

Acting Regional Administrator, the State of Ohio committed itself to submit the above listed items by no later than January 8, 1982. On June 18, 1981, (46 FR 31881) EPA conditionally approved the Ohio vehicle I/M program. EPA, in the same *Federal Register*, proposed to approve the January 8, 1982 date. EPA solicited public comment on the acceptability of the January 8, 1982 date and on EPA's proposed approval of that date. No comments were received. The purpose of today's action is to approve as part of the Ohio SIP the January 8, 1982 commitment date for submission of the above listed items.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. Today's action merely approves a commitment made by the State to submit certain information to EPA by a date negotiated between EPA and Ohio EPA.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a major regulation since it merely approves a commitment made by the State to submit additional information to satisfy the conditional approval of the Ohio vehicle I/M program. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this SIP action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

Note: Incorporation by reference of the Ohio State Implementation Plan was approved by the Director of the *Federal Register* on July 1, 1981.

(Secs. 110 and 172 of the Act 42 U.S.C. 7410, 7502)

Dated: November 2, 1981.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

Section 52.1878 is amended by revising paragraph (h) to read as follows:

§ 52.1878 Inspection and Maintenance Program.

(h) Part D—Conditional Approval—The Ohio vehicle inspection and maintenance program for the urbanized area of Cleveland and the Ohio portion of the Cincinnati metropolitan area is approved provided that the following conditions are met by January 8, 1982:

[FR Doc. 81-32206 Filed 11-5-81; 8:45 am]

BILLING CODE 6560-35-M

40 CFR Part 81

[A-5-FRL 1954-5]

Designation of Areas for Air Quality Planning Purposes; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: This rulemaking changes the air quality attainment designation relative to the total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS) for Berrien, Genesee, Lapeer, Monroe, Saginaw and Washtenaw Counties and the carbon monoxide (CO) NAAQS for Wayne County in Michigan. On July 27, 1981 (46 FR 38387), the U.S. Environmental Protection Agency (EPA) proposed to change the designations for these counties. Public comments were solicited and none were received. This notice announces EPA's final rulemaking.

EFFECTIVE DATE: This final rulemaking becomes effective December 7, 1981.

ADDRESSES: Copies of the redesignation request, and the Notice of Proposed Rulemaking (46 FR 38387) are available for inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the submittal are also available at:
United States Environmental Protection Agency, Public Information Reference

Unit, 401 M Street SW., Washington, D.C. 20460.

Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909.

FOR FURTHER INFORMATION CONTACT:

Delores Sieja, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added Section 107(d) to the Clean Air Act (the Act) which directed each State to submit to the Administrator of EPA a list of the NAAQS attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the *Federal Register* on March 3, 1978 (43 FR 8962), and made necessary amendments in the *Federal Register* on October 5, 1978 (43 FR 45993).

Pursuant to section 107(d) of the Act the designation for an area may be changed whenever sufficient data exist to warrant a redesignation. A change in an area's designation from primary nonattainment to either secondary nonattainment or attainment may be approved if there are eight consecutive quarters of the most recent quality assured, representative ambient air quality data which show no violation of the appropriate primary NAAQS. A change in the status from attainment to nonattainment can be approved whenever valid monitoring data indicates a violation of the NAAQS.

The State of Michigan on October 27, 1980 requested EPA to make the following changes.

1. Berrien County (TSP)—change from secondary nonattainment to attainment status.

2. Genesee County (TSP)—reduction in size of both primary and secondary nonattainment areas.

3. Lapeer County (TSP)—establishment of secondary nonattainment area in Imlay City.

4. Monroe County (TSP)—reduction in size of secondary nonattainment area and establishment of primary nonattainment area in the City of Monroe.

5. Saginaw County (TSP)—reduction in size of both primary and secondary nonattainment areas.

6. Washtenaw County (TSP)—change from secondary nonattainment to attainment status.

7. Wayne County (CO)—reduction in size of nonattainment area.

To support the above designations, the State submitted available TSP and CO ambient air monitoring data collected between 1977 and mid-1980 for all State and industrial monitors located within the present and proposed seven nonattainment areas. At EPA's request the State, on February 27, 1981, submitted additional data for the entire year of 1980 for these areas.

