

Department of Environmental Conservation.  
The following sections of Title 6, Chapter III:

**Subchapter A. Prevention and Control of Air Contamination and Air Pollution**

**Part 200. General Provisions**

- 6 NYCRR 200.1. Definitions (effective 4/2/2020)
- 6 NYCRR 200.3. False Statement (effective 6/16/1972)
- 6 NYCRR 200.4. Severability (effective 8/9/1984)
- 6 NYCRR 200.6. Acceptable Ambient Air Quality (effective 4/6/1983)
- 6 NYCRR 200.7. Maintenance of Equipment (effective 2/22/1979)
- 6 NYCRR 200.9. Referenced Material (effective 2/11/2021)

**Part 201. Permits and Certificates**

- 6 NYCRR 201–1.1. Purpose and applicability (effective 2/22/2013)
- 6 NYCRR 201–1.4. Malfunctions and start-up/shutdown activities (effective 2/25/2021)
- 6 NYCRR 201–1.5. Emergency defense (effective 2/25/2021)
- 6 NYCRR 201–1.7. Recycling and salvage (effective 2/22/2013)
- 6 NYCRR 201–1.8. Prohibition of reintroduction of collected contaminants to the air (effective 2/22/2013)
- 6 NYCRR 201–1.11. Temporary emission sources (effective 2/25/2021)
- 6 NYCRR 201–1.12. Suspension, reopening, reissuance, modification, or revocation of air permits (effective 2/25/2021)
- 6 NYCRR 201–2. Definitions (effective 2/25/2021)
- 6 NYCRR 201–4. Minor Facility Registration (effective 2/25/2021)
- 6 NYCRR 201–5. State Facility Permits (effective 2/25/2021)
- 6 NYCRR 201–6. Title V Facility Permits (effective 2/25/2021)
- 6 NYCRR 201–7. Federally Enforceable Emission Caps (effective 2/25/2021)
- 6 NYCRR 201–8. General Permits (effective 2/22/2013)
- 6 NYCRR 201–9. Tables (effective 2/25/2021)

**Part 202. Emissions Verification**

- 6 NYCRR 202–1. Emissions Testing, Sampling and Analytical Determinations (effective 9/30/2010)
- 6 NYCRR 202–2. Emission Statements (effective 12/3/2020)

**Part 207. Control Measures for an Air**

Pollution Episode (effective 2/22/1979)

**Part 211. General Prohibitions (effective 1/1/2011)**

**Part 212. Process Operations (effective 6/13/2015)**

**Part 215. Open Fires (effective 10/14/2009)**

**Part 219. Incinerators**

- 6 NYCRR 219–1. Incineration—General Provisions (effective 3/15/2020)
- 6 NYCRR 219–2. Municipal and Private Solid Waste Incineration Facilities (effective 5/21/2005)
- 6 NYCRR 219–10. Reasonably Available Control Technology (RACT) For Oxides of Nitrogen (NO<sub>x</sub>) at Municipal and Private Solid Waste Incineration Units (effective 3/15/2020)

**Part 221. Asbestos-Containing Surface Coating Material (effective 9/29/1972)**

**Part 222. Distributed Generation Sources (effective 3/26/2020)**

**Part 225. Fuel Consumption and Use**

- 6 NYCRR 225–1. Fuel Composition and Use—Sulfur Limitations (effective 2/4/2021)
- 6 NYCRR 225–2. Fuel Composition and Use—Waste Oil as a Fuel (effective 4/2/2020)
- 6 NYCRR 225–3. Fuel Composition and Use—Gasoline (effective 11/4/2001)
- 6 NYCRR 225–4. Motor Vehicle Diesel Fuel (effective 5/8/2005)

**Part 226. Solvent Metal Cleaning Processes and Industrial Cleaning Solvents (effective 11/1/2019)**

**Part 227. Stationary Combustion Installations**

- 6 NYCRR 227–1. Stationary Combustion Installations (effective 2/25/2000)
- 6 NYCRR 227–2. Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NO<sub>x</sub>) (effective 12/7/2019)
- 6 NYCRR 227–3. Ozone Season Oxides of Nitrogen (NO<sub>x</sub>) Emission Limits for Simple Cycle and Regenerative Combustion Turbines (effective 1/16/2020)

