Any safety concerns regarding exposure to residues of edible food commodities have been addressed by the long history of safe use of foods in commerce, as well as the adequate regulation of foods by the Food and Drug Administration. Additionally, any cumulative effects from aggregate exposure to residues of food commodities when used as pesticides in or on other food commodities would not likely impact those effects that may occur from much broader exposure via consumption of food in the diet. Since food commodities are non toxic to humans including infants and children, EPA has not assessed the risk from food commodities using a safety factor approach. Accordingly, application of an additional 10X safety factor analysis or quantitative risk assessment for the protection of infants and children is not necessary to protect the safety of infants and children.

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. Based on the information and data considered, the Agency has determined that, in amending 40 CFR 180.1164, as proposed, there is reasonable certainty that no harm to the general population, including infants and children will result from aggregate exposure to edible food commodities used as pesticides. An exemption from tolerance is appropriate for these pesticides because EPA believes they do not pose a dietary risk under reasonably forseeable circumstances. Accordingly, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

IV. Public Docket and Electronic Submissions

The official record for this rule making, as well as the public version, has been established for this rule making under document control number [OPP–300680] (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m.,Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rule making, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of comments received electronically into printed paper form as they are received and will place the paper copies in the official rule making record. The official rule making record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

V. Regulatory Assessment Requirements

This rule proposes an exemption from the requirement of a tolerance under FFDCA section 408(d). The EPA is proposing this regulation on its own initiative. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This action does not contain any information collections subject to OMB approval under the *Paperwork Reduction Act* (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the *Unfunded Mandates Reform Act of 1995* (UMRA; Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 40 CFR Part 180

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and record keeping requirements.

Dated: June 29, 1998.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I, part 180 is proposed to be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. Section 180.1164 is amended by adding paragraph (d) to read as follows:

§ 180.1164 Food and food by-products; exemption from the requirement of a tolerance.

* * * * *

(d) Any edible food commodity (except for peanuts, tree nuts, milk, eggs, fish, crustacea, and wheat) used as a pesticide is exempted from the requirement of a tolerance when used in accordance with good agricultural practice in or on all food commodities. This exemption shall not apply to any edible food commodity that is adulterated under section 342 of Title 21 of the United States Code.

[FR Doc. 98–18280 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[IL–64–2–5807; FRL–6122–8]

Project XL Site-specific Rulemaking for OSi Specialties, Inc., Sistersville, WV

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposal.

SUMMARY: This document proposes a narrow modification being considered by the EPA in implementing a project under the Project XL program for the OSi Specialties, Inc., plant, a wholly owned subsidiary of Witco Corporation, located near Sistersville, West Virginia (''the Sistersville Plant''). To implement this XL project, the EPA proposed on March 6, 1998, a site-specific regulatory deferral of certain air emission standards. That action has not yet been

promulgated. Today's document addresses the narrow issue of a condition contained in that proposed site-specific deferral, which requires the Sistersville Plant to conduct an initial performance test within 60 days of initial start-up of a thermal oxidizer.

DATES: Comments on this document will be accepted through July 24, 1998.

ADDRESSES: Docket. Supporting information for today's supplemental proposal is available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. For information specific to today's supplemental proposal, refer to RCRA docket number F–98–MCCA–FFFFF. For information used in developing the XL project and the proposed rule, refer to RCRA docket number F–98–MCCP–FFFFF.

Hand delivery of items and review of docket materials are made at the Virginia address. To submit comments by mail, the mailing address for the RCRA docket office is RCRA Information Center (5305W), U. S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029, during normal business hours. Persons wishing to view the duplicate docket at the Philadelphia location are encouraged to contact Mr. Tad Radzinski in advance, by telephoning (215) 814–2394. NOTE: comments will not be received at the Philadelphia location; All comments must be submitted to the RCRA Information Center (5305W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Comments: Written comments regarding today's supplemental proposal may be mailed to the RCRA Information Center of the U.S. Environmental Protection Agency, at the above-mentioned Washington, D.C. mailing address. Please send an original and two copies of all comments, and refer to Docket Number F–98-MCCA-FFFFF.

The EPA will consider comments on this supplemental proposal that are received through July 24, 1998.

FOR FURTHER INFORMATION CONTACT: For information about this document, the proposed site-specific regulatory deferral, or the OSi XL project, please contact Mr. Tad Radzinski, U.S. Environmental Protection Agency, Region 3 (3WC11), Waste Chemical Management Division, 1650 Arch Street, Philadelphia, PA, 19103–2029, (215) 814–2394.