EPA reviewed the monitoring data and on July 27, 1981 (46 FR 38389) proposed to redesignate the above seven counties. Interested parties were given until August 26, 1981 to comment on the proposed redesignation. No public comments were received. Therefore, pursuant to section 107 of the Clean Air Act, EPA approves the redesignation as proposed in the July 27, 1981 Notice of Proposed Rulemaking. The redesignation is effective December 7, 1981.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of date of final rulemaking. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but only changes air quality designations. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action.

Under Executive Order 12291 (Order), EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. Today's action does not constitute a major regulation because it only changes an area's air quality designation and imposes no regulatory requirements. Any regulatory requirement which may occur as a result of this action will be dealt with in a separate notice. This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

This Final Rulemaking is issued under the authority of section 107 of the Clean Air Act as amended (42 U.S.C. 7407).

Dated: October 30, 1981.

Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.323 of Part 81 of Chapter 1.

MICHIGAN—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 82 (Michigan portion).....				X
AQCR 122—Except subareas defined.....				X
1. Bay County: R5E, T14N, Sections 14-16 & 21-23.....			X	
2. Genesee County:				
a. Starting on Industrial Avenue, north to Stewart Avenue, east to Hitchcock Street, south to Olive Avenue (extended), south to Robert T. Longway Boulevard, west and southwest to Industrial Avenue.....		X		
b. Starting on Industrial Avenue, north to Pierson Road, east to Dort Highway, south to Hitchcock Street, south to Olive Avenue (extended), south to Robert T. Longway Boulevard, west and southwest to Industrial Avenue.....		X		
3. Kent County: R11W, T7N, Sections 19, 30, 31, R12W, T7N, Sections 22-27 and 34-36.....		X		
4. Lapeer County: T7N-R12E, that portion of Section 17 which lies south of M-21 and east of Fairground Road.....	X			
5. Mason County: R18W, T18N, Sections 13, 14, 23 & 24.....		X		
6. Midland County: R2E, T14N, Sections 14-16, 21-23, 26-28, 33-35.....		X		
7. Muskegon County: R16W, T9N, Sections 5 & 6, R16W, T10N, Sections 21, 22 & 27-34.....		X		
8. Saginaw County:				
a. Starting at Tittabawassee Road, east to I-75, east and south to Washington Avenue, west to 6th Street, north to Carroll Street, northeast to Zilwaukee Street, north to Westervelt Street, north to Tittabawassee Road.....	X			
b. Northeast Section: Starting on Tittabawassee Road, east to I-75, south to Wadsworth Avenue, west to I-675, west and north to Tittabawassee Road. Southwest Section: T12N-R4E, the eastern half of Section 34 (that which is east of Maple Street) and Section 35.....		X		
AQCR 124 (Michigan portion) Except subareas defined.....				X
1. Monroe County:				
a. Starting where Sandy Creek empties into Lake Erie, northwest to Maple Avenue (extended NNE), southwest to Elm Avenue, west to Herr Road, south to Dunbar Road, and east to Plum Creek (which empties into Lake Erie).....	X			
b. T5S-R10E, Sections 8, 9, and 15-17.....		X		
AQCR 125—Except subareas defined.....				X
1. Calhoun County: R5W, T2S, Section 34.....	X			
2. Ingham County: R2W, T4N, Sections 2-11 & 14-23.....		X		

(2) In the table for "Michigan—CO" the entry for AQCR 123 should read as follows:

MICHIGAN—CO

Designated area	Does not meet primary standards	Cannot be classified or better than standards
AQCR 123—Except subareas defined.....		X

Title 40, Code of Federal Regulations is amended.

§ 81.323 [Amended]

(1) In the table for "Michigan—TSP" the entries for AQCR's 82, 122, 124 and 125 should read as follows:

MICHIGAN—CO—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than standards
1. Macomb, Oakland, Wayne Counties, Starting at Base Line Road (extending east to Lake St. Clair) west to Inkster Road, south to Pennsylvania, extending east to the Detroit River.	X	

[FR Doc. 81-32140 Filed 11-5-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 122 and 264

[SW-FRL-1939-1]

Container and Waste Pile Standards for Owners and Operators of Hazardous Waste Facilities; Consolidated Permit Regulations

AGENCY: Environmental Protection Agency.

ACTION: Amendments to interim final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating amendments to the hazardous waste management regulations regarding the management of hazardous waste in containers and piles and associated permit regulations (40 CFR Part 264, Subparts I and L, and Part 122, Subpart B).

