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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 171

[EPA-HQ-OPP-2011-0183; FRL-9962-94]

Pesticides; Certification of Pesticide Applicators Rule; Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective date.

SUMMARY: On January 4, 2017, EPA published a final rule revising the regulation concerning the certification of applicators of restricted use pesticides (RUPs). The original effective date of March 6, 2017 was extended to March 21, 2017 by rule issued January 26, 2017, and subsequently extended to May 22, 2017 by rule issued March 20, 2017. In accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” and the principles identified in the April 25, 2017 Executive Order “Promoting Agriculture and Rural Prosperity in America,” EPA solicited public comments on May 15, 2017 about a possible further delay of the effective date of the January 4, 2017 revisions to the Certification of Pesticide Applicators rule until May 22, 2018. With this action, EPA is making an interim extension of the effective date until June 5, 2017 in order to consider and respond to public comments received in regard to the proposed May 22, 2018 extension.

DATES: The effective date of the final rule that appeared in the **Federal Register** of January 4, 2017 (82 FR 952), is delayed from May 22, 2017, to June 5, 2017.

ADDRESSES: The docket for this action, identified by docket identification (ID) number

EPA–HQ–OPP–2011–0183, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Kevin Keaney, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5557; email address: keaney.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

On January 26, 2017, EPA published a final rule in the **Federal Register** entitled "Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017" (82 FR 8499). In that rule, EPA delayed the effective dates of the thirty regulations, including the final rule revising the regulation concerning the certification of applicators of restricted use pesticides (RUPs) issued on January 4, 2017 (82 FR 952) (FR-9956-70), as requested in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review" (January 20 Memorandum). The January 20 Memorandum directed the heads of Executive Departments and Agencies to postpone for 60 days from the date of

the January 20 Memorandum the effective dates of all regulations that had been published in the Federal Register but had not yet taken effect.

The January 20 Memorandum further directed that where appropriate and as permitted by applicable law, agencies should consider a rule to delay the effective date for regulations beyond that 60-day period. Accordingly, on March 20, 2017, EPA published the final rule “Further Delay of Effective Dates for Five Final Regulations Published by the Environmental Protection Agency Between December 12, 2016 and January 17, 2017” (82 FR 14324), which applied to the revised Certification of Pesticide Applicators rule and four other rules. Pursuant to that March 20, 2017 rule, the effective date of the revised Certification of Pesticide Applicators rule was extended to May 22, 2017. To give recently arrived Agency officials the opportunity to conduct a substantive review of the revised Certification of Pesticide Applicators rule, EPA solicited public comment on a proposed further delay of the effective date until May 22, 2018 (82 FR 22294, May 15, 2017). EPA anticipates receiving comments in response to the May 15, 2017 request for comments on the proposal to further delay until May 22, 2018 the effective date of the January 4, 2017 final rule, and therefore is extending the effective date of that final rule until June 5, 2017 in order to allow adequate time to consider and respond to the public comments.

Section 553(b)(1)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(1)(B), allows an action to be taken without opportunity for notice or comment when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. In addition, section 553(d)(3), 5 U.S.C. 553(d)(3), allows the effective date of an action to be less than 30 days when a good cause finding is made. Because of the immediate pendency of the effective date of the January 4, 2017 final rule, it

would be impractical to make the effective date of this extension 30 days after its publication, and it would be impractical to get public comments on this interim extension of the effective date of the rule. In addition, EPA still has only one Senate-confirmed official, and the new Administration has not had the time to adequately review the January 4, 2017 certification rule. This extension to June 5, 2017, will prevent the confusion and disruption among regulatees and stakeholders that would result if the January 4, 2017 rule were to become effective (displace the existing regulation) and then stayed or revoked as a result of administrative review. Therefore, EPA finds good cause to extend the effective date of the rule without notice and comment.

II. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review; and, Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not involve any information collection activities subject to the PRA, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under RFA, 5 U.S.C. 601 *et seq.*

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will 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.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000).

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not an economically significant regulatory action as defined by Executive Order 12866.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272 note.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action would not have disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. §804(2).

List of Subjects in 40 CFR Part 171

Environmental protection, Applicator competency, Agricultural worker safety,
Certified applicator, Pesticide safety training, Pesticide worker safety, Pesticides and pests,
Restricted use pesticides.

Dated: May 17, 2017,

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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