**Part 228. Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers (effective 6/5/2013)**

**Part 229. Petroleum and Volatile Organic Liquid Storage and Transfer (effective 4/4/1993)**

**Part 230. Gasoline Dispensing Sites and Transport Vehicles (effective 2/11/2021)**

**Part 231. New Source Review for New and Modified Facilities**

- 6 NYCRR 231–3. General Provisions (effective 2/25/2021)
- 6 NYCRR 231–4. Definitions (effective 2/25/2021)
- 6 NYCRR 231–5. New Major Facilities and Modifications to Existing Non-Major Facilities in Nonattainment Areas, and Attainment Areas of the State Within the Ozone Transport Region (effective 2/25/2021)

- 6 NYCRR 231–6. Modifications to Existing Major Facilities in Nonattainment Areas and Attainment Areas of the State Within the Ozone Transport Region (effective 2/25/2021)
- 6 NYCRR 231–7. New Major Facilities and Modifications to Existing Non-Major Facilities in Attainment Areas (Prevention of Significant Deterioration) (effective 2/25/2021)

- 6 NYCRR 231–8. Modifications to Existing Major Facilities in Attainment Areas (Prevention of Significant Deterioration) (effective 2/25/2021)
- 6 NYCRR 231–9. Plantwide Applicability Limitation (PAL) (effective 2/25/2021)

- 6 NYCRR 231–10. Emission Reduction Credits (ERCs) (effective 2/25/2021)
- 6 NYCRR 231–11. Permit and Reasonable Possibility Requirements (effective 2/25/2021)

- 6 NYCRR 231–12. Ambient Air Quality Impact Analysis (effective 2/25/2021)
- 6 NYCRR 231–13. Tables and Emission Thresholds (effective 2/25/2021)

**Part 241. Asphalt Pavement and Asphalt Based Surface Coating (effective 1/1/2011)**

**Part 242. CO<sub>2</sub> Budget Trading Program**

- 6 NYCRR 242–1. CO<sub>2</sub> Budget Trading Program General Provisions (effective 12/31/2020)
- 6 NYCRR 242–2. CO<sub>2</sub> Authorized Account Representative for CO<sub>2</sub> Budget Sources (effective 12/31/2020)
- 6 NYCRR 242–3. Permits (effective 1/1/2014)
- 6 NYCRR 242–4. Compliance Certification (effective 1/1/2014)
- 6 NYCRR 242–5. CO<sub>2</sub> Allowance Allocations (effective 12/31/2020)
- 6 NYCRR 242–6. CO<sub>2</sub> Allowance Tracking System (effective 12/31/2020)
- 6 NYCRR 242–7. CO<sub>2</sub> Allowance Transfers (effective 1/1/2014)
- 6 NYCRR 242–8. Monitoring and Reporting (effective 12/31/2020)
- 6 NYCRR 242–10. CO<sub>2</sub> Emissions Offset Projects (effective 12/31/2020)
- Part 243. CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program (effective 1/2/2019)
- Part 244. CSAPR NO<sub>x</sub> Annual Trading Program (effective 1/2/2019)
- Part 245. CSAPR SO<sub>2</sub> Group 1 Trading Program (effective 1/2/2019)

**Subchapter B. Air Quality Classifications and Standards**

**Part 256. Air Quality Classifications System (effective 5/1/1972)**

**Part 257. Air Quality Standards**

- 6 NYCRR 257–1. Air Quality Standards-General (effective 12/6/2019)
- 6 NYCRR 257–2. Air Quality Standards-Sulfur Dioxide (SO<sub>2</sub>) (effective 3/18/1977)
- 6 NYCRR 257–3. Air Quality Standards-Particulates (effective 12/6/2019)
- 6 NYCRR 257–4. Ambient Air Quality Standards—Fluorides (effective 12/6/2019)
- 6 NYCRR 257–5. Ambient Air Quality Standards—Hydrogen Sulfide (H<sub>2</sub>S) (effective 12/6/2019)