These amendments better tailor the standards to the particular type of hazard posed by specific situations. The standards for containers are amended to waive the containment system requirements for wastes that do not contain free liquids, provided that the wastes are protected from contact with accumulated liquid. The standards for waste piles are amended to waive the containment system requirements for wastes that do not contain free liquids, provided that the pile is protected from precipitation by a structure and from surface water run-on and wind dispersal of the waste by the structure or some other means.

The Agency believes these amendments will not reduce the level of protection of human health and the environment.

EFFECTIVE DATE: November 6, 1981.

DATES: EPA will accept public comments on these amendments until December 7, 1981.

ADDRESSES: Comments should be addressed to Deneen Shrader, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Commenters should identify this rulemaking as follows: "Docket No.

3004, Subparts I and L of Part 264". The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C., and is available for viewing from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Stephen A. Lingle, Chief, Technology Branch, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9200.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 12, 1981, EPA promulgated Phase II of the technical permitting standards for owners and operators of hazardous waste facilities that manage wastes in containers and waste piles (46 FR 2802; 40 CFR Part 264, Subparts I and L). The regulations were promulgated on an interim final basis and comments were requested. Many of these comments are still under review and will be addressed by the Agency at a later time. However, the Agency is today addressing three concerns raised by many commenters that the Agency has already determined require amendments to the existing regulations.

II. Reason and Basis for Amendment

A. Amendments to Part 264, Subpart I—Use and Management of Containers

1. *Solids in Containers.* As originally promulgated, § 264.175 required that container storage areas must have a containment system that is capable of collecting and holding spills, leaks, and precipitation. The standard also required that the capacity of the containment system be at least 10 percent of the total volume of container capacity or the largest container, whichever is greater. These requirements were based on the need to ensure that wastes are not discharged into the environment either through leaching into ground water or entering surface water.

Since the standard was promulgated on January 12, 1981, the Agency has

received numerous comments questioning the need for this containment system with respect to storage of solids in containers. Commenters argued that spilled solids have little potential for escape into the environment, and therefore: (1) An impervious base is not necessary if only solids are stored; and (2) for mixed storage, solids should not be included in the determination of the 10 percent capacity requirement.

In establishing the containment standard in § 264.175, the Agency had in mind the control of leaks or spills of liquids. In light of the comments received, the Agency has reviewed the basis for the containment standards with respect to wastes which do not contain free liquids. In so doing, the Agency has concluded that it is far less likely that solids, as compared to liquids, would leak or spill, and if they do leak or spill from their container, they have a low likelihood of escape into the land or water. For example, a small crack or hole in a container would not be likely to result in discharge of a solid. Similarly, dropping or overturning closed containers of solids would be less likely to result in a spill than similar events involving liquids. Finally, if a spill of a solid occurred, the solid would not rapidly leach into the ground or run off from the site of discharge, provided that the spill were promptly cleaned up prior to precipitation. Instead, solids would remain in the vicinity of the discharge. Given that a spill of a containerized solid would generally occur during operator handling (e.g., loading or unloading, on-site transport, recontainerizing), the operator would be immediately aware of the discharge and would be able to take immediate steps to comply with the emergency procedure requirements of § 264.56. Thus, the spill could be immediately cleaned up if the waste posed a possible hazard to human health or the environment.

One area of concern with respect to waiving the containment system for solids is that standing water in the storage area resulting from precipitation could accelerate corrosion of metal containers and accelerate deterioration of containers made of other materials. The base of the container could deteriorate so that liquids could enter the container and leach hazardous constituents out of the solids. The contaminated liquid could then migrate to ground or surface water. Consequently, the Agency has concluded that areas storing containers holding solids, like other container storage areas, must be sloped or otherwise designed and operated to

drain and remove liquids, or the containers must be elevated or otherwise protected from contact with accumulated liquid.

Based on the above considerations, the Agency is amending § 264.175, which requires containment systems for all container storage areas, to exclude those areas that store containers holding only solids, provided that the containers are protected from contact with accumulated liquid.

With respect to mixed storage of solids and liquids, commenters questioned the need for including solids in the determination of the 10%-capacity requirement for the containment system. In re-evaluating the containment capacity standard, the Agency considered the facts that spills of solids are less likely than spills of liquids and that spilled solids would not readily flow into containment systems such as trenches, sumps, and auxiliary holding tanks, etc. The Agency, therefore, sees little need to include containers holding solids in the calculation of containment capacity for those storage areas involving both liquids and solids. Consequently, the Agency is amending § 264.175(a)(3) to exclude containers holding solids.

