance, the replacement of the concrete filled grid deck on the southeast bascule leaf, at the bridge. The southeast bascule leaf must remain in the closed position to perform these repairs. The north bascule leaf will open fully for the passage of vessel traffic during these repairs.

The Newburyport US1 Bridge has not received any requests to open during the month of March for the past seven years.

The bridge owner did not provide the required thirty-day notice to the Coast Guard for this deviation; however, this deviation was approved because the repairs are necessary repairs that must be performed with undue delay in order to assure the continued safe reliable operation of the bridge.

Under this temporary deviation the Newburyport US1 Bridge may keep the southeast bascule leaf in the closed position from March 15, 2004 through April 2, 2004. The north bascule leaf will continue to open for the passage of vessel traffic according to the existing drawbridge operation regulations which require a one-hour advance notice by calling the number posted at the bridge.

This deviation from the operating regulations is authorized under 33 CFR 117.35(b), and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: March 5, 2004.

Vivien S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-03-025]

RIN 1625-AA00

Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project; Correction

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; correction.

SUMMARY: The Coast Guard published in the **Federal Register** of February 5, 2004, a temporary final rule concerning the safety zone for the new Tacoma Narrows Bridge construction project. The wording in § 165.T13-016 Background and Purpose is being corrected to accurately reflect the location of the new piers. This document makes the clarification.

DATES: The temporary final rule reinstated and revised in the **Federal Register** (69 FR 5465) was effective on February 6, 2004. This correction is effective on March 1, 2004.

FOR FURTHER INFORMATION CONTACT: LTJG. Tyana Thayer c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217-6222.

SUPPLEMENTARY INFORMATION: The Coast Guard published a document in the **Federal Register** on February 5, 2004 (69 FR 5465). In that document, the location described in Background and Purpose was inaccurate. This correction amends the regulatory text published on February 5, 2004. In rule FR Doc 04-2514 published on February 5, 2004 (69 FR 5465), make the following correction. On 69 FR page 5465, column 3 in Background and Purpose remove the word "north" and add in its place the word "south."

Dated: March 1, 2004.

Danny Ellis,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2004-0084; FRL-7349-7]

Pesticide Tolerance Fees; Suspension of Collection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its regulations governing payment of fees for tolerance petitions and related activities to reflect the statutory requirement that the fees for tolerance petitions and related tolerance activities will not be collected during the period beginning on October 1, 2003, and ending September 30, 2008. Under new legislation signed by the President on January 23, 2004, the collection of such fees is prohibited until after September 30, 2008. Collection is expected to resume on October 1, 2008. EPA is issuing this final rule without notice and opportunity for public comment because there is good cause to do so within the meaning of the Administrative Procedure Act (APA).

DATES: This final rule is effective March 11, 2004.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5944; fax number: (703) 305-5884; e-mail address: frane.jean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you register pesticide products for food or feed uses, or submit petitions for pesticide tolerances. Additionally, this action may be of interest to agricultural producers, food manufacturers, or other pesticide manufacturers. Potentially affected categories and entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food processing (NAICS 311)
- Pesticide manufacturers (NAICS

32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American

Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the provisions in Unit II. 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 OPP-2004-0084. 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

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/>. A frequently updated electronic version of 40 CFR part 180 is available at <http://www.gpoaccess.gov/ecfr/>, a beta site currently under development.

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 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.

II. Current Tolerance Fees

Under the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a), EPA establishes pesticide tolerances and exemptions from the requirement of a tolerance for pesticide chemical residues in food and feed. Under section 408(d) of FFDCA, tolerances are established upon the petition of interested parties, such as pesticide producers or user groups. Under section 408(e) of FFDCA, EPA may also establish tolerances on its own initiative.

Section 408(m) of FFDCA requires EPA to establish a fee system to support the tolerance program. Prior to the 1996 enactment of amendments to the FFDCA under the Food Quality Protection Act, this same authority was found in section 408(o) of FFDCA. Under that prior authority, EPA issued regulations establishing fees for pesticide petitions. The primary fee regulations are located in 40 CFR 180.33, and are referred to in § 180.31 (pertaining to temporary tolerances) and in § 180.32 (pertaining to amendment and repeal of tolerances). The fee regulations are updated annually to reflect the cost of government salary increases.

In general, under § 180.33, fees are prescribed for the submission and review of petitions for a permanent tolerance or exemption, temporary tolerance or exemption, or amendment or repeal (revocation) of a tolerance. Fees are also prescribed for the filing of objections to a tolerance or exemption, and for the costs of preparing a record for judicial review of an Agency order. Sections 180.31 and 180.32 cross-reference the fees in § 180.33.

III. New Registration Service Fees and Suspension of Collection of Current Tolerance Fees

On January 23, 2004, President Bush signed into law the Consolidated Appropriations Act of 2004. This bill included provisions entitled the “Pesticide Registration Improvement Act of 2003,” which amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), among other things, to establish a registration service fee system for covered pesticide registration applications and certain other registration-related actions.

Section 501(d)(2) of the Consolidated Appropriations Act of 2004 prohibits EPA from collecting any tolerance fees under section 408(m)(1) of FFDCA beginning on October 1, 2003, and ending on September 30, 2008. Accordingly, EPA will no longer collect fees as prescribed in 40 CFR 180.31, 180.32, or 180.33, for any tolerance

petition, or petition-associated tolerance activity covered by section 408(m)(1) of FFDCA.

IV. Good Cause Exemption under the APA

EPA has determined that notice and comment on this amendment to the tolerance fee regulations is not required. Under the APA (5 U.S.C. 553(b)(3)(B)), a rule is exempt from notice and public comments requirements “when the agency for a good cause finds (and incorporates the finding and a brief statements of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

Section 501(d)(2) of the Consolidated Appropriations Act of 2004 suspends the collection of fees under the authority of section 408(m)(1) of FFDCA. Accordingly, this rule is merely a housekeeping measure that conforms the regulatory text to the statute. Because the requirement is imposed by statute, the revisions to the regulatory text do not have any substantive effect.

Since the tolerance fee prohibition is statutory, public comment could not change the result dictated by the statute, and is therefore unnecessary and impracticable. In addition, delay in issuing this rule amending the existing regulations could result in confusion on the part of potential petitioners as to what fees are required. Notice and comment would therefore be contrary to the public interest. Accordingly, EPA has concluded that notice and comment on this rule would be impracticable, unnecessary, and contrary to the public interest, within the meaning of 5 U.S.C. 553(b)(3)(B).

EPA also believes that there is good cause to make this rule effective immediately, rather than effective within 30 days, within the meaning of 5 U.S.C. 553(d)(3). For the reasons stated above, EPA has determined that it is unnecessary, impracticable and contrary to the public interest to delay revisions to the text of the regulations to incorporate the statutory requirement that the collection of such fees be suspended. In addition, EPA has balanced the necessity for immediate implementation against principles of fundamental fairness, which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of this rule. In so doing, EPA has concluded that, because the fee suspension is imposed by statute and is effective on October 1, 2003, the benefit to the public of making conforming changes to the regulatory text immediately outweighs the need, if

any, to give affected parties time to adjust their behavior accordingly. Indeed, EPA has determined that, on balance, making this rule effective immediately is in the public interest and affected parties will better be served by the avoidance of confusion (as a result of a discrepancy between the statute and the regulatory text) with regard to such fees. Thus, EPA has concluded that good cause exists to make this rule effective immediately, within the meaning of 5 U.S.C. 553(d)(3).

V. Statutory and Executive Order Reviews

This final rule merely conforms the codified regulatory text to the terms of the recently enacted statute. Because the prohibition to collect the tolerance fees in the regulation is imposed by statute, the revisions to the regulatory text do not have any substantive effect. As such, under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to OMB review. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Because this action is not subject to notice and comment requirements under the APA or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does this action significantly or uniquely affect small governments. This rule does not have tribal implications, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). This action will not have federalism implications, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because it is not economically significant under Executive Order 12866. This action is not subject to Executive Order 13211, *Actions concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

VI. Congressional Review Act

The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*) 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. Section 808 of the CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 11, 2004. 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: March 11, 2004.

Susan B. Hazen,

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

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321q, 346a and 371.

■ 2. In § 180.31, paragraph (b)(1) is revised to read as follows:

§ 180.31 Temporary tolerances.

* * * * *

(b) (1) A request for a temporary tolerance or a temporary exemption from a tolerance by a person who has obtained an experimental permit for a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act shall be accompanied by a copy of such experimental permit, such data as are available on subjects outlined in clauses (A), (B), (C), (D), (E), (F), and (G)

of section 408(d)(1) of FFDCA, and an advance deposit to cover fees as provided in § 180.33(d), except that no fee under this section shall be levied during the period beginning on October 1, 2003, and ending on September 30, 2008.

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■ 3. In § 180.32, paragraph (a) is revised to read as follows:

§ 180.32 Procedure for amending and repealing tolerances or exemptions from tolerances.

(a) The Administrator on his own initiative or on request from an interested person furnishing reasonable ground therefor, may propose the issuance of a regulation amending or repealing a tolerance for a pesticide chemical on one or more raw agricultural commodities or granting or repealing an exemption from tolerance for such chemical. Requests for such amendment or repeal shall be made in writing and be accompanied by an advance deposit to cover fees as provided in § 180.33, except that no fee under this section shall be levied during the period beginning on October 1, 2003, and ending on September 30, 2008.

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■ 4. Section 180.33 is amended by adding new paragraph (p) to read as follows:

§ 180.33 Fees.

* * * * *

(p) No fee required by this section shall be levied during the period beginning on October 1, 2003, and ending September 30, 2008.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7633-2]

Arizona: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On October 27, 2000, we published an immediate final rule at 65 FR 64369 to authorize revisions to Arizona's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). At that time, we determined that the identified revisions to Arizona's hazardous waste program