**Subchapter C. Air Quality Area Classifications**

**Part 287. Nassau County (effective 5/1/1972)**

**Part 288. New York City (effective 5/1/1972)**

**Part 307. Suffolk County (effective 5/1/1972)**

**Part 315. Westchester County (effective 5/1/1972)**

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

**[EPA–HQ–OAR–2019–0698; FRL–7826.1–3–OAR]**

**RIN 2060–AV31**

**Protection of Stratospheric Ozone: Listing of Substitutes Under the Significant New Alternatives Policy Program; Withdrawal of Proposed Rule**

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

**ACTION:** Proposed rule; withdrawal and partial withdrawal.

**SUMMARY:** On October 6, 2021, the U.S. Environmental Protection Agency issued a supplemental proposed rulemaking under the Significant New Alternatives Policy program to list certain substitutes to ozone-depleting substances in the foam blowing sector, extruded polystyrene: Boardstock and billet end-use, as acceptable, subject to narrowed use limits, from the effective date of a subsequent final rule until January 1, 2023. This followed EPA's June 12, 2020, initial proposal which proposed to list three foam blowing agents, which are hydrofluorocarbon blends, as acceptable. Taking into consideration information available to EPA since issuance of that initial proposal, EPA proposed narrowed use limits and time-limited use of the substitutes in the supplemental proposal. Based on further information available to EPA, EPA is now withdrawing the proposed listings for the three foam blowing agents described in the initial and supplemental proposals. This document summarizes the proposed listings and provides an explanation for the Agency's decision not to finalize the proposed actions.

**DATES:** The U.S. EPA is withdrawing the proposed rule published on October 6, 2021 (86 FR 55549; FRL-7826.1-02-OAR); and is partially withdrawing the proposed rule published on June 12, 2020 (85 FR 35874; FRL-10009-66-OAR), by withdrawing the listings described in the table ("SUMMARY OF PROPOSED NEW LISTINGS FOR XPS FOAM BLOWING AGENTS") published at 85 FR 35888-35889 on June 12, 2020, as of May 20, 2022.

**ADDRESSES:** EPA established a docket for this action under Docket ID No. EPA-HQ-OAR-2019-0698. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard-copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide

remote customer service via email, phone, and webform. For further information on the EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** John Feather, U.S. Environmental Protection Agency, Stratospheric Protection Division; telephone number 202-564-1230; or email address: [feather.john@epa.gov](mailto:feather.john@epa.gov). You may also visit our website at <https://www.epa.gov/ozone-layer-protection> for further information.

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," "the Agency," or "our" is used, we mean EPA. Acronyms that are used in this rulemaking that may be helpful include:

AIM Act—American Innovation and Manufacturing Act  
CAA—Clean Air Act  
CBI—Confidential Business Information  
CFR—Code of Federal Regulations  
CO<sub>2</sub>—Carbon dioxide  
EPA—Environmental Protection Agency  
FR—Federal Register  
GWP—Global Warming Potential  
HCFC—Hydrochlorofluorocarbon  
HCFO—Hydrochlorofluoroolefin  
HFC—Hydrofluorocarbon  
HFO—Hydrofluoroolefin  
NAICS—North American Industrial Classification System  
NPRM—Notice of Proposed Rulemaking  
ODS—Ozone-depleting substances  
SNAP—Significant New Alternatives Policy  
XPS—Extruded Polystyrene: Boardstock and Billet

## Table of Contents

- I. General Information
  - A. Does this action apply to me?
  - B. Why is EPA issuing this withdrawal of the proposed actions?
  - C. What is the Agency's authority for this action?
- II. Background
  - A. 2020 Notice of Proposed Rulemaking (NPRM)
  - B. 2021 Supplemental Proposal
  - C. Comments Received
  - D. Additional Information That EPA Considered
- III. How does EPA intend to proceed?
- IV. Impact Analysis
- V. Statutory and Executive Order Reviews

## I. General Information

### A. Does this action apply to me?

This action is directed to the public in general and may be of particular interest to regulated entities under the following North American Industrial Classification System (NAICS) codes:

- All Other Basic Organic Chemical Manufacturing (NAICS 325199)
- Polystyrene Foam Product Manufacturing (NAICS 326140)

### B. Why is EPA issuing this withdrawal of the proposed actions?

This document serves the following purposes:

1. It announces to the public that EPA is withdrawing proposed listings under EPA's Significant New Alternatives Policy (SNAP) program for three foam blowing agents for which the Agency no longer intends to issue a final rule; and
2. It officially terminates the ongoing rulemaking activity, which allows the Agency to close out the individual rulemaking entry for these actions that appear in EPA's Semiannual Regulatory Agenda.