A critical factor affecting the above actions is the definition of a solid. Rather than define "solid", today's amendments use the phrase "wastes that do not contain free liquids". In the May 19, 1980 (45 FR 3314) hazardous waste regulations, the Agency defined "free liquids" in § 260.10(25) and discussed in the preamble one available test for determining the presence or absence of free liquids in a material. The Agency is currently considering revising that test. A new test should be published in the *Federal Register* within the next few months. Until that time, the Agency expects the regulated community to apply reasonable judgment to determine whether a waste contains free liquids. The use of the test described in the May 19, 1980, preamble will be considered acceptable at present. However, the owner or operator may use any other test that he can justify as appropriate.

2. Drainage of Storage Area. As originally promulgated, § 264.175(a)(2) required that the container storage area be designed and operated to remove all standing liquid within one hour after a leakage or precipitation event unless the containers are protected from contact with the accumulated liquid. The purpose of this regulation is to eliminate, to the extent possible, any detrimental conditions which could lead to premature or accelerated corrosion or deterioration of containers in the storage

area. Standing liquids may accelerate corrosion of commonly used metal (steel) containers. Existing containment designs often include a sloped base to facilitate drainage to gutters or trenches which either hold the liquids or conduct them to a sump or tank where they are held until tested to determine if they are hazardous. The selection of a one-hour drain time represented the extent of sloping and drainage capacity which the Agency felt was acceptable. It was the Agency's feeling that virtually any reasonable sloping of containment bases would meet the one-hour drain time standard.

However, several commenters argued that a "one-hour liquid removal" standard is too inflexible or too stringent. Some argued that it would be unduly burdensome to determine compliance with this requirement, assuming that it would require an inspection after each precipitation event or each spill.

Such continual demonstration of compliance was certainly not the Agency's intent. To avoid any unintentional inflexibility, the Agency is amending § 262.175(a)(2) to delete reference to a "one-hour liquid removal" standard and to simply require that the storage area base be sloped or that the containment system be otherwise designed and operated to drain and remove liquids, unless the containers are elevated or are otherwise protected from contact with accumulated liquids.

B. Amendments to Part 264, Subpart L—Waste Piles

Section 264.251, 264.252, 264.253, 264.254 and 264.255 require containment of leachate and run-off from waste piles to prevent discharge into the land, surface water, or ground water.

Several commenters questioned the need for a pile base and leachate and run-off collection and control if the pile contains only wastes that do not contain free liquids and is located inside a building. Commenters argued that a waste pile building can be easily constructed to provide effective protection from precipitation so that neither run-off nor leachate is generated.

In the preamble to the January 12, 1981 regulations for piles (46 FR 2839), the Agency pointed out that structures which might be legitimately defined as "buildings" may not be totally enclosed with sides. Such buildings may allow precipitation to reach the pile under windy conditions and run-off or leachate could be generated. Further, even a pile protected in an enclosed building can generate leachate from decomposition of the waste in the pile.

However, there are cases where locating a pile inside or under a structure provides effective protection from precipitation. While all piles inside or under all structures cannot be exempted, the owner or operator should have the opportunity to demonstrate that a particular structure in a particular location, considering rainfall and wind conditions, provides adequate protection from precipitation. For example, a structure that has a roof and that is totally enclosed with sides can provide adequate protection from precipitation. However, a structure with a roof and no sides will generally not provide adequate protection from precipitation because wind could blow precipitation onto the pile resulting in run-off or leachate generation.

Further, the Agency recognizes that many piles would not generate leachate from decomposition or other reactions, and the previous assumption that they would do so in all cases was overrestrictive.

Finally, the pile must also be protected from wind dispersal of the waste, where necessary, and from surface water run-on. This protection can be provided by the same structure that is used to protect the waste pile from precipitation, or by other means such as berms or dikes for run-on, and wind breaks or cover for wind dispersal. Where a pile does not have a containment system, wind dispersal cannot be controlled by wetting because run-off or leachate could be generated resulting in a discharge.

Therefore, the Agency is amending § 264.250 ("Applicability") to exempt piles that store or treat only wastes that do not contain free liquids from the containment system requirements, provided that the owner or operator demonstrates that the pile is inside or under a structure which effectively protects it from precipitation, is protected from surface water run-on and from wind dispersal of the waste by means other than wetting, and will not generate leachate through decomposition or other reactions.

C. Amendments to Part 122, Subpart B—Additional Permit Requirements for Hazardous Waste Programs under the Resource Conservation and Recovery Act

Part 122 establishes definitions and basic permit requirements for EPA-administered RCRA, UIC, and NPDES programs. Subpart B spells out in detail the permit requirements specific to RCRA programs. Section 122.25 establishes the information required to be included in Part B of the permit

application. That section is amended to require that owners and operators of hazardous waste facilities who apply for a permit to manage solids in containers and waste piles under the containment system waiver provided by these amendments demonstrate: (1) That the waste does not contain free liquids; and (2) that there is compliance with the conditions for the waiver of the containment system requirements.

III. Economic and Regulatory Impact

EPA has determined, pursuant to Executive Order 12291, that the amendments promulgated here today do not constitute a major rule and, therefore, that no Regulatory Impact Analysis is required. These amendments result in a net reduction in regulatory burden and compliance costs to the regulated community. The effect of today's amendments is to either reduce the scope of applicability of the regulations, or to increase their flexibility.

In compliance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and Executive Order 12291, EPA submitted this notice to the Office of Management and Budget (OMB) for review.

The Regulatory Flexibility Act requires all Federal agencies to consider the effects of their regulations on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). As these amendments reduce the net regulatory burden on hazardous waste management facilities, regardless of size, they will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not necessary.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this statutory requirement is to allow persons affected by the regulations sufficient time to prepare to comply with major new regulatory requirements.

Because these amendments eliminate existing regulatory requirements for some facilities, EPA believes that a six month effective date would be contrary to the purpose of section 3010(b). Moreover, the Agency believes that an effective date six months after promulgation would defeat the purpose of these amendments. EPA is therefore making these amendments effective on November 6, 1981.

Dated: October 31, 1981.

Anne M. Gorsuch,
Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for Part 264 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

2. Section 264.175 is revised to read as follows:

§ 264.175 Containment.

(a) Container storage areas must have a containment system that is designed and operated in accordance with paragraph (b) of this section, except as otherwise provided by paragraph (c) of this section.

(b) A containment system must be designed and operated as follows:

(1) A base must underlie the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(3) The containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

(4) Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in paragraph (b)(3) of this section to contain any run-on which might enter the system; and

(5) Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

[Comment: If the collected material is a hazardous waste under Part 261 of this Chapter, it must be managed as a hazardous

waste in accordance with all applicable requirements of Parts 262-266 of this Chapter. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of Section 402 of the Clean Water Act, as amended.]

(c) Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system defined by paragraph (b) of this section, provided that:

(1) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation, or

(2) The containers are elevated or are otherwise protected from contact with accumulated liquid.

3. Section 264.250 is revised to read as follows:

§ 264.250 Applicability.

(a) The regulations of this Subpart apply to owners and operators of facilities that store or treat hazardous waste in piles, except as § 264.1 provides otherwise.

[Comment: This Subpart currently applies only to waste piles that are used for storage or treatment of hazardous waste and are designed and operated to prevent discharge into the land, surface water, and ground water. The Agency intends to supplement this regulation to address other types of waste piles including piles that are not designed and operated to prevent discharge and piles that are closed with waste left in place. Until additional regulations are promulgated, all waste piles that are authorized by permit must comply with this Subpart.]

(b) Owners and operators of waste piles used to store or treat only hazardous wastes that do not contain free liquids are not subject to regulation under §§ 264.251, 264.252, 264.253, 264.254, and 264.255 of this Subpart with respect to those piles, provided that:

(1) Liquids or materials containing free liquids are not placed in the pile;

(2) The pile is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated;

(3) The pile is protected from surface water run-on by the structure or in some other manner;

(4) The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting; and

(5) The pile will not generate leachate through decomposition or other reactions.

**PART 122—EPA ADMINISTERED
PERMIT PROGRAMS: THE NATIONAL
POLLUTANT DISCHARGE
ELIMINATION SYSTEM; THE
HAZARDOUS WASTE PERMIT
PROGRAM; AND THE UNDERGROUND
INJECTION CONTROL PROGRAM**

4. The authority citation for Part 122 reads as follows:

Authority: Sections 1006, 2002(a), and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6925).

