

- c. Revising the entry for “129–8”.
  - d. Revising the entry for “129–16”.
  - e. Revising the entry for “129–17”.
  - f. Revising the entry for “129–19”.
  - g. Revising the entry for “129–20”.
  - h. Revising the entry for “129–34”.
  - i. Revising the entry for “129–41”.
- The revisions read as follows:

**§ 52.1420 Identification of Plan.**  
 \* \* \* \* \*  
 (c) \* \* \*

**EPA-APPROVED NEBRASKA REGULATIONS**

Nebraska citation	Title	State effective date	EPA approval date	Comments
<b>STATE OF NEBRASKA—DEPARTMENT OF ENVIRONMENTAL QUALITY</b>				
129–1	Definitions	8/22/2000	[May 29, 2002, and FR cite]	
*	*	*	*	*
129–7	Operating Permits—Application	8/22/2000	[May 29, 2002, and FR cite]	
129–8	Operating Permit Content	8/22/2000	[May 29, 2002, and FR cite]	
*	*	*	*	*
129–16	Stack Heights; Good Engineering Practice (GEP).	12/15/1998	[May 29, 2002, and FR cite]	
129–17	Construction Permits—When Required	8/22/2000	[May 29, 2002, and FR cite]	Also refer to January 23, 2002, NDEQ letter to EPA regarding change to 129–17–014.
129–19	Prevention of Significant Deterioration of air Quality.	12/15/1998	[May 29, 2002, and FR cite]	
129–20	Particulate Emissions; Limitations and Standards (Exceptions due to Breakdowns of Scheduled Maintenance: See Chapter 34).	8/22/2000	[May 29, 2002, and FR cite]	
*	*	*	*	*
129–34	Emission Sources; Testing; Monitoring	8/22/2000	[May 29, 2002, and FR cite]	
*	*	*	*	*
129–41	General Provision	12/15/1998	[May 29, 2002, and FR cite]	
*	*	*	*	*

**PART 70—[AMENDED]**

1. The authority citation for Part 70 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Appendix A to Part 70 is amended by adding under “Nebraska; City of Omaha; Lincoln-Lancaster County Health Department” paragraph (e) to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

\* \* \* \* \*

(e) The Nebraska Department of Environmental Quality submitted the following program revisions on June 29, 2001; NDEQ Title 129, Chapters 1 and 41, effective December 15, 1998; and NDEQ Title 129, Chapters 1, 7, 8, and 31, effective on August 22, 2000.

\* \* \* \* \*

[FR Doc. 02–13248 Filed 5–28–02; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[WI101–7332a; FRL–7206–5]

**Approval and Promulgation of Implementation Plans; Wisconsin Designation of Areas for Air Quality Planning Purposes; Wisconsin**

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

**ACTION:** Direct final rule.

**SUMMARY:** On November 17, 2000, the Wisconsin Department of Natural Resources (WDNR) submitted a request to the Environmental Protection Agency (EPA) to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, Wisconsin, from primary and secondary sulfur dioxide (SO<sub>2</sub>) nonattainment areas to attainment of the SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS). EPA identified modeling and enforceability issues during the technical review of this submittal. On October 17, 2001, WDNR sent to EPA a submittal addressing the technical deficiencies. In this action EPA is approving the state’s

request, because it meets all of the Clean Air Act (Act) requirements for redesignation.

IF EPA receives adverse comments on this action, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**DATES:** This “direct final” rule is effective July 29, 2002, unless EPA receives adverse or critical comments by June 28, 2002. If EPA receives adverse comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Send written comments to Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Christos Panos, at (312) 353–8328, before visiting the Region 5 Office.)

A copy of this redesignation is available for inspection at this Office of Air and Radiation (OAR) Docket and

Information Center (Air Docket 6102), United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 260-7548.

**FOR FURTHER INFORMATION CONTACT:**

Christos Panos, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

**SUPPLEMENTARY INFORMATION:** This Supplementary Information section is organized as follows:

A. What Action is EPA Taking?

B. Why was This SIP Revision Submitted?

C. Why Can We Approve This Request?

D. What Requirements Must be Met for Approval of a Redesignation, and How Did the State Meet Them?

**A. What Action is EPA Taking?**

We are approving the State of Wisconsin's request to redesignate the Rothschild-Rib Mountain-Weston primary and secondary SO<sub>2</sub> nonattainment areas to attainment of the SO<sub>2</sub> NAAQS. We are also approving the maintenance plan for these areas into the Wisconsin SO<sub>2</sub> SIP. Further, we are incorporating the consent orders for Weyerhaeuser Company (AM-01-600) and Wisconsin Public Service Corporation's Weston Plant (AM-01-601) into the Wisconsin SO<sub>2</sub> SIP.

