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Approved: November 20, 2008.

**M. Robb Hyde,**

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Chapter I****[EPA-HQ-OPP-2008-0247; FRL-8146-6]****Pesticide Regulations; Technical Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** EPA has reviewed its pesticide regulations contained in 40 CFR Parts 150-180, and is making technical changes in a number of areas. These technical changes will correct errors and cross-references, improve presentation and format, and conform the regulations to current CFR practice. These changes have no substantive impact on any requirements. As such, notice and public comment procedures are unnecessary, and EPA finds that this constitutes good cause under the Administrative Procedure Act.

**DATES:** This final rule is effective February 10, 2009.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0247. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [www.regulations.gov](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 either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One

Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are 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:**

Kathryn Boyle, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6304; fax number: (703) 305-5884; e-mail address: [boyle.kathryn@epa.gov](mailto:boyle.kathryn@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Does this Action Apply to Me?**

You may be potentially affected by this action if you produce or register pesticide products, or petition the Agency to establish or modify a pesticide tolerance. Potentially affected entities may include, but are not limited to Pesticide Producers (NAICS 32532), e.g., pesticide manufacturers or formulators of pesticide products or importers of pesticide products.

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**.

**II. Background**

Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act (FFDCA), the Agency regulates the sale, distribution and use of pesticides. EPA regulations covering activities under these statutes are contained in 40 CFR parts 150 - 180. Many of these regulations were promulgated or last revised in the 1970s and 1980s and have not been significantly updated.

Over the past year, EPA has conducted a detailed review of its pesticide regulations, contained in 40 CFR parts 150 - 180. EPA believes that improvements in these regulations are warranted. Today's final rule makes "housekeeping" or non-substantive technical changes to a series of regulations. Future rulemakings implementing substantive changes will

be issued as proposed rules with opportunity for comment. The types of changes being made today involve error correction, conforming changes, and general non-substantive improvements in presentation and format.

**III. Today's final rule**

In today's final rule EPA is making the following key types of changes to the regulations in 40 CFR parts 150 - 180.

1. EPA is removing compliance and effective dates that have passed. These involve certain provisions concerning:

a. Data compensation (part 152, subpart E);

b. Worker protection interim provisions and exceptions (part 170).

2. EPA is removing unnecessary or obsolete references, including:

a. References to the Pesticide

Assessment Guidelines that are not needed in regulatory text (part 172);

b. Definitions related solely to plant-incorporated protectants that are not used in the regulatory text of part 152. These definitions are duplicative of definitions in part 174.

c. Reference in § 180.34 to the certification of usefulness, a provision eliminated by the Food Quality Protection Act (FQPA) in 1996.

3. EPA is removing most references to section 409 of the FFDCA. Prior to 1996, EPA established tolerances for raw agricultural commodities under section 408 and food additive regulations for certain pesticide residues in processed foods under section 409, which pertains to food additives. As part of the FQPA, Congress combined EPA's authority to regulate all pesticide chemical residues in food under section 408 of the FFDCA (leaving the Food and Drug Administration the sole authority under section 409 to regulate food additives). As it no longer has any regulatory authority under section 409, EPA is eliminating most references to FFDCA section 409 from its regulations. Those retained are needed for continued enforcement of pre-FQPA provisions.

4. EPA is correcting other statutory and regulatory cross-references.

a. EPA is correcting the references to data compensation provisions in FIFRA sec. 3(c)(1)(D), which is now 3(c)(1)(F).

b. EPA is correcting the references to FIFRA sec. 4, which is now FIFRA sec. 11.

c. EPA is correcting the regulatory cross-references from § 156.10(h) to § 156.62 and § 162.11 to part 154. These regulations were restructured a number of years ago, but the cross-references were not.

5. EPA is correcting part 155, subpart C, Registration Review Procedures, to include the mandatory 15-year