5. In § 122.25, paragraph (b) is amended by: redesignating paragraphs (b)(1)(ii) and (b)(1)(iii) as (b)(1)(iii) and (b)(1)(iv); adding a new paragraph, (b)(1)(ii); and revising paragraph (b)(4) as follows:

§ 122.25 Contents of Part B.

(b) * * *

(1) * * *

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with § 264.175(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(iii) Sketches, drawings, or data demonstrating compliance with § 264.176 (location of buffer zone and containers holding ignitable or reactive wastes) and § 264.177(c) (location of incompatible wastes), where applicable.

(iv) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with §§ 264.177 (a) and (b), and 264.17 (b) and (c).

(4) For facilities that store or treat hazardous waste in waste piles, except as otherwise provided in § 264.250(a):

(i) For waste piles, except as otherwise provided by paragraph (b)(4)(ii) of this Section:

(A) A description of practices to control wind dispersal (e.g., cover or frequent wetting) of hazardous waste in piles so that the Director, where necessary, can specify appropriate control measures;

(B) A detailed engineering description of the facility design including:

(1) A description of measures to divert run-on away from the pile;

(2) A description of the leachate and run-off collection and control system;

(3) A description of the foundation supporting the base;

(4) Design specifications of the pile base and liner (or liners) including the estimated containment life of the base and the permeability of the liner(s);

(5) Estimated life of the hazardous waste pile; and

(6) If applicable under § 264.253(a)(3), a description of the leachate detection, collection, and removal system including the system's relation to the water table and a description of any efforts to control the water table; and

(C) A detailed description of the facility operating procedures which demonstrate compliance with §§ 264.252, 264.253, 264.256 (ignitable or reactive waste), and 264.257 (incompatible waste) including:

(1) A description of efforts to protect the containment system from plant growth which could puncture any component of the system;

(2) A description of design and operating procedures to properly manage and dispose of any leachate that is a hazardous waste;

(3) A description and listing of all equipment and procedures used to place the waste in or on the pile or to clean and expose the liner surface; and

(4) A description of efforts to separate hazardous waste that is incompatible with any waste or material stored nearby including the design specifications of any dike, berm, wall, or other device used to separate the materials.

(ii) For waste piles used to store or treat only hazardous wastes that do not contain free liquids under the special requirements of § 264.250(b), a demonstration of compliance with those special requirements including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids and that the wastes will not generate leachate during the time the waste is managed in the pile by decomposition or other reactions;

(B) A description of how the pile is protected from precipitation by a structure so that neither run-off nor leachate is generated, including a detailed description of the structure;

(C) A description of how the pile is protected from dispersal of the waste by wind, where necessary, and from surface water run-on; and

(D) A detailed engineering description of the facility design and a detailed description of the facility operating procedures which:

(1) Demonstrate compliance with §§ 264.256 (ignitable or reactive waste)

and 264.257 (incompatible waste), including the information required by paragraph (b)(4)(i)(C)(4) of this section; and

(2) Demonstrate that liquids or materials containing free liquids are not placed in the pile.

[FR Doc. 81-32200 Filed 11-5-81; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 180

[PP 3E1367/R357; PH-FRL-1978-7]

**Captan; Tolerances and Exemptions
From Tolerances for Pesticide
Chemicals in or on Raw Agricultural
Commodities**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide captan (*N*-trichloromethylthio-4-cyclohexene-1,2-dicarboximide) in or on the fat, meat, and meat byproducts of cattle and hogs at 0.05 part per million (ppm). This regulation was requested by the American Seed Trade Association, Inc. This regulation will establish the maximum permissible level for residues of the fungicide in or on the fat, meat, and meat byproducts of cattle and hogs.