### C. What is the Agency's authority for this action?

EPA's SNAP program implements section 612 of the Clean Air Act (CAA), including section 612(c) provisions concerning rulemakings that restrict replacing ozone-depleting substances (ODS) with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment and (2) is currently or potentially available. Section 612(c) also requires EPA to publish lists of those substitutes which are unacceptable or acceptable for specific uses. Section 612(d) grants the right to any person to petition EPA to add a substance to, or delete a substance from, the lists published in accordance with section 612(c). Section 612(e) also requires producers of substitutes for class I ODS to notify the Agency of introductions of these substances into interstate commerce for significant new uses, along with unpublished health and safety studies. The regulations for the SNAP program are promulgated at 40 CFR part 82, subpart G, and the Agency's process for reviewing SNAP submissions is described in regulations at 40 CFR 82.180. For additional information on the SNAP program, visit the SNAP portion of EPA's Ozone Layer Protection website at [www.epa.gov/snap](http://www.epa.gov/snap). Copies of the full lists of acceptable substitutes for ODS in all industrial sectors are available at [www.epa.gov/snap/substitutes-sector](http://www.epa.gov/snap/substitutes-sector). For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the initial SNAP rulemaking published March 18, 1994 (59 FR 13044), codified at 40 CFR part 82, subpart G. SNAP decisions and the appropriate **Federal Register** citations are found at: [www.epa.gov/snap/snap-regulations](http://www.epa.gov/snap/snap-regulations). Substitutes listed as

unacceptable; acceptable, subject to narrowed use limits; or acceptable, subject to use conditions, are also listed in the appendices to 40 CFR part 82, subpart G.

## II. Background

### A. 2020 Notice of Proposed Rulemaking (NPRM)

As one component of the June 12, 2020, NPRM (85 FR 35874) (“2020 NPRM”),<sup>1</sup> EPA, as noted in a table titled “Summary of Proposed New Listings for XPS Foam Blowing Agents” on 85 FR 35888–35889, proposed to list three blends containing hydrofluorocarbon (HFC)–134a as acceptable foam blowing agents in extruded polystyrene: Boardstock and billet (XPS): Blends of 40 to 52 percent HFC–134a by weight and the remainder hydrofluoroolefin (HFO)–1234ze(E); blends of 40 to 52 percent HFC–134a with 40 to 60 percent HFO–1234ze(E) and 10 to 20 percent each water and carbon dioxide (CO<sub>2</sub>) by weight; and blends with a maximum of 51 percent HFC–134a, 17 to 41 percent HFC–152a, up to 20 percent CO<sub>2</sub>, and 1 to 13 percent water. EPA proposed to list those three specific blends of HFC–134a as acceptable in XPS, stating that “[t]hese blends have higher [global warming potentials] GWPs and are otherwise comparable or lower in risk than other alternatives listed as acceptable; however, EPA is taking this action because the Agency believes that other acceptable alternatives are not generally available for most needs under this end-use.” 85 FR 35888.

EPA also stated in the 2020 NPRM that, for substitutes to be “available” in the XPS end-use, they must be capable of blowing foam that meets the technical needs of XPS products including density and ability to meet testing requirements of building codes and standards, such as for thermal efficiency, compressive strength, and flame and smoke generation (85 FR 35888). Further, EPA noted that the company that initially submitted the three blends to the SNAP program for review indicated their difficulty meeting requirements for insulation value (“R-value”) with neat<sup>2</sup> acceptable blowing agents such as HFO–1234ze(E), HFC–152a, and CO<sub>2</sub>.<sup>3</sup> The submitter indicated that if in some cases it could meet R-value requirements with those neat blowing agents, these alternatives were

not able to meet other requirements such as compressive strength, density and thickness, or fire test results. The submitter also identified challenges with meeting code requirements for XPS products manufactured with flammable substitutes (e.g., HFC–152a, light saturated hydrocarbons C3–C6, and methyl formate) and provided examples of failed test results.<sup>4</sup> (85 FR 35888).