To be included on the OSi Specialties Project XL mailing list to receive information about future public meetings, XL progress reports and other mailings from OSi on the XL Project, contact: Okey Tucker, OSi Specialties, Inc., 3500 South State Rte. 2, Friendly, WV 26146. Mr. Tucker can also be reached by telephone at (304) 652-8131.

For information on all other aspects of the XL Program contact Christopher Knopes at the following address: Office of Reinvention, United States Environmental Protection Agency, Room 1029WT, 401 M Street, SW (1802), Washington, DC 20460. Additional information on Project XL, including documents referenced in this document, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL'' and via an automated fax-on-demand menu at (202) 260–8590.

SUPPLEMENTARY INFORMATION: On March 6, 1998, the EPA proposed in the **Federal Register** (63 FR 11200) a conditional site-specific regulatory deferral to implement a project under the Project XL program. The XL project and the conditional site-specific deferral are applicable only to the Sistersville Plant. The proposed site-specific deferral would grant to the Sistersville Plant a conditional deferral from certain technical requirements applicable to two on-site hazardous waste surface impoundments. The standards proposed to be deferred are codified in 40 CFR parts 264 and 265 under subpart CC (referred to as the ''subpart CC standards'').

The proposed site-specific deferral includes specific technical and administrative requirements for the operation of a thermal oxidizer at the Sistersville Plant. As proposed, the site-specific deferral requires the Sistersville Plant to perform initial start-up of the thermal oxidizer no later than April 1, 1998. The proposed deferral also requires the Sistersville Plant to conduct an initial performance test of the thermal oxidizer within 60 days of the initial start-up. That requirement is found at paragraph (f)(2)(ii)(B) in §§ 264.1080 and 265.1080 of the proposed site-specific deferral. See 63 FR 11200, March 6, 1998. It is this initial performance test deadline that is the subject of today's supplemental proposal.

Following initial start-up of the thermal oxidizer on April 1, 1998, the Sistersville Plant encountered certain operational difficulties related to the new equipment. At that time, representatives from the Sistersville Plant notified EPA of those difficulties. On May 26, 1998, the Sistersville Plant notified EPA that it would not be able to meet the proposed requirement to conduct the initial performance test by May 31, 1998, which is the date 60 days after initial start-up of the on-site thermal oxidizer. Representatives from the Sistersville Plant conveyed that they expected to conduct the initial performance test by the end of June 1998; however, they requested the deadline be extended by an additional 60 days to allow for possible further delays due to additional unexpected events.

This missed deadline is a material failure by the Sistersville Plant to meet the provisions set forth in the Final Project Agreement (''FPA'') for the XL project, as well as the proposed requirements of the site-specific deferral. It is the expectation of all the stakeholders that the Sistersville Plant will adhere to its commitments to achieving the environmental benefits of this XL project in exchange for the site-specific regulatory flexibility provided by EPA and WV OAQ. The XL project and the related requirements of the proposed site-specific deferral were developed by mutual agreement among EPA, the West Virginia Office of Air Quality (''WV OAQ''), and the Sistersville Plant. The FPA was made available for public review and comment on June 27, 1997. See 62 FR 34748. Though not in itself an enforceable document, the EPA and the other Project XL stakeholders consider the FPA to be a clear expression of the Sistersville Plant's agreement with EPA and WV OAQ to comply with the specified project requirements, particularly the requirements to be codified through the site-specific deferral.

Although the site-specific deferral is not yet promulgated, the provisions of that deferral, as proposed March 6, 1998, are currently applicable to, and enforceable against, the Sistersville Plant under a consent order issued by the WV OAQ. In discussions and correspondence with OSi, EPA has emphasized the importance of meeting deadlines contained in the FPA, and complying with the conditions contained in the proposed site-specific deferral. Upon promulgation, the site-specific deferral will become directly

enforceable by EPA, WV OAQ and citizens.

The EPA and WV OAQ have reviewed documentation provided by the Sistersville Plant regarding their failure to conduct the initial performance test within 60 days of initial start-up, or May 31, 1998. It appears from that documentation that the Sistersville Plant made good faith efforts to comply with that requirement of the XL project, the proposed site-specific deferral, and the WV OAQ consent order. In recognition that the Sistersville Plant cannot possibly meet that passed deadline, and the site-specific deferral which proposed that requirement has not yet been promulgated, the EPA proposes to modify the site-specific deferral prior to its promulgation.

