

Environmental Protection Agency

§ 173.2

FEDERAL REGISTER for a 45-day comment period proposing an exemption under such terms and conditions as EPA deems appropriate.

(iii) Deny the petition and provide the petitioner with a written explanation of EPA's decision.

(5) *Confidential business information (CBI) claims.* To assert a claim of confidentiality, the petitioner must comply with the applicable procedures in §172.46(d).

(6) *Supplements, amendments, and withdrawals.* The petitioner may supplement, amend, or withdraw his or her petition in writing without EPA approval at any time prior to the granting or denial of the petition under paragraph (b)(4) of this section. The withdrawal of a petition shall be without prejudice to the resubmission of the petition at a later date.

[59 FR 45612, Sept. 1, 1994, as amended at 71 FR 35546, June 21, 2006]

§ 172.57 Submission of information regarding potential unreasonable adverse effects.

Any person using a microbial pesticide in small-scale testing covered by this subpart who obtains information regarding potential unreasonable adverse effects on health or the environment must within 30 days of receipt of such information submit the information to EPA, unless the person has actual knowledge that EPA has been adequately informed of such information. The requirement to submit information applies both to those microbial pesticides subject to the notification requirements under §172.45(c) and those that are exempt under §172.45(d).

§ 172.59 Enforcement.

(a) *Imminent threat of substantial harm to health or the environment.* The use of a microbial pesticide in small-scale testing covered by this subpart (whether subject to the notification requirements of §172.45(c) or exempt under §172.45(d)) in a manner that creates an imminent threat of substantial harm to health or the environment is prohibited, and is considered a violation of section 12(a)(2)(S) of the Act.

(b) *EPA response to violations.* Under section 14 of the Act, EPA may seek civil or criminal penalties for viola-

tions of the Act. Failure to comply with the regulations in this part could result in civil or criminal penalties. Moreover, under sections 14 and 16(c) of the Act, EPA may at any time take appropriate action against violators to prevent or otherwise restrain use of a microbial pesticide in small-scale testing if it is determined that:

(1) Such use would create an imminent threat of substantial harm to health or the environment that is prohibited under paragraph (a) of this section; or

(2) The terms or conditions on which approval of the testing was granted under this subpart C are violated.

PART 173—PROCEDURES GOVERNING THE RESCISSION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY FOR PESTICIDE USE VIOLATIONS

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AUTHORITY: 7 U.S.C. 136w and 136w-2.

SOURCE: 46 FR 26059, May 11, 1981, unless otherwise noted.

§ 173.1 Applicability.

These procedures govern any proceeding to rescind a State's primary enforcement responsibility for pesticide use violations conducted under section 27(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136 *et seq.*

§ 173.2 Definitions.

For purposes of this part:

(a) *Administrator* means the Administrator of the United States Environmental Protection Agency or his delegate.

(b) *Notice of intent to rescind* means a notice to a State issued under §173.3 which initiates a proceeding to rescind