EPA stated that it appeared that only one of the substitutes that the Agency believed would be available for use in XPS foam as of January 1, 2021 at the time of the final rule issued July 20, 2015 (80 FR 42870) (“2015 Rule”),<sup>5</sup> was in fact available, and that it likely could only be used to meet the needs for some portion of the XPS foams market.<sup>6</sup> Based on concerns about ensuring that the needs of the full XPS foams market in the United States could be met and not limiting the choice of acceptable substitutes to only one option, EPA proposed to list three additional blowing agent options for XPS that have been proven to work for this end-use.

### B. 2021 Supplemental Proposal

EPA issued a supplemental proposal on October 6, 2021 (86 FR 55549), because of new information on the availability of substitutes which, among other things, included information on the introduction of a new substitute, blends of 10 to 99 percent by weight HFO–1336mzz(Z) and the remainder HFC–152a, which EPA listed as acceptable for use in XPS on December 11, 2020 (85 FR 79863). In the 2020 NPRM, EPA proposed to list the three HFC blends for use in XPS as acceptable. In the supplemental proposal, EPA took another approach by proposing to list these three HFC blends as acceptable, subject to narrowed use limits, from the effective date of any final rule to January 1, 2023.

<sup>4</sup> DuPont, 2019. *Op. cit.*

<sup>5</sup> The 2015 Rule, among other things, changed the listings for certain HFCs and blends from acceptable to unacceptable in various end-uses in the aerosols, refrigeration and air conditioning, and foam blowing sectors. After a challenge to the 2015 Rule, the United States Court of Appeals for the District of Columbia Circuit (“the court”) issued a partial vacatur of the 2015 Rule “to the extent it requires manufacturers to replace HFCs with a substitute substance” (see *Mexichem Fluor, Inc. v. EPA*, 866 F.3d 451, 462 (D.C. Cir. 2017)) and remanded the rule to the Agency for further proceedings. The court also upheld EPA’s listing changes as being reasonable and not “arbitrary and capricious.” See *Mexichem Fluor v. EPA*, 866 F.3d at 462–63.

<sup>6</sup> In the 2020 NPRM, EPA further stated that the set of products that may be able to be manufactured with that substitute, HFC–152a, would account for a minority of the current market for XPS (85 FR 35888, footnote 54). As discussed further below, information available to the Agency since that proposal indicates that the statement that HFC–152a was being used alone was likely incorrect.

### C. Comments Received

EPA received comments on the initial and supplemental proposals from entities with various interests in foam blowing agents and foam insulation, including industry organizations for manufacturers of insulation other than XPS, chemical producers, manufacturers of XPS, manufacturers of other types of foam insulation, and environmental organizations. The two proposals addressed similar issues and similar issues were raised in public comment, with some updated information related to the supplemental proposal. The comments are briefly summarized below and are available in full in Docket EPA–HQ–OAR–2019–0698.

Multiple commenters requested that EPA withdraw the proposal and/or the supplemental proposal. Commenters raised concerns with the proposed listings, with some stating that there are other alternatives commercially available internationally with lower GWP for use in XPS boardstock. Commenters also provided information on the commercial availability in the United States of new XPS products using blowing agents with GWPs lower than 150 from all U.S. manufacturers of XPS. One major chemical producer added that their lower-GWP replacement foam blowing agent for HFC–134a used in the XPS end-use has been fully commercialized and has been manufactured in the United States since 2014. They stated that since then, this product has been adopted by a number of key XPS foam manufacturers and provides customers significant GWP-reduction benefits in a market that will continue to value and require such benefits. A manufacturer of XPS stated that in Europe, a large manufacturer of XPS with CO<sub>2</sub> asserted that CO<sub>2</sub> as a blowing agent is clearly a viable technology with no supply barrier. A major chemical producer stated that HFO–1234ze(E) has been used commercially for many years and is used in the manufacture of XPS products by several firms in several countries around the globe where there are regulations requiring the use of safer blowing agents, including a large manufacturer of XPS in Europe. An environmental organization provided information on European products that contain CO<sub>2</sub> and various blends of either CO<sub>2</sub> or HFO–1234ze(E), including products from a European XPS manufacturer. Some commenters stated that all three U.S. manufacturers of XPS are now manufacturing products using lower-GWP blowing agents.

