

voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate, and because tribes are not subject to implementation plan submittal deadlines that apply to states as a result of reclassifications.

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the 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” are defined in section 1(a) of 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.” Several Indian tribes have areas of Indian country located within the boundary of the San Diego County ozone nonattainment areas.

The EPA implements federal CAA programs, including reclassifications, in these areas of Indian country consistent with our discretionary authority under sections 301(a) and 301(d)(4) of the CAA. The EPA has concluded that this proposed rule might have tribal implications for the purposes of E.O. 13175 but would not impose substantial direct costs upon the tribes, nor would it preempt Tribal law. This proposed rule does affect implementation of new source review for new or modified major stationary sources proposed to be located in the areas of Indian country proposed for reclassification, and might affect projects proposed in these areas that require Federal permits, approvals, or funding. Such projects are subject to the requirements of the EPA’s General Conformity rule, and federal permits, approvals, or funding for the projects may be more difficult to obtain because of the lower de minimis thresholds triggered by reclassification.

Given the potential implications, the EPA contacted tribal officials early in the process of developing this proposed rule to provide an opportunity to have meaningful and timely input into its development. On December 11, 2020, we sent letters to leaders of the 17 tribal governments representing 18 areas of Indian country in the nonattainment area offering government-to-government consultation and seeking input on how we could best communicate with the tribes on this rulemaking effort. On January 12, 2021, we received a response from one tribe requesting a webinar on this matter on behalf of a

few tribes. We held this informational webinar on January 22, 2021. Additionally, we received responses from three tribes requesting formal government-to-government consultation. The consultation letters and the information and notes from the webinar and the three government-to-government consultations are included in the docket for this action. The EPA has carefully considered the views expressed by the Tribes.

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. This proposed reclassification action relates to ozone, a pollutant that is regional in nature, and is not the type of action that could result in the types of local impacts addressed in Executive Order 12898.

This proposed action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, nor on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This proposed action does not alter the relationship or the distribution of power and responsibilities established in the CAA.

This proposed rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because the EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation.

Reclassification actions do not involve technical standards and 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. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, National parks, Ozone, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 2, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 152

[EPA–HQ–OPP–2020–0537; FRL–10016–29]

RIN 2070–AK55

### Pesticides; Modification to the Minimum Risk Pesticide Listing Program and Other Exemptions Under FIFRA Section 25(b)

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

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) is soliciting public comments and suggestions about the petition process for exemptions regarding pesticides from registration and other requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), where the pesticides are determined to be of a character unnecessary to be subject to regulation under FIFRA. The Agency is considering streamlining the petition process and revisions to how the Agency evaluates the potential minimum risk active and inert substances, factors used in classes of exemptions, state implementation of the minimum risk program and the need for any future exemptions or modifications to current exemptions. EPA is also requesting comment on whether the Agency should consider amending existing exemptions or adding new classes of pesticidal substances for exemption, such as peat when used in septic filtration systems.

**DATES:** Comments must be received on or before July 7, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2020–0537, through the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute.

Due to public health concerns related to COVID-19, the EPA Docket Center and Reading Room are closed to the public with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Charles Smith, Acting Director  
Biopesticide and Pollution Prevention  
Division, (7509P), Office of Pesticide  
Programs, Environmental Protection  
Agency, 1200 Pennsylvania Ave. NW,  
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**SUPPLEMENTARY INFORMATION:**