The modification would extend by 60 days, the initial performance test deadline that was contained in the proposed site-specific deferral. The EPA proposes an extension period of 60 days in response to the Sistersville Plant's representative's written statement that the test could be accomplished by the end of June, 1998, but that the recent history of operational difficulties at the Sistersville Plant indicates additional time may become necessary. A copy of that electronic mail note, dated May 26, 1998 from Mr. Tony Vandenberg to Ms. Beth Termini and Ms. Michele Aston, has been entered into the docket for this supplemental notice. A recent telephone meeting between EPA and the Sistersville Plant confirmed that further delays to the initial performance test schedule have occurred, due to continued operational problems with the thermal oxidizer and severe inclement weather in the Sistersville, West Virginia area, and that the initial performance test is scheduled for July 14 and 15, 1998.

The EPA proposes that extending the initial performance test deadline by 60 days will not result in significant, if any, decreases in the environmental benefits of this XL project. The Sistersville Plant has reported that the thermal oxidizer began operation on April 1, 1998, and following some initial technical difficulties, has been fully operational in accordance with the conditions of the proposed site-specific deferral, since April 13, 1998. The primary purpose of the initial performance test is to set a site-specific operating temperature that will indicate the thermal oxidizer is achieving the required 98 percent by weight reduction of the organics in the controlled vapor stream, as set forth in the proposed site-specific deferral. The FPA and the proposed site-specific deferral set a default operating temperature of 1600 degrees Fahrenheit for the period prior to conducting the initial performance test. This requirement is contained in the proposed site-specific deferral at §§ (f)(2)(ii)(A)(*1*)(*I*) of paragraphs 264.1080 and 265.1080, and is currently enforceable under the WV OAQ consent order. See 63 FR 11200, March 6, 1998. Because the Sistersville Plant has reportedly operated the thermal oxidizer at 1600 degrees Fahrenheit, EPA estimates that the Sistersville Plant has been achieving the majority, if not all, of the environmental benefits of the thermal oxidizer's operation since it first began its fully operational service on April 13, 1998.

In light of the apparent good faith effort by the Sistersville Plant to meet the May 31, 1998 deadline for the initial performance test, their timely notification to EPA of the missed deadline, and their compliance with the requirements otherwise applicable to the thermal oxidizer (e.g., continuously operating the unit at 1600 degrees Fahrenheit), the EPA proposes to extend the deadline for the initial performance test.

At the EPA's request, the Sistersville Plant has agreed to provide direct written notice of this issue to the XL project stakeholder group, and to notify this group that a **Federal Register** document will be published requesting public comment on this issue. The Sistersville Plant has also agreed that, upon publication of today's document in the **Federal Register**, it will promptly notify the stakeholder group, and publish a notification in the local Sistersville newspaper of the opportunity for public comment related to today's supplemental proposal.

The EPA considers a 14-day comment period to be adequate for this document, due to the very narrow scope of the issue, the narrow applicability of the site-specific deferral being considered, and the extensive notice to interested parties that the Sistersville Plant will provide prior to, and immediately following, publication of this supplemental proposal in the **Federal Register**.

List of Subjects 40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Hazardous waste, Organics, Surface impoundment, Thermal oxidizer.

Dated: July 7, 1998.

J. Charles Fox,

Associate Administrator, Office of Reinvention.

[FR Doc. 98–18463 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–6123–4]

Tennessee; Tentative Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of tentative determination on application of State of Tennessee for final approval, public hearing and public comment period.

SUMMARY: The State of Tennessee has applied for approval of its underground storage tank program for petroleum substances under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Tennessee application and has made the tentative decision that Tennessee's underground storage tank program for petroleum substances satisfies all of the requirements necessary to qualify for approval. The Tennessee application for approval is available for public review and comment. A public hearing will be held to solicit comments on the application, unless insufficient public interest is expressed.

DATES: A public hearing is scheduled for September 3, 1998, unless insufficient public interest is expressed in holding a hearing. EPA reserves the right to cancel the public hearing if sufficient public interest is not communicated to EPA in writing by August 20, 1998. EPA will determine by August 27, 1998, whether there is significant interest to hold the public hearing. The State of Tennessee will participate in the public hearing held by EPA on this subject. Written comments on the Tennessee approval application, as well as requests to present oral testimony, must be received by the close of business on August 20, 1998.

ADDRESSES: Copies of the Tennessee approval application are available at the following addresses for inspection and copying:

Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, 401 Church Street 4th Floor, L&C Tower, Nashville, Tennessee 37243–1541, Phone: (615) 532–0945, 8:00 am through 4:30 pm, Central Daylight Savings Time

U.S. EPA Docket Clerk, Office of Underground Storage Tanks, c/o RCRA Information Center, 1235