ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152, 153, 156, 157, 162, 165, 172, 180, 185, 186

[OPP-00409; FRL-4955-1]

Pesticides; Technical Amendments

AGENCY: Environmental Protection

Agency (EPA). **ACTION:** Final rule.

SUMMARY: EPA is revising its pesticide regulations by removing obsolete, superseded, expired and otherwise unnecessary sections from various parts of its regulations. These technical amendments will simplify and condense the regulations, and reduce regulatory burdens, without loss of health and environmental protection. EPA is also making associated revisions to cross-references reflecting the deletion of regulations. This final rule is a technical amendment for which notice and comment are unnecessary. **DATES:** These amendments are effective

August 18, 1995.

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SUPPLEMENTARY INFORMATION

I. Background

On March 16, 1995, President Clinton announced a new initiative under which EPA (and other Agencies) would review all existing regulations. The Regulatory Reinvention initiative is intended to identify opportunities for streamlining, simplifying, reducing reporting and recordkeeping burdens, and promoting partnerships and stakeholder involvement in EPA regulation review.

As a result of the President's Regulatory Reinvention review, EPA has reviewed each of its pesticide regulations and identified provisions that should be removed, revised, or evaluated further for streamlining and simplification. This final rule accomplishes a number of changes, primarily deletions, that do not require notice and comment under the Administrative Procedure Act (APA). This is the first in a series of notices intended to accomplish the goals of the Regulatory Reinvention initiative. Other modifications to regulations will be proposed for notice and comment at a

later date. In addition, a number of pesticide regulations are being evaluated further for more significant and far-reaching streamlining opportunities, including evaluating the requirements of the underlying programs themselves as reflected in regulations. Elsewhere in today's Federal Register, EPA is issuing additional regulatory revisions under other statutes administered by the Agency.

II. Pesticide Regulations

EPA regulates pesticides under the authority of two statutes, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which regulates the sale, distribution and use of pesticides in the United States, and the Federal Food, Drug and Cosmetic Act (FFDCA), which regulates, among other things, pesticide residues in food and feed. Pesticide regulations administered by EPA are located in 40 CFR parts 150-189, and comprise approximately 525 pages in the Code of Federal Regulations.

A. The Federal Insecticide, Fungicide and Rodenticide Act

Because FIFRA is a licensing statute, its regulations are, in significant part, procedural in nature. They describe how pesticide registrants and other persons must interact with EPA to obtain and maintain permission to market and use pesticides without causing unreasonable adverse effects on man or the environment, and the policies that EPA will use in administering these licensing programs. Substantive requirements affecting pesticide sale, distribution or use, for the most part, are not issued in regulatory form, but are incorporated into the registration and other licensing decisions that EPA makes. Because most of its regulations are procedural, EPA believes that few pesticide regulations under FIFRA can be removed or substantially modified without interfering with efficient administration of the programs they describe. Similarly, many of the recordkeeping and reporting burdens associated with these regulations are necessary simply for pesticide producers, registrants and others to deal with EPA in licensing matters.

B. The Federal Food, Drug and Cosmetic

By contrast, the FFDCA broadly requires EPA to regulate pesticide residues in food and feed, to ensure that the American public is protected against harmful residues in its food supply. Although some procedural regulations are necessary to administer the program

(a petition process, together with an administrative hearing process), the bulk of regulations issued under the FFDCA consist of individual tolerances, exemptions or other clearances of pesticide chemicals in various foods and feeds. Of approximately 250 pages of regulations devoted to the FFDCA in EPA's pesticide regulations, procedural regulations comprise only about 20 percent. In addition, there are a number of finding aids and indexes that catalog and cross-reference these regulations.

III. Technical Changes to Pesticide Regulations

EPA has identified a number of technical amendments that can be made to its pesticide regulations at this time. For the most part, these consist of deletions of superseded or outmoded requirements, deletion of unnecessary material that conveys only guidance or information, but not regulatory requirements, deletion of regulations that are not required by law, or simple formatting changes to consolidate and clarify requirements. These changes are described in this Unit.

A. Part 152 - Pesticide Registration and Classification Procedures

Part 152 contains procedural regulations for registration. EPA is modifying this part as follows:

1. Reregistration. Subpart D contains procedural requirements for reregistration of pesticides. Shortly after these regulations were promulgated in 1988, Congress amended FIFRA (the amended law is commonly referred to as "FIFRA-88"), establishing a detailed set of requirements for reregistration. This subpart has therefore been superseded.

2. Amendment or notification to change active ingredient source. Section 152.85(c), promulgated in 1984, requires that registrants who wish to change from one registered source of active ingredient to another must submit an application for amended registration. Section 152.46(a)(4), promulgated in 1988, permits such a change by simple notification to the Agency. EPA is clarifying these conflicting sections by deleting the requirement in § 152.85(c) for an amended registration and retaining the notification requirement.

3. Voluntary cancellation. Section 6(f) of FIFRA-88 established new procedures for registrants and EPA to effect voluntary cancellations of registration. The current regulation in 40 CFR 152.138 is therefore incomplete and no longer reflects the procedures EPA uses. Rather than continue regulations that are incomplete, EPA is deleting parts of these regulations, and moving still-current material on