**B. Why Was This SIP Revision Submitted?**

WDNR believes that the Rothschild-Rib Mountain-Weston areas, located in central Marathon County, are now eligible for redesignation because EPA approved Wisconsin's SO<sub>2</sub> SIP in 1990 and 1993, and SO<sub>2</sub> monitors in the nonattainment area of Marathon County have not recorded exceedances of either the primary or secondary SO<sub>2</sub> air quality standards since 1986.

**C. Why Can We Approve This Request?**

Consistent with the Act's requirements, EPA developed procedures for redesignation of nonattainment areas that are in a September 4, 1992, memorandum from John Calcagni, EPA, titled, *Procedures for Processing Requests to Redesignate Areas to Attainment*. This EPA guidance document contains a number of conditions that a state must meet before it can request a change in designation for a federally designated nonattainment area. That memorandum and EPA's Technical Support Document set forth the rationale in support of the redesignation of the Rothschild-Rib Mountain-Weston SO<sub>2</sub> nonattainment areas to an attainment status.

**D. What Requirements Must the State Meet for Approval of a Redesignation and How Did the State Meet Them?**

*1. The State Must Show That the Area Is Attaining the Applicable NAAQS*

There are two components involved in making this demonstration: (1) Ambient air quality monitoring representative of the area of highest concentration must show no more than one exceedance annually; and (2) EPA approved air quality modeling must show that the area in question meets the applicable standard.

The first component relies on ambient air quality data representative of the area of highest concentration. The primary 24-hour concentration limit of the SO<sub>2</sub> NAAQS is 365 micrograms per cubic meter (µg/m<sup>3</sup>). The secondary 3-hour concentration limit is 1300 µg/m<sup>3</sup>. According to 40 CFR 50.4, an area must show no more than one exceedance annually. WDNR's monitoring data indicates that there have been no exceedances of the primary 24-hour concentration limit or the secondary 3-hour concentration limit during the monitoring period of 1986-1991, therefore satisfying the first component.

The second component relies on supplemental EPA approved air quality modeling. The modeling methodology used by the WDNR followed the guidance identified in EPA's Guideline on Air Quality Models, 40 CFR part 51, appendix W. Five sources were explicitly modeled: Wisconsin Public Service Corporation Weston Plant, Weyerhaeuser Company, Foremost Farms USA, Lignotech USA, Inc., and Mosinee Paper. Weyerhaeuser Paper and Lignotech are located within the Rothschild nonattainment area. Wisconsin Public Service Corporation-Weston and Foremost Farms are located 3 to 4 kilometers to the southwest of the Rothschild area and Mosinee Paper is located about 12 kilometers to the south-southwest of the Rothschild area.

EPA's review of the modeling in the state's November 17, 2000 submittal identified several issues. WDNR's supplemental submittal sent to EPA on October 17, 2001 included revised modeling which adequately addressed those issues. To demonstrate modeled attainment, Weyerhaeuser was limited to burning fuel oil with no more than 0.05% sulfur and Wisconsin Public Service Corporation Weston Plant was limited to burning coal in Units 1 and 2 with no more than 1.2 pounds of SO<sub>2</sub> per million British Thermal Units and to burning fuel oil with no more than 0.3% sulfur in the three turbines. WDNR placed these limits into consent orders which were included in its October 17, 2001 submittal.

The results of the air quality modeling conducted by the WDNR for the

Rothschild-Rib Mountain-Weston nonattainment areas show the total SO<sub>2</sub> concentration from the impact of the five modeled sources combined with a representative background SO<sub>2</sub> concentration are below the primary and secondary SO<sub>2</sub> NAAQS. Therefore, WDNR satisfied the second component by supplying a modeling demonstration showing that the area is in attainment of the SO<sub>2</sub> NAAQS.

*2. The SIP for the Area Must Be Fully Approved Under Section 110(k) of the Act and Must Satisfy All Requirements That Apply to the Area*

WDNR submitted multiple SO<sub>2</sub> SIP revisions to EPA between 1985 and 1992 to fulfill the requirements of section 110 and part D of the Act. The Rothschild SO<sub>2</sub> SIP revision approved by EPA on March 27, 1990 (55 FR 11183), contained limits pertaining to two sources, Weyerhaeuser and Reed Lignin Company (now Lignotech). This SIP revision approved Wisconsin's SO<sub>2</sub> plan for the City of Rothschild and the Town of Weston. The emission limits for the Wisconsin Public Service Corporation Weston Plant, the only large SO<sub>2</sub> emitting source located near Rib Mountain, were submitted as part of the Wisconsin statewide SO<sub>2</sub> rule. EPA approved the statewide SO<sub>2</sub> rule on May 21, 1993 (58 FR 29537), thereby approving Wisconsin's SO<sub>2</sub> plan for Rib Mountain Township.