<sup>1</sup> Other provisions of that proposal related to refrigeration and air conditioning and to fire suppression were finalized in a rule issued May 6, 2021 (86 FR 24444).

<sup>2</sup> Individual, unblended blowing agents.

<sup>3</sup> DuPont, 2019. December 17, 2019 Letter from DuPont Performance Building Solutions to EPA. Docket ID EPA–HQ–OAR–2019–0698–0008.

One commenter, a manufacturer of XPS, and the company that submitted the three blends to the SNAP program for review, had supported the initial proposal of listing the blends as acceptable, and in the supplemental proposal supported the option of listing the blends as acceptable, subject to narrowed use limits, for use in XPS until January 1, 2023. That company stated that suitable alternatives with sufficient performance parameters were not available, that these listings are necessary to bridge the transition to such alternatives, and that the near-term supply of alternatives was uncertain.

#### *D. Additional Information That EPA Considered*

After issuing the supplemental proposal, EPA listed three more substitutes with lower-GWP as acceptable for use in XPS (January 20, 2022; 87 FR 3037). The three substitutes are: Blends of 10 to 90 percent HFO-1234ze(E) by weight and the remainder hydrochlorofluoroolefin (HCFO)-1233zd(E); blends of 10 to 90 percent HFO-1234ze(E) by weight and the remainder HFC-152a; and blends of zero to 100 percent HFO-1234ze(E), zero to 70 percent methyl formate, zero to 60 percent HFC-152a, zero to 60 percent CO<sub>2</sub>, and zero to 60 percent water. At least one of the three U.S. manufacturers of XPS is using one of these substitutes in manufacturing its products.

### III. How does EPA intend to proceed?

Based on our consideration of these comments and the emergence of new listings of substitutes for this end-use, we believe lower risk alternatives are available and technically feasible. Accordingly, an acceptable listing, as proposed in the 2020 NPRM, is not appropriate, and a rulemaking effort for a limited duration, as proposed in the 2021 Supplemental Proposal, is not warranted. The information above demonstrates that alternatives are available and technically feasible that pose overall risk to human health and the environment comparable to or lower than that of other acceptable substitutes for use in XPS. The blends of HFC-134a described above remain unacceptable, as listed in appendix U to 40 CFR part 82 subpart G. This notice serves to provide transparency and clearly notify the public and those with particular interest of how we intend to proceed with respect to these listings.

For these reasons, EPA is withdrawing the proposed rule published on October 6, 2021 (86 FR 55549; FRL-7826.1-02-OAR), along with withdrawing the portions of the proposed rule published on June 12,

2020 (85 FR 35874; FRL-10009-66-OAR), that relate to listing as acceptable the three HFC blends for use in XPS.

### IV. Impact Analysis

Because the EPA is not promulgating any regulatory requirements, there are no compliance costs or impacts associated with this action.

### V. Statutory and Executive Order Reviews

This action does not establish new regulatory requirements. Hence, the requirements of other regulatory statutes and Executive Orders that generally apply to rulemakings (e.g., the Unfunded Mandate Reform Act) do not apply to this action.

**Michael S. Regan,**

*Administrator.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 174 and 180

[EPA-HQ-OPP-2022-0161; FRL-9410-13-OCSPF]

### Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities April 2022

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

**ACTION:** Notices of filing of petitions and request for comment.

**SUMMARY:** This document announces the Agency's receipt of initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before June 21, 2022.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.
- *Hand Delivery:* To make special arrangements for hand delivery or

delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

The latest information on EPA/DC docket access, services and submitting comments is available at <https://www.epa.gov/dockets>.

#### **FOR FURTHER INFORMATION CONTACT:**

Charles Smith, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566-1400, email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov); or Marietta Echeverria, Registration Division (RD) (7505T), main telephone number: (202) 566-1030, email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@epa.gov). The mailing address for each contact person: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. Include the contact person's name, division, and mail code in the mailing address. The division to contact is listed at the end of each application summary.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. General Information**

##### *A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

##### *B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked