

major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied

upon the data and assumptions for the counterpart Federal regulations.  
*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given

year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

**List of Subjects in 30 CFR Part 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 11, 2003.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR Part 946 is amended as set forth below:

**PART 946—VIRGINIA**

■ 1. The authority citation for Part 946 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 946.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 946.15 Approval of Virginia regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	VA Code § 45.1–235.E.
May 16, 2003 .....	September 10, 2003.	4 VAC 25–130–777.17.

[FR Doc. 03–23077 Filed 9–9–03; 8:45 am]  
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**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 219**

**RIN 0596–AC02**

**National Forest System Land and Resource Management Planning; Extension of Compliance Deadline for Site-Specific Projects**

**AGENCY:** Forest Service, USDA.

**ACTION:** Interim final rule; request for comment.

**SUMMARY:** The Department is issuing an interim final rule to extend the transition period for site-specific project decisions in the Forest Service land and resource management planning regulations adopted November 9, 2000. Early in 2001, the Department determined that the November 2000 planning regulations needed to be

revised, and a proposed planning rule was published on December 6, 2002, (67 FR 72770). An interim final rule at 36 CFR 219.35(b), published May 20, 2002, (67 FR 35431), already has extended the transition period for land and resource management plan amendments and revisions until the date of adoption of new planning regulations. This interim final rule at 36 CFR 219.35(d) provides the same extension of the transition period for site-specific projects. Comments are requested.

**DATES:** *Effective Date:* This interim final rule is effective September 10, 2003.

*Comment Date:* Comments must be received in writing by November 10, 2003.

**ADDRESSES:** Send written comments to: USDA FS Content Analysis Team, Attn: USDA FS Compliance Deadline, P.O. Box 7669, Missoula, MT 59807; by electronic mail to [compliancedeadline@fs.fed.us](mailto:compliancedeadline@fs.fed.us); or by facsimile to Extension of Compliance Deadline at (406) 329–3021. The agency cannot confirm receipt of comments. If you intend to submit comments in

batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and the Department of Agriculture computer systems intended to prevent commercial spamming may limit batched e-mail access. The Forest Service is interested in receiving all comments on this interim final rule, however, so please call (801) 517–1020 to facilitate transfer of comments in batched e-mail messages. Please note that all comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying at the office of the Content Analysis Team, 200 East Broadway, Room 301, Missoula, MT. Individuals wishing to inspect the comments should call Shari Kappel at (406) 329–3022 to facilitate an appointment.

**FOR FURTHER INFORMATION CONTACT:** Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service at (202) 205–1019.

**SUPPLEMENTARY INFORMATION:**

## Background

On November 9, 2000, the Secretary of Agriculture adopted a final rule substantially revising the National Forest System land and resource management planning regulations at 36 CFR part 219 (65 FR 67514), which had been previously adopted in 1982 (47 FR 43026, September 30, 1982). These regulations, which implement the National Forest Management Act, apply to the development, revision, and amendment of land and resource management plans. The November 2000 planning rule also applies to site-specific project decisions. Section 219.35(d) of the 2000 planning rule requires all site-specific project decisions made by the responsible official as of November 9, 2003, to conform with the provisions of the 2000 planning rule at 36 CFR part 219.

Section 219.35 of the 2000 planning rule also provided for a transition from the 1982 planning rule to the 2000 planning rule.

Subsequent to the adoption of the 2000 planning rule, the Department determined in early 2001 that there were serious concerns regarding the agency's ability to implement the 2000 planning rule, such as the number of very detailed analytical requirements; the lack of clarity regarding many of the requirements; the lack of flexibility; and the lack of recognition of the limits of agency budgets and personnel. Therefore, on May 20, 2002, the Department issued an interim final rule at § 219.35(b) to delay mandatory compliance with the 2000 planning rule for land and resource management plan amendments and revisions until a new final planning rule is adopted (67 FR 35431); this delay would allow the agency time to propose and adopt revisions to the 2000 planning rule.

In the May 20, 2002, **Federal Register** notice, the Department also noted that concerns had been raised by field personnel that the reasons necessitating an extended transition to the November 2000 rule for forest plan amendments and revisions may apply equally, if not more, to the November 9, 2003, deadline for site-specific decisions to conform with part 219. At that time, the Department identified that it expected to address these concerns by removing the requirement or extending the original transition date for site-specific projects.

A proposed revision of the 2000 planning rule was published on December 6, 2002, (67 FR 72770). One change is that this rule, unlike the 2000 rule, would not apply to site-specific project decisions.

This interim final rule at § 219.35(d) provides the same extension of compliance deadline for site-specific projects as did the 2002 interim final rule at § 219.35(b) for plan amendments and revisions; until the Department promulgates the final planning regulations.

## Need for Immediate Action

The provisions of the 2000 planning rule are unclear regarding the relationship of site-specific project decisions to the development of landscape goals and information development requirements for addressing ecological, social, and economic sustainability. Reviews of the 2000 planning rule have pointed out the issues and problems related to mixing programmatic and project-level planning direction. There is a lack of clarity about how projects are to be compliant with the rule. This uncertainty and lack of clarity may pose an unreasonable analysis burden on field units when planning for site-specific project decisions.