*3. EPA Has Determined That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions*

Air quality improvement in the Rothschild-Rib Mountain-Weston SO<sub>2</sub> nonattainment areas is attributed to SO<sub>2</sub> emission limits and operating restrictions imposed on the facilities that contributed to the nonattainment status. These limits have been incorporated into the state SO<sub>2</sub> SIP and are therefore permanent and enforceable. Further, the additional limits relied upon in the modeling were placed into consent orders, which were included in WDNR's October 17, 2001 submittal. These consent orders are being incorporated into the Wisconsin SO<sub>2</sub> SIP, thereby making them permanent and enforceable.

*4. The State Has Met All Applicable Requirements Under Section 110 and Part D of the Act That Were Applicable Prior to Submittal of the Complete Redesignation Request*

Section 110(a)(2) of the Act contains the general requirements for nonattainment plans. Part D contains the general requirements applicable to all areas that are designated nonattainment based on a violation of

the NAAQS. These requirements are satisfied by EPA's March 27, 1990 and May 21, 1993 approvals of the nonattainment plans that Wisconsin submitted for the control of SO<sub>2</sub> emissions in the Rothschild-Rib Mountain-Weston areas.

A PSD program will replace the requirements of the Part D new source review program after redesignation of the area. To ensure that the PSD program will become fully effective immediately upon redesignation, either EPA must delegate the federal PSD program to the state or the state must make any needed modifications to its rules to have the approved PSD program apply to the affected area upon redesignation. EPA fully approved Wisconsin's PSD program, effective June 28, 1999.

*5. EPA Has Fully Approved a Maintenance Plan, Including a Contingency Plan, for the Area Under Section 175A of the Act*

Section 107(d)(3)(E) of the Act states that, for an area to be redesignated, EPA must fully approve a maintenance plan that meets the requirements of Section 175A. Section 175A of the Act requires states to submit a SIP revision that provides for the maintenance of the NAAQS in the area for at least 10 years after approval of the redesignation. The basic components needed to ensure proper maintenance of the NAAQS are: attainment inventory, maintenance demonstration, verification of continued attainment, ambient air monitoring network, and a contingency plan. EPA is approving the maintenance plan in today's action as discussed below.

a. *Attainment Inventory.* The air dispersion modeling included in the state's submittal contains the emission inventory of SO<sub>2</sub> sources in the Rothschild-Rib Mountain-Weston nonattainment areas.

b. *Maintenance Demonstration and Verification of Continued Attainment.* The modeling analysis submitted by WDNR on October 17, 2001, demonstrates attainment and maintenance of the SO<sub>2</sub> NAAQS. The SO<sub>2</sub> emitting sources involved in the Rothschild-Rib Mountain-Weston SO<sub>2</sub> redesignation are meeting the SO<sub>2</sub> emission limits identified in the modeling. WDNR will track the maintenance plan through the annual submittal of the air emission inventory for the SO<sub>2</sub> emitting facilities in the Rib Mountain-Rothschild-Weston area.

c. *Monitoring Network.* WDNR ceased air quality monitoring in this area in 1991 due to fiscal considerations. EPA has stated in the past that if a state can show attainment of the NAAQS through EPA approved air dispersion modeling, has an approvable SIP revision showing

that the control strategies have been implemented, and shows that it can continue to attain the standard for a period of 10 years following the redesignation, then an SO<sub>2</sub> monitoring network does not need to be maintained. Because the WDNR has met these requirements, it does not need to maintain a monitoring network in the Rothschild-Rib Mountain-Weston area. WDNR, however, has committed to resume monitoring if it appears that there are significant emission increases from the SO<sub>2</sub> emitting sources in the area that would cause a concern for public health.

d. *Contingency Plan.* Section 175A of the Act requires that the maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of the area. WDNR will resume SO<sub>2</sub> air monitoring if the reported SO<sub>2</sub> emissions from any of the facilities in any one year exceeds the amount identified in the modeling. Once monitoring resumes and upon verification of a violation of either the 24-hour or 3-hour SO<sub>2</sub> NAAQS, if any of the SO<sub>2</sub> emitting sources in the area is responsible for the violation, WDNR will work with one or all of these sources to ensure that the violation will not occur again. WDNR will involve EPA, Region 5, in the discussions with the company. Once WDNR identifies the problem and sets a strategy to fix the problem, WDNR will write rules to control SO<sub>2</sub> emissions at the company or amend the company's federal operation permit. WDNR has committed to the following schedule: (1) To identify the responsible source within 30 days after a monitored violation; (2) to take action against the responsible source within 90 days of the violation; and, if EPA determines it necessary, (3) to submit a SIP revision to EPA within 360 days after the violation.