EFFECTIVE DATE: Effective on November 6, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-787C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rule published in the Federal Register of August 24, 1981 (46 FR 42685). This notice stated that the American Seed Trade Association, Inc. (ASTA), 1030 15th St., NW, Washington, DC 20005, submitted a petition (PP 3E1367) to the EPA. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.103 be amended by establishing a tolerance of 100 parts per million (ppm) for residues of the fungicide captan (*N*-trichloromethylthio-4-cyclohexene-1,2-

dicarboximide) in or on the raw agricultural commodity detreated corn seed intended as feed for cattle and hogs and a tolerance of 0.05 ppm for negligible residues of captan in or on the fat, meat, and meat byproducts of cattle and hogs fed detreated corn seed. ASTA subsequently amended their petition by deleting the request for tolerances for cattle and hogs; however, these tolerance proposals were later reinstated by the petition. The agency has determined that detreated corn seed is a feed item and a separate notice (FAP 3E1367/R84) establishing a feed additive regulation for captan in or on detreated corn seed appears elsewhere in this issue of the Federal Register. The reader is directed to review that notice for a discussion of the particulars in reaching this decision.

The tolerances are adequate to cover residues in or on the meat, fat, and meat byproducts of cattle, and hogs when feeding of detreated corn is discontinued 14 days before slaughter.

Based on the above information considered by the agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before December 7, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this rule from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in

the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 409(e) 68 Stat. 514; (21 U.S.C. 346a(e)))

Dated: October 29, 1981.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.103 is revised to read as follows:

§ 180.103 Captan; tolerances for residues.

(a) Tolerances are established for residues of the fungicide captan [N-trichloromethylthio-4-cyclohexene-1,2-dicarboximide] from preharvest and postharvest uses or combinations of such uses in or on the following raw agricultural commodities:

Commodities	Parts per million
Apples	25
Apricots	50
Avocados	25
Beet, greens	100
Beet (roots)	2
Blackberries	25
Blueberries (huckleberries)	25
Broccoli	2
Brussels sprouts	2
Cabbage	2
Cantaloups	25
Carrots	2
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, mby	0.05
Cauliflower	2
Celery	50
Cherries	100
Collards	2
Corn, sweet (K + CWHR)	2
Cottonseed	2
Crabapples	25
Cranberries	25
Cucumbers	25
Dewberries	25
Eggplants	25
Grapes	50
Garlic	25
Hogs, fat	0.05
Hogs, meat	0.05
Hogs, mby	0.05
Honeydew melons	25
Kale	2
Leeks	50
Lettuce	100
Mangoes	50
Muskmelons	25
Mustard greens	2
Nectarines	50
Onions, dry bulb	25
Onions, green	50
Peaches	100
Pears	25
Peas, dry	2
Peas, succulent	2
Plums (fresh prunes)	100
Peppers	25
Pimientos	25
Pumpkins	25
Quinces	25
Raspberries	25
Rhubarb	25
Rutabagas (roots)	2
Shallots	50
Soybeans, dry	2
Soybeans, succulent	2
Spinach	100
Squash, summer	25
Squash, winter	25

Commodities	Parts per million
Strawberries	25
Taro (corm)	0.25
Tomatoes	25

(b) The following tolerances for residues of captan are established on an interim basis pending evaluation of captan under the Rebuttable Presumption Against Registration (RPAR) review on the transmission of residues to meat, milk, and eggs from feeding cattle or poultry with raw agricultural commodities or their byproducts when such commodities have been treated with captan:

Commodities	Parts per million
Almonds	2
Almond hulls	100
Beans, dry	25
Beans, succulent	25
Grapefruit	25
Lemons	25
Limes	25
Oranges	25
Pineapples	25
Potatoes	25
Tangerines	25

[FR Doc. 81-32209 Filed 11-5-81; 6:45 am]

BILLING CODE 5560-32-M

40 CFR Part 180

[PP 0F2329/PP 1F2455/R363; PH-FRL-1979-4]

Glyphosate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the combined residues of the herbicide glyphosate [N-(phosphonomethyl)glycine] and its metabolite aminomethyl-phosphonic acid in or on certain raw agricultural commodities. This regulation was requested by Monsanto Co. This rule establishes the maximum permissible level for the combined residues of glyphosate and its metabolite in or on these commodities.

EFFECTIVE DATE: Effective on November 6, 1981.

ADDRESS: Written comments to: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C).