**I. Executive Summary**

*A. Does this action apply to me?*

You may be affected by this action if you manufacture, distribute, sell, or use minimum risk pesticide products. EPA has promulgated several exemptions for pesticide products of a character not requiring regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These exemptions are codified in 40 CFR 152.25. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, rather it provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Pesticide and other agricultural chemical manufacturers (NAICS codes 325320 and 325311), as well as other manufacturers in similar industries such as animal feed (NAICS code 311119), cosmetics (NAICS code 325620), and soap and detergents (NAICS code 325611).
- Manufacturers who may also be distributors of these products, which includes farm supplies merchant wholesalers (NAICS code 424910), drug and druggists merchant wholesalers (NAICS code 424210), and motor vehicle supplies and new parts merchant wholesalers (NAICS code 423120).
- Retailers of minimum risk pesticide products (some of which may also be manufacturers), which includes nursery, garden center, and farm supply stores (NAICS code 444220), outdoor power equipment stores (NAICS code 444210), and supermarkets (NAICS code 445110).
- Users of minimum risk pesticide products, including the public in

general, as well as exterminating and pest control services (NAICS code 561710), landscaping services (NAICS code 561730), sports, and recreation institutions (NAICS code 611620), and child daycare services (NAICS code 624410). Many of these companies also manufacture minimum risk pesticide products.

- Government establishments engaged in regulation, licensing, and inspection (NAICS code 926150).
  - Sewage treatment facilities collecting, treating, and disposing waste through sewer systems or sewage treatment facilities, (NAICS code 221320).
  - Site Preparation Contractors NAICS code 238910; and septic tank pumping and cleaning services (NAICS 562991).
- If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What is the Agency's authority for this action?*

This advance notice of proposed rulemaking (ANPR) is issued under the authority of FIFRA, 7 U.S.C. 136 *et seq.*, particularly FIFRA sections 3 and 25. Exemptions to the requirements of FIFRA are issued under the authority of FIFRA section 25(b). Eligible products may be exempt from, among other things, registration requirements under FIFRA section 3.

*C. What action is the Agency taking?*

EPA is considering whether regulatory and policy changes are needed to improve the exemption provisions in order to make the implementation of the process and evaluation of the exemption provisions more efficient. This ANPR initiates the rulemaking process by specifically soliciting public comments and suggestions about the petition process for exemptions regarding pesticides from registration and other requirements under FIFRA section 25(b), where the pesticides are determined to be of a character unnecessary to be subject to regulation under FIFRA. The Agency is considering streamlining the petition process and revisions to how the Agency evaluates the potential minimum risk active and inert substances, factors used in classes of exemptions, state implementation of the minimum risk program and the need for any future exemptions or modifications to current exemptions. EPA is also requesting comment on whether the Agency should consider amending existing exemptions or adding new classes of pesticidal substances for

exemption, such as peat when used in septic filtration systems.

This ANPR asks the public to provide input on specific questions about the petition process and the evaluation of potential minimum risk active and inert substances, factors used in classes of exemptions listed at 40 CFR 152.25, state implementation of the minimum risk program and the need for any future exemptions or modifications to current exemptions. EPA is assessing whether changes to the exemption process could improve efficiency and enhance opportunities for reducing regulatory requirements.

EPA regulations at 40 CFR 152.20 provide certain exemptions for pesticides adequately regulated by another Federal agencies. 40 CFR 152.30 provides exemptions for pesticides that are context-specific (e.g., pesticides distributed or sold under an emergency exemption under FIFRA section 18); the exemptions in 40 CFR 152.30 are not limited to specific pesticides. Because the exemptions in 40 CFR 152.20 and 152.30 are in general not based on risk analysis of individual pesticides, they are not the subject of this ANPR.

*D. What are the incremental economic impacts of this action?*

This ANPR does not impose or propose any requirements, and instead seeks comments and suggestions that will help the Agency identify, develop and consider improvements to the FIFRA section 25(b) petition process and related requirements. If EPA decides to propose changes to the regulations, it will conduct the appropriate assessments of the costs and benefits of those changes and provide opportunities for public comment.

