

have federalism implications.” “Policies that have federalism implications” is defined in the Executive order to include regulations that 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.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final

rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 9, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.574 is amended by revising paragraph (a) to read as follows:

§ 180.574 Fluazinam; tolerances for residues.

(a)(1) *General.* Tolerances are established for residues of fluazinam, (3-chloro-N-[3-chloro-2,6-dinitro-4-(trifluoromethyl) phenyl]-5-(trifluoromethyl)-2-pyridinamine) in or on the following commodities:

Commodity	Parts per million
Peanuts	0.02
Potatoes	0.02

(a)(2) Tolerances are established for residues of fluazinam and its metabolite AMGT 3-[[4-amino-3-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]amino]-2-nitro-6-(trifluoromethyl) phenyl] thio]-2-(beta-D-glucopyranosyloxy) propionic acid) in or on the following commodity:

Commodity	Parts per million
Wine grapes ¹	3.0

¹ No US registration as of March 15, 2002.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7172-2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Austin Avenue Radiation Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces the deletion of the Austin Avenue Radiation Site in Delaware County, Pennsylvania from the National Priorities List (NPL).

The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that the Site no longer poses a significant threat to public health or the environment and that all appropriate response actions under CERCLA have been completed.

EFFECTIVE DATE: April 18, 2002.

ADDRESSES: Comprehensive information on the Site is available for viewing at the Site information repositories at the following locations: U.S. EPA Region III, Regional Center for Environmental Information, 1650 Arch Street, Philadelphia, Pennsylvania 19103, (215) 814-5254, Monday through Friday 8 AM to 4:30 PM; Lansdowne Borough Library, 55 South Union Avenue, Lansdowne, PA 19050, (610) 623-0239.

FOR FURTHER INFORMATION CONTACT: David Turner, On-Scene Coordinator (3HS31), U.S. Environmental Protection Agency Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, telephone: 215-814-3216, e-mail address: turner.david@epa.gov.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Austin Avenue Radiation Site located in Delaware County, Pennsylvania.

A Notice of Intent to Delete for the Site was published in the **Federal Register** on February 19, 2002 (67 FR 7324). The closing date for comments on the Notice of Intent to Delete was March 21, 2002. EPA received no comments during the comment period; therefore, EPA has not prepared a Responsiveness Summary.

EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 2, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321 (c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended under Pennsylvania (PA) by removing, “Austin Avenue Radiation Site, Delaware County, PA.”

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