Office of Pesticide Programs,
Environmental Protection Agency, Rm.
245, CM#2, 1921 Jefferson Davis
Highway, Arlington, VA 22202, (703-
557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of September 25, 1981 (46 FR 47242) that Monsanto Co., 1101 17th St., NW., Washington, DC 20036, had filed pesticide petitions (PP OF2329 and PP 1F2455) proposing to amend 40 CFR 180.364 by establishing tolerances for the combined residues of the herbicide glyphosate [N-(phosphonomethyl)glycine] and its metabolite aminomethyl-phosphonic acid in or on certain raw agricultural commodities.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data submitted included an oral LD₅₀ (rabbit) study with a LD₅₀ of 3.8 grams (g)/kilogram (kg); a 90-day feeding (dog) study with a no-observed-effect-level (NOEL) of 2,000 ppm; a 90-day feeding (rat) study with a NOEL of 2,000 ppm; teratology (2 rabbit studies) negative at 30 mg/kg/day (highest dose); teratology (rat) study negative at 3,500 mg/kg/day and fetotoxic NOEL is 1,000 mg/kg/day; teratology (rabbit) study negative at 350 mg/kg/day and the fetotoxic NOEL is 175 mg/kg/day; 2-year feeding (dog) study with a NOEL of 300 ppm; three generation reproduction (rat) study with a NOEL of 100 ppm; 18-month feeding (mouse) study—no carcinogenic potential at 300 ppm (highest dose); 2-year feeding (rat) study with a NOEL of 100 ppm; neurotoxicity (hen) negative at 7.5 kg (highest dose); Ames assay (negative); rec-assay (negative); rec-assay (*B. subtilis*)—not mutagenic up to 2,000 micrograms test material/disk; reverse mutation (not mutagenic); Ames test (*Salmonella*) not mutagenic; and dominant lethal assay (mouse)—negative at 2,000 mg/kg.

Desirable data that are currently lacking are oncogenicity studies with two species. Although the oncogenic potential of glyphosate is not fully elucidated, the life-time rat and mouse studies provide assurance that glyphosate has a relatively low oncogenic potential. Further assurance of low risk with glyphosate is found in the fact that on a theoretical basis the exposure via the diet is about one-fifth of the ADI. The company has been

notified of the deficiencies and has agreed to perform the above studies and to remove the use from the label should the results of the above studies exceed the risk criteria from chronic toxicity as stated in 40 CFR 182.11 of the regulations.

Tolerances have previously been established on a variety of commodities at levels from 0.1 ppm to 18.0 parts per million. The tolerances on peanuts (0.1 ppm) and cottonseed (15.0 ppm) contribute 0.02097 mg/day/1.5 kg to the current theoretical maximal contribution (TMRC) or 0.3284 mg/day/1.5 kg or 11.63 percent of the allowable daily intake (ADI). Other tolerances for this herbicide have been approved for guava and papayas (0.2 ppm) and will contribute 0.00018 mg/day (1.5 kg) to the newly established TMRC for a total of 0.3494 mg/day (1.5 kg). This value will occupy 11.64 percent of the ADI. The ADI is based on a NOEL of 100 ppm (2-year rat feeding study) with a 100-fold safety factor.

There are no regulatory actions pending against the herbicide and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded. The nature of the residue in plants and animals is adequately understood. Adequate analytical methods (gas chromatography using a phosphorous-specific flame photometric detector and liquid chromatography) are available for enforcement purposes. Secondary residues of glyphosate and/or its metabolite which may occur in liver and kidney of livestock will be covered under the tolerance of 0.5 part per million. There is no reasonable expectation of finite residues in meat, fat, and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, poultry, and sheep, eggs, and milk from the tolerances (180.6(a)(3)). It is concluded that these tolerances will protect the public health.

Any person adversely affected by this regulation may, on or before December 7, 1981, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not

a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: November 6, 1981.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: October 27, 1981.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.364 is amended by alphabetically inserting the following raw agricultural commodities:

§ 180.364 Glyphosate; tolerances for residues.

Commodities	Part per million
Cattle, kidney	0.5
Cattle, liver	0.5
Cottonseed	15
Cotton, forage	15
Cotton, hay	15
Goats, kidney	0.5
Goats, liver	0.5
Hogs, kidney	0.5
Hogs, liver	0.5
Horses, kidney	0.5
Horses, liver	0.5
Peanuts	0.1
Peanut, hay	0.5
Peanut, forage	0.5
Peanut, hulls	0.5
Poultry, kidney	0.5
Poultry, liver	0.5
Sheep, liver	0.5
Sheep, kidney	0.5

[FR Doc. 81-32204 Filed 11-5-81; 8:45 am]

BILLING CODE 5560-32-M