**Final Action**

We have evaluated the state's submittal and have determined that it meets the applicable requirements of the Act, EPA regulations, and EPA policy. Therefore, we are approving the State of Wisconsin's request to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, from primary and secondary SO<sub>2</sub> nonattainment areas to attainment of the SO<sub>2</sub> NAAQS. We are also approving the maintenance plan for the Rothschild-Rib Mountain-Weston areas into the Wisconsin SO<sub>2</sub> SIP. Further, we are also incorporating into the Wisconsin SO<sub>2</sub> SIP the consent orders for Weyerhaeuser Company (AM-01-600) and Wisconsin Public Service Corporation's Weston Plant (AM-01-601).

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective July 29, 2002 without further notice unless we receive relevant adverse comments by June 28, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. We will then address all public comments received in a subsequent final rule based on the proposed action published elsewhere in this **Federal Register**. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 29, 2002.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

**Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more

Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804

exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 4, 2002.

**David A. Ullrich,**  
*Acting Regional Administrator, Region 5.*

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.2570 is amended by adding paragraph (c)(105) to read as follows:

**§ 52.2570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(105) On November 17, 2000, WDNR submitted a request to redesignate the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County, Wisconsin from primary and secondary SO<sub>2</sub> nonattainment areas to attainment of the SO<sub>2</sub> NAAQS. EPA identified modeling and enforceability issues during the technical review of this submittal. On October 17, 2001, WDNR sent to EPA a supplemental submittal addressing the technical deficiencies.

(i) *Incorporation by reference.*

(A) A Consent Order identified as AM-01-600 for Weyerhaeuser Company, issued by WDNR and signed by Scott Mosher for the Weyerhaeuser Company on May 29, 2001, and Jon Heinrich for WDNR on August 16, 2001.

(B) A Consent Order identified as AM-01-601 for Wisconsin Public Service Corporation's Weston Plant, signed by David W. Harpole for the Wisconsin Public Service Corporation on July 12, 2001, and Jon Heinrich for WDNR on August 16, 2001.

3. Section 52.2575 is amended by adding paragraph (b)(4) to read as follows:

**§ 52.2575 Control strategy: Sulfur dioxide.**

\* \* \* \* \*

(b) \* \* \*

(4) An SO<sub>2</sub> maintenance plan was submitted by the State of Wisconsin on November 17, 2000, for the villages of Rothschild and Weston and the Township of Rib Mountain, all located in central Marathon County.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

2. Section 81.350 is amended by revising the entry for Marathon County under AQCR 238 in the table entitled "Wisconsin-SO<sub>2</sub>" to read as follows:

**§ 81.350 Wisconsin.**

WISCONSIN—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
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*	*	*	*	*
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AQCR 238:

WISCONSIN—SO<sub>2</sub>—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Marathon County .....	*	*	*	X
	*	*	*	*

\* \* \* \* \*  
 [FR Doc. 02-13112 Filed 5-28-02; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2002-0061; FRL-7176-8]

**Fludioxonil; Re-establishment of Tolerance for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation re-establishes a time-limited tolerance for residues of the fungicide fludioxonil in or on caneberries at 5 parts per million (ppm) for an additional 2 year period. This tolerance will expire and is revoked on December 31, 2003. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on caneberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation is effective May 29, 2002. Objections and requests for hearings, identified by docket control number OPP-2002-0061, must be received on or before July 29, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-2002-0061 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide

Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9364; e-mail address: pemberton.libby@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311  32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register"—Environmental Documents. You can also go directly to

the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0061. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

**II. Background and Statutory Findings**

EPA issued a final rule, published in the **Federal Register** of June 30, 1999 (64 FR 35037) (FRL-6086-4), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996 (Public Law 104-170), it established a time-limited tolerance for the residues of fludioxonil in or on caneberries at 5 ppm, with an expiration date of December 31, 2000. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be