*E. What should I consider as I prepare my comments for EPA?*

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

## II. Request for Comment

EPA invites public suggestions for improving the exemption provisions in order to make the implementation of the process and evaluation of the exemption provisions more efficient. EPA is particularly interested in public feedback on the questions posed in this document regarding the implementation and evaluation of the exemption provisions of the Minimum Risk Pesticide Listing Program and the other exemptions codified at 40 CFR 152.25. Please provide EPA with your thoughts as well as a rationale supporting your suggestions. If you can, provide examples or describe situations. Commenters are encouraged to present any data or information that should be considered by EPA during the program review, and is particularly interested in information regarding the impacts of exemptions, both in terms of costs and costs savings. For instructions on how to submit comments see Unit I.E. and the **ADDRESSES** section of this document.

## III. Background

### A. Brief Summary of the EPA's Use of the Authority in FIFRA Section 25(b)

Under FIFRA section 25(b)(2), EPA may exempt from the requirements of FIFRA any pesticide that is "of a character unnecessary to be subject to [FIFRA]." Pursuant to this authority, in 1988 (53 FR 15952, May 4, 1988) (FRL-3266-9b), EPA promulgated 40 CFR 152.25(a) through (e) which provided the initial determinations that certain classes of pesticides would be exempt from FIFRA regulation. The classes include Treated articles or substances (40 CFR 152.25(a)), Pheromones and pheromone traps (40 CFR 152.25(b)), Preservatives for biological specimens (40 CFR 152.25(c)), Vitamin hormone products (40 CFR 152.25(d)) and Foods (40 CFR 152.25(e)). The final rule was amended in 1994 (59 FR 2751, January 19, 1994) (FRL-4744-6) to include Natural Cedar (40 CFR 152.25(f)).

In 1996, EPA promulgated 40 CFR 152.25(g), which exempted from FIFRA any pesticide product consisting solely of specified ingredients that EPA determined to pose minimum risk to humans and the environment (61 FR 8876, March 6, 1996) (FRL-4984-8). This provision was later redesignated as 40 CFR 152.25(f) (66 FR 64759, December 14, 2001) (FRL-6752-1). In 2001, EPA also moved provisions

related to vitamin hormone products to 40 CFR 152.6(f) (66 FR 64759, December 14, 2001) (FRL-6752-1). The exemption provision in what is now 40 CFR 152.25(f) was the start of the Minimum Risk Pesticide Listing Program, which covers the listing of active and inert ingredients as minimum risk substances that are available for use in minimum risk pesticide products. Currently, forty-four active ingredient substances and two hundred and eighty-seven inert ingredient substances, as well as commonly consumed food commodities, animal feed items, and edible fats and oils as described in 40 CFR 180.950 (a), (b) and (c), respectively, are included in the Minimum Risk Pesticide Listing Program.

The Minimum Risk Pesticide Listing Program (152.25(f)) has been amended several times over the years. The last amendment was in 2015 when EPA issued a final rulemaking entitled, *Pesticides; Revisions to Minimum Risk Exemption* (80 FR 80660) (FRL-9934-44) December 28, 2015). The 2015 amendment improved the clarity and transparency of the minimum risk exemption by codifying the inert ingredients list and by adding specific chemical identifiers, where available, for all eligible active and inert ingredients. The 2015 rule also modified the labeling requirements for the exemption to require products to list ingredients on the label with a designated label display name and to provide the producer's contact information on the product label. The specific chemical identifiers and the labeling changes were intended to make it easier for manufacturers, the public, and Federal, state, and tribal inspectors to determine the specific chemical substances that are permitted in minimum risk pesticide products and provide more consistent information for consumers.

In the March 1996 final rule, EPA wrote that "In developing its list of exempted substances, EPA applied certain factors. Consideration was given to such factors as: (1) Whether the pesticidal substance is widely available to the general public for other uses; (2) If it is a common food or constituent of a common food; (3) If it has a nontoxic mode of action; (4) If it is recognized by the Food and Drug Administration (FDA) as safe; (5) If there is no information showing significant adverse effects; (6) If its use pattern will result in significant exposure, and (7) If it is likely to be persistent in the environment." (61 FR 8876, March 6, 1996) (FRL-4984-8).

### B. Environmental Justice

Under EPA policy, environmental justice is "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." See <https://www.epa.gov/environmentaljustice>. In addition, Executive Order 12989 (59 FR 7629, February 16, 1994) directs agencies, to the greatest extent practicable and permitted by law, to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its actions on minority and low-income populations. EPA has not identified any such disproportionate effects from this action as specified in Executive Order 12898. This ANPR solicits comments from the public regarding pesticide exemptions under FIFRA and does not propose specific actions or regulatory changes. Comments from the public are a precursor to possible future action; before the development of regulatory options have been considered. The exemptions about which EPA is soliciting comment are intended to reduce the regulatory burden for pesticides with minimal impact on all communities, including low-income and minority populations. The Agency welcomes public input on the consideration of environmental justice concerns in the context of the issues raised in this ANPR. If and when the Agency proposes regulatory options regarding exemptions under FIFRA or the related procedures, EPA will seek additional input from the public, as appropriate.

### C. Petition Process and Rulemaking

Under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, the public can petition EPA ask the Agency to consider whether a new substance should be added to the list of active ingredients eligible for the minimum risk pesticide listing exemption in 40 CFR 152.25(f)(1) or the list of inert ingredients in 40 CFR 152.25(f)(2). EPA reviews the petition and may grant or deny the petition request. If the Agency decision is to grant the petition, EPA would generally publish in the **Federal Register** a proposed rule (also known as a Notice of Proposed Rulemaking or NPRM). Supporting documents for a proposed rule are made available in the corresponding official docket created for the rulemaking and available through the Federal eRulemaking Portal at <http://www.regulations.gov>. Once the

proposed rule publishes, the public has an opportunity to provide comments. EPA considers the comments received on the proposed rule, addressing comments and making revisions to the proposed revisions based on those comments, and issues a final rule. The rulemaking record is updated when the final rule publishes in the **Federal Register** and the regulatory provisions are codified in Title 40 of the Code of Federal Regulations (CFR). Petitions are considered by EPA on a case-by-case basis.

EPA invites the public to comment on the petition process and how it relates to the Minimum Risk Pesticide Program.

1. Do you have any suggestions for improving the processes for initiating a review of a substance or for implementing a decision that a substance may be used or may no longer be used in a minimum risk pesticide process? Please explain how changes could increase efficiencies.

2. Given the identified minimum risk characteristics of these products and anticipated low impacts on communities, are current approaches effective for seeking input from the public and stakeholders, including State local, Tribal, and territorial officials, scientists, labor unions, environmental advocates, and environmental justice organizations? Are there particular approaches that are more or less effective?

#### *D. Evaluation of Minimum Risk Pesticide Ingredients*

As described in Unit III.B., the public can petition EPA under the APA to request that the Agency consider whether a substance should be added to the list of active or inert ingredients eligible for inclusion in minimum risk pesticide products. To determine whether to grant or deny that petition, EPA applies the risk assessment factors described in the March 1996 final rule, as well as additional factors currently relevant to pesticide risk assessment. The risk factors from March 1996 include: (1) Whether the pesticidal substance is widely available to the general public for other uses; (2) If it is a common food or constituent of a common food; (3) If it has a nontoxic mode of action; (4) If it is recognized by the Food and Drug Administration (FDA) as safe; (5) If there is no information showing significant adverse effects; (6) If its use pattern will result in significant exposure, and (7) If it is likely to be persistent in the environment.

Currently, the EPA's pesticide registration risk assessment process considers the original seven factors

described in the previous paragraph as part of a weight-of-the evidence approach, but also routinely considers the following additional six factors to determine whether the substance in question: (1) Is likely to have carcinogenic or endocrine disruptor properties; (2) Is likely to cause human health developmental, reproductive, mutagenic, or neurotoxicity issues; (3) Is a known allergen or a known allergenic source or a potential allergen; (4) Is associated with developmental toxicity/adverse effects to mammals, birds, aquatic organisms, insects, plants; (5) Produces or could produce toxic degradates; and (6) Has the potential to be contaminated with toxic or allergenic impurities.

Environmental justice and pollution prevention directives will continue to be a part of the regulatory planning process for the Minimum Risk Pesticide Listing Program.

EPA invites the public to comment on the factors described in this unit that are used to evaluate substances for consideration under the Minimum Risk Pesticide Listing Program.

1. Considering the previous discussion, should the factors discussed above be considered in determining whether a substance should be exempted from FIFRA regulation via the minimum risk exemption?

2. How would these other factors be weighed in a minimum risk determination?

3. Are there other policies, that EPA should consider in determining whether a substance should be exempt from FIFRA regulation via the Minimum Risk Pesticide Listing Program? For example, should EPA consider additional environmental justice and pollution prevention policies?

4. When considering products that are a "minimum risk" to public health and the environment, should the product also be considered to be of low impact to all communities, including low-income and minority populations? Please explain why or why not.

#### *E. Exempted Classes of Pesticides*

In addition to substances that may be formulated into pesticide products, the regulations at 40 CFR 152.25 exempt several classes of pesticides from registration under FIFRA due to their unique and specific character. For example, under 40 CFR 152.25(b), pheromones need not be registered under FIFRA if, for example, they are formulated into traps. The pheromone compound itself must either be naturally produced by an arthropod or a synthetically produced compound which is identical or substantially

similar to the naturally produced pheromone with only slight variations to the compound as allowed by the regulation (40 CFR 152.25(b)(2) or (3)). EPA has determined that such products pose little risk to humans or the environment, as exposure is expected to be low and not likely distinguishable from the highest levels encountered naturally on days of heavy arthropod presence.

Another category, under 40 CFR 152.25(e), exempts from FIFRA registration products consisting only of natural cedar in certain forms (blocks, chips, shavings, needles, etc.), if the natural cedar meets certain criteria. To be eligible for this exemption, the product must be natural cedar or cedarwood and the product must not be treated, combined, or impregnated with any additional substances. Labeling claims for natural cedar or cedar wood products must be limited to specific arthropods or must exclude ticks if any general term such as "arthropods," "insects," "bugs," or any other broad inclusive term, is used. Excluded from exemption are products formulated with cedarwood oil, a form of cedar more likely to be involved in accidental exposure via the eye, dermal or oral routes. For pests of significant public health importance, such as ticks, efficacy data and other registration data needs to be evaluated to ensure protection of human health and the environment.

In some situations, an exemption like those codified in 40 CFR 152.25(a) through (e) may be preferable to a listing under the Minimum Risk Pesticides Listing Program in 40 CFR 152.25(f). A minimum risk exemption would include all uses of a product consisting of eligible ingredients, provided that the labeling and other generic requirements are met. Other exemptions are more targeted as to the nature of the use, even as they are in some cases more general with respect to what ingredients are included. EPA believes that exemptions like those codified in 40 CFR 152.25(a) through (e) may be more appropriate for situations where the exemption sought is narrowly tailored to a specific use pattern or where the pesticide functions via complex chemical processes that do not lend themselves to identification and listing of active and inert ingredients.

As these examples show, EPA has exempted some minimum risks products with pesticidal properties and uses from FIFRA regulation separately from the list of minimum risk pesticide ingredients. These include, like cedar, unrefined natural products that lack a specific formulation and products with

a specific form or application, such as pheromone traps. One example of an unrefined natural product which currently lacks a specific formulation is peat. Peat is an accumulation of partially decomposed organic material found in peatlands or bogs, and has uses as fuel, in gardening, and in certain types of septic filtration systems. While the use of peat in septic systems may be intended for a pesticidal (antimicrobial) purpose, it has been suggested that registration of such uses may not be necessary to carry out the purposes of FIFRA. In the context of this ANPR, EPA is interested in comments about whether there may be criteria that could address such circumstances or if EPA should consider proposing the creation of an exemption from FIFRA registration for the specific use of peat in septic filtration systems. In considering such an exemption, because of the public health and environmental interests at stake, should EPA also consider which label and labeling claims might be considered false or misleading for these systems (*i.e.*, they could not be marketed to perform controls that they cannot be shown to achieve), and whether such circumstances warrant the consideration of any other limitations on the exemption from FIFRA registration.

EPA invites the public to comment on the following questions on the current classes of pesticide exemptions found in 40 CFR 152.25 or on other aspects of the Minimum Risk Pesticides Listing Program.

1. EPA broadly requests comment on the utility, clarity, functioning, and implementation of the provisions in 40 CFR 152.25.

2. Are there other pesticidal substances or systems, like peat as mentioned above, that EPA should consider adding as a new class at 40 CFR 152.25 for exemption from registration under FIFRA? How do these other pesticidal substances or systems meet the existing factors?

3. What other factors should EPA consider in determining whether a category or class of products should be exempted from FIFRA regulation? Please explain how these other factors should be weighed in a determination.

4. When considering whether a category or class of products are a “minimum risk” to public health and the environment, should the category or class of products also be considered as being of low impact to all communities, including low-income and minority populations? Are there other factors that the Agency should consider?

#### *F. Minimum Risk Pesticide Program Exemption*

Currently, to be eligible for the minimum risk exemption, a pesticide product must meet the following conditions:

*Condition 1:* The product’s active ingredients must all be listed in 40 CFR 152.25(f)(1).

*Condition 2:* The product’s inert ingredients may only be those that are:

- Listed in Table 2 of 40 CFR 152.25(f)(2)(iv); or
- A commonly consumed food commodity, animal feed item, or edible fat and oils as described in 40 CFR 180.950(a) through (c) as given in 40 CFR 152.25(f)(2)(i) through (iii).

*Condition 3:* All the ingredients (both active and inert) must be listed on the label. The active ingredient(s) must be listed by the label display name in 40 CFR 152.25(f)(1) and their percentage by weight in the product.

*Condition 4:* The product must not bear claims to control or to mitigate microorganisms that pose a threat to human health or claims to control insects or rodents carrying specific diseases.

*Condition 5:* The name of the producer or the company for whom the product was produced, and the company’s contact information must be displayed prominently on the product label.

*Condition 6:* The label cannot include any false or misleading statements.

A pesticide product that meets all these conditions is exempt from federal regulation under FIFRA. EPA does not review products that claim to meet the criteria set by 40 CFR 152.25(f), and companies do not report such products to EPA. However, states may enforce and often have their own requirements regarding minimum risk products. In 2019, a majority of states required products that are exempt from federal regulation under 40 CFR 152.25(f) to adhere to some form of state regulation, varying from a simple fee to complete state registration.

The states have reported that the regulation of federally exempt products has presented some challenges for the states. EPA’s previous response to the state concerns prompted the 2015 rule change to the federal program. The 2015 amendment codified the inert ingredients list by adding specific chemical identifiers, where available, for all eligible active and inert ingredients. The 2015 rule also modified the labeling requirements for the exemption to require products to list ingredients on the label with a designated label display name and

provide the producer’s contact information.

EPA invites the public to comment on the following questions on the Minimum Risk Pesticide Listing Program or the minimum risk exemptions and solicits comments on other aspects of the Minimum Risk Pesticide Listing Program.

1. Have the changes to the federal program in the 2015 rule, which provided specific chemical identifiers and the labeling changes, made it easier for manufacturers, the public, and Federal, state, and tribal inspectors to identify specific chemicals used in minimum risk pesticide products?

2. Are there state challenges to implementing the minimum risk program? Can EPA address those challenges with changes to its program? Do states have suggestions for improvements to the program?

#### **IV. Next Steps**

EPA intends to review all the comments and information received in response to this ANPR, as well as previously collected and assembled information, to help determine whether to propose any additions or modifications to the Minimum Risk Pesticide Listing Program or related policies and to the class exemptions or the other provisions at 40 CFR 152.25. In addition to comments received in response to this ANPR, EPA may seek additional information from states, industry or other stakeholders. Should EPA decide to move forward with changes to the program, the next step would be to identify, develop and evaluate specific options for amending the current regulations in 40 CFR 152.25, and issue a proposed rule for public review and comment. During the development of the proposed rule, the Agency may also engage stakeholders or provide other opportunities to comment on EPA’s proposal.

#### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

### B. Other Regulatory Assessment Requirements

Because this action does not impose or propose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various other review requirements in statutes and Executive Orders that apply when an agency impose requirements do not apply to this ANPR. Should EPA subsequently determine to pursue a rulemaking, EPA will address the statutes and Executive Orders as applicable to that rulemaking.

As part of your comments on this ANPR, please include any comments or information that you believe could help the Agency assess the potential impact of a subsequent regulatory action with regard to the following:

Potential economic impacts on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

Potential applicability of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note);

Potential environmental health or safety effects on children pursuant to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997);

Potential human health or environmental effects on minority or low-income populations pursuant to Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994); and

Potential impacts to state and local governments or tribal governments.

The Agency will consider such comments during the development of a subsequent rulemaking as it takes appropriate steps to address any applicable requirements.

### List of Subjects in 40 CFR Part 152

Environmental protection, Exemptions from pesticide regulation, Minimum risk pesticides.

**Michael S. Regan,**  
Administrator.

[FR Doc. 2021-07033 Filed 4-7-21; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 258

[EPA-R9-RCRA-2021-0127; FRL-10021-27-Region 9]

### Research, Development and Demonstration (RD&D) Rule for the Salt River Pima-Maricopa Indian Community Landfill RD&D Project

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the site-specific Research, Development and Demonstration rule for the Salt River Pima-Maricopa Indian Community (SRPMIC), Salt River Landfill Research, Development and Demonstration Project in order to increase the maximum term for the site-specific rule from 12 to 21 years and also revise the site-specific rule to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. In the "Rules and Regulations" section of this **Federal Register**, EPA is taking parallel action in a direct final rule without a prior proposed rule to revise the site-specific rule to allow operation of the Salt River Landfill Research, Development and Demonstration Project for a total of 21 years and to revise the site-specific rule to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. If we receive no adverse comment, we will take no further action on this proposed rule.

**DATES:** Written comments must be received by May 10, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R9-RCRA-2021-0127 at <http://www.regulations.gov>, or via email to [R9LandSubmit@epa.gov](mailto:R9LandSubmit@epa.gov). Due to COVID-19, we are not providing facsimile or regular mail options, because those are not viable at this time. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video,

etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

### FOR FURTHER INFORMATION CONTACT:

Steve Wall, EPA Region IX, (415) 972-3381, [wall.steve@epa.gov](mailto:wall.steve@epa.gov).

### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us," or "our" refer to the EPA.

### I. Why is EPA issuing this proposed rule?

This document proposes to approve of revisions to the Research, Development and Demonstration (RD&D) Rule for the Salt River Pima-Maricopa Indian Community Landfill RD&D Project to extend the total project period from 12 years to 21 years. We are also proposing to revise the site-specific rule for this Project to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. We have also published a parallel direct final rule without a prior proposed rule to revise the site-specific rule to allow operation of the Salt River Landfill for a total of 21 years so as to conform the site-specific flexibility rule for this Indian country facility to the 2016 national RD&D rule. The direct final rule will also revise the site-specific rule to reflect the change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. The direct final rule is being published in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in