

consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020) (FRL-5753-1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of the proposed rule, as mentioned in Unit II.A.) Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food

processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

#### V. Congressional Review Act

The Congressional Review Act, 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 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 this final rule in the **Federal Register**. This final rule 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: October 23, 2009.

**Steven Bradbury,**

*Acting Director, Office of Pesticide Programs.*

■ 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. 321(q), 346a and 371

#### § 180.315 [Amended]

■ 2. Section 180.315 is amended by removing the entries "cucumber," "eggplant," and "melon" from the table in paragraph (a).

[FR Doc. E9-26603 Filed 11-03-09; 8:45 am]

**BILLING CODE 6560-50-S**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[EPA-HQ-OPP-2009-0478; FRL-8796-3]

#### Certain Polyurethane Polymer; Tolerance Exemption

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl), when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl), on food or feed commodities.

**DATES:** This regulation is effective November 4, 2009. Objections and requests for hearings must be received on or before January 4, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket

identification (ID) number EPA-HQ-OPP-2009-0478. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:**

Elizabeth Fertich, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8560; e-mail address: [fertich.elizabeth@epa.gov](mailto:fertich.elizabeth@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Electronic Access to other Related Information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at <http://www.gpoaccess.gov/ecfr>.

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

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2009-0478 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 4, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2009-0478, by one of the following methods.

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

•*Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

•*Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

**II. Background and Statutory Findings**

In the **Federal Register** of September 4, 2009 (74 FR 45848) (FRL-8434-4), EPA issued a notice pursuant to section

408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 9E7575) filed by BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl]; CAS Reg. No. 1147260-65-8. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any substantive comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue..." and specifies factors EPA is to consider in establishing an exemption.

**III. Risk Assessment and Statutory Findings**

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other

exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl] conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl] meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl].

#### IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl] could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl] is 1,900 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-

ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl] conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

#### V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider "available information" concerning the cumulative effects of a particular chemical's residues and "other substances that have a common mechanism of toxicity." For the purposes of this tolerance action, EPA has not assumed that carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly[oxy-1,2-ethanediyl] has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative>.

#### VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1),

ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl), EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

## VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl).

## VIII. Other Considerations

### A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

### B. International Tolerances

The Agency is not aware of any country requiring a tolerance for carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl) nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

## IX. Conclusion

Accordingly, EPA finds that exempting residues of carbonic acid, diethyl ester, polymer with  $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with  $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl) from the requirement of a tolerance will be safe.

## X. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of

FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts on local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates

Reform Act of 1995 (UMRA) (Pub. L. 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

## XI. Congressional Review Act

The Congressional Review Act, 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 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 this rule in the **Federal Register**. This rule 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: October 23, 2009.

**Daniel J. Rosenblatt,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

■ 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. 321(q), 346a and 371.

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer to read as follows:

**§ 180.960 Polymers; exemptions from the requirement of a tolerance.**

| Polymer                                                                                                                                                                                                                                                                                                                                                                       | CAS No.      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| * * *                                                                                                                                                                                                                                                                                                                                                                         | * *          |
| Carbonic acid, diethyl ester, polymer with $\alpha$ -hydro- $\omega$ -hydroxypoly[oxy(methyl-1,2-ethanediyl)] ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), ester with $\alpha$ -[[[5-(carboxyamino)-1,3,3-trimethylcyclohexyl]methyl]amino]carbonyl]- $\omega$ -methoxypoly(oxy-1,2-ethanediyl), minimum number average molecular weight (in amu), 1,900 ..... | 1147260-65-8 |
| * * *                                                                                                                                                                                                                                                                                                                                                                         | * *          |

[FR Doc. E9-26608 Filed 11-03-09; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300****[EPA-HQ-SFUND-2009-0062, EPA-HQ-SFUND-2009-0066, EPA-HQ-SFUND-2008-0584; FRL-8977-5]****RIN 2050-AD75****National Priorities List, Final Rule No. 48****AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds three sites to the NPL, all to the General Superfund Section.

**DATES:** *Effective Date:* The effective date for this amendment to the NCP is December 4, 2009.

**ADDRESSES:** For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, "Availability of Information to the Public" in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Terry Jeng, phone: (703) 603-8852, email: [jeng.terry@epa.gov](mailto:jeng.terry@epa.gov), Site Assessment and Remedy Decisions Branch; Assessment and Remediation Division; Office of Superfund Remediation and Technology Innovation (mail code 5204P); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

**SUPPLEMENTARY INFORMATION:****Table Of Contents**

- I. Background
  - A. What Are CERCLA and SARA?
  - B. What Is the NCP?
  - C. What Is the National Priorities List (NPL)?
  - D. How Are Sites Listed on the NPL?
  - E. What Happens to Sites on the NPL?
  - F. Does the NPL Define the Boundaries of Sites?
  - G. How Are Sites Removed From the NPL?
  - H. May EPA Delete Portions of Sites From the NPL as They Are Cleaned Up?
  - I. What Is the Construction Completion List (CCL)?
  - J. What Is the Sitewide Ready for Anticipated Use Measure?
- II. Availability of Information to the Public
  - A. May I Review the Documents Relevant to This Final Rule?
  - B. What Documents Are Available for Review at the Headquarters Docket?
  - C. What Documents Are Available for Review at the Regional Dockets?
  - D. How Do I Access the Documents?
  - E. How May I Obtain a Current List of NPL Sites?
- III. Contents of This Final Rule
  - A. Additions to the NPL
  - B. What Did EPA Do With the Public Comments It Received?
- IV. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
    1. What Is Executive Order 12866?
    2. Is This Final Rule Subject to Executive Order 12866 Review?
  - B. Paperwork Reduction Act
    1. What Is the Paperwork Reduction Act?
    2. Does the Paperwork Reduction Act Apply to This Final Rule?
  - C. Regulatory Flexibility Act
    1. What Is the Regulatory Flexibility Act?
    2. How Has EPA Complied With the Regulatory Flexibility Act?
  - D. Unfunded Mandates Reform Act

1. What Is the Unfunded Mandates Reform Act (UMRA)?
2. Does UMRA Apply to This Final Rule?
- E. Executive Order 13132: Federalism
  1. What Is Executive Order 13132 and
  2. Is Executive Order 13132 Applicable to This Final Rule?
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  1. What Is Executive Order 13175?
  2. Does Executive Order 13175 Apply to This Final Rule?
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  1. What Is Executive Order 13045?
  2. Does Executive Order 13045 Apply to This Final Rule?
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Usage
 

Is This Rule Subject to Executive Order 13211?
- I. National Technology Transfer and Advancement Act
  1. What Is the National Technology Transfer and Advancement Act?
  2. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  1. What Is Executive Order 12898?
  2. Does Executive Order 12898 Apply to This Final Rule?
- K. Congressional Review Act
  1. Has EPA Submitted This Rule to Congress and the Government Accountability Office?
  2. Could the Effective Date of This Final Rule Change?
  3. What Could Cause a Change in the Effective Date of This Rule?

**I. Background****A. What Are CERCLA and SARA?**

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99-499, 100 Stat. 1613 *et seq.*

**B. What Is the NCP?**

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and