The Department has proposed improvements and revisions to the 2000 planning rule that would remove the applicability of part 219 to site-specific project level decisions (67 FR 72770, December 6, 2002). Instead, the requirements of the 2002 proposed planning rule would apply at the programmatic level only to the development, amendment, and revision of land and resource management plans and (unlike the requirements of the 2000 planning rule) would not apply to site-specific projects. Under the 2002 proposed rule, a plan would guide site-specific project implementation and project decisions would be required to be consistent with the plan, but a plan would not determine the selection or implementation of site-specific actions.

Therefore, the Department has determined that it is necessary to extend the transition period at 36 CFR 219.35(d) by which the 2000 planning rule requires compliance for site-specific project decisions, currently set at November 9, 2003, until the promulgation of a final planning rule. While it has been anticipated that a final revised planning rule would be promulgated by the end of 2003, such a final rule may not be adopted by November 9, 2003.

Accordingly, extension of the transition period at 36 CFR 219.35(d) until a final planning rule is adopted is necessary for the following reasons: (1) To clarify planning requirements for site-specific project decisions; (2) to grant relief to the units of the National Forest System from a regulatory

provision of the 2000 planning rule soon to be made obsolete; and (3) in case the 2002 proposed planning rule is not finalized by November 9, 2003.

## Exemption From Advance Notice and Comment

The Administrative Procedure Act (APA) generally requires agencies to provide advance notice and an opportunity to comment on agency rulemakings. However, the APA also allows agencies to promulgate rules without notice and comment when an agency, for good cause, finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553(b)(3)(B)). Furthermore, the APA exempts certain rulemakings from its notice and comment requirements, including rulemakings involving "public property" and "rules of agency organization, procedure, or practice" (5 U.S.C. 553 (a)(2) and (b)(3)(A)).

In 1971, Secretary of Agriculture Hardin announced a voluntary partial waiver from the APA notice and comment rulemaking exemptions (July 24, 1971; 36 FR 13804). Thus, USDA agencies proposing rules generally provide notice and an opportunity to comment on proposed rules. However, the Hardin policy permits agencies to publish final rules without prior notice and comment when an agency finds for good cause that notice and comment procedures would be impracticable, unnecessary, or contrary to the public interest. The courts have recognized this good cause exemption of the Hardin policy and have indicated that, since the publication requirement was adopted voluntarily, the Secretary should be afforded "more latitude" in making a good cause determination (*see Alcaraz v. Block*, 746 F.2d 593, 612 (9th Cir. 1984)).

To the extent that 5 U.S.C. section 553 applies to this interim final rule, good cause exists to exempt this rulemaking from advance notice and comment (5 U.S.C. 553 (b)(B) and 553 (d)(3)). The Department has determined that delaying an extension of the compliance date in § 219.35(d) to obtain public comment is impracticable, unnecessary, and contrary to the public interest. Earlier in this preamble, the Department has made clear that an extension of the compliance date is necessary. Given the length of time (usually up to 6 months) it takes field units to plan for site-specific project decisions, it is impracticable to provide for prior public comment on this extension. The agency's publication of a proposed rule in 2002 to revise the November 2000 planning rule, and the fact that this

proposed rule would not apply to site-specific project decisions, is an important consideration in adopting this interim final rule. The prior identification of this subject in the May 2002 **Federal Register** notice, and the Department's expressed intent to address it, is also an important factor.

The public interest is best served by extending the compliance date and avoiding the unnecessary expenditure of agency time and effort to comply with a regulatory provision soon to be made obsolete. The interim final rule is effective immediately upon publication, although the Department will accept comment on the modification of § 219.35(d).

### Conclusion

For the reasons identified in this preamble, the Department finds good cause to adopt, without prior notice and comment, this interim final rule that amends § 219.35(d) to extend the transition date by which site-specific project decisions must comply with the November 2000 Forest Service land and resource management planning regulations, from the current deadline of November 9, 2003, until the Department promulgates a revised final planning rule. This interim final rule does not change any other provisions of the 2000 planning rule.

### Regulatory Certifications

#### *Regulatory Impact*

This interim final rule has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. It has been determined that this is not a significant rule. This interim final rule will not have an annual effect of \$100 million or more on the economy, nor will it adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This interim final rule will not interfere with an action taken or planned by another agency, nor will it raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of beneficiaries of such programs. Accordingly, this interim final rule is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this interim final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It has been determined that this action will not have a significant economic impact on a substantial

number of small entities as defined by the act because the interim final rule will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market. Therefore, a regulatory flexibility analysis is not required for this interim final rule.

#### *Environmental Impact*

This interim final rule at § 219.35(d) has no direct or indirect effect on the environment, but merely extends the date by which site-specific project decisions must conform to the 2000 planning rule. The planning regulation (36 CFR part 219) deals with the development and adoption of Forest Service land and resource management plan decisions. An environmental assessment was completed on the 2000 planning rule, with a finding that the rule would have no significant impact on the environment. Moreover, section 31.1b of Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or environmental impact statement rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking and the procedural nature of 36 CFR part 219, the Department has determined that this interim final rule falls within this category of actions and that no extraordinary circumstances exist as currently defined that would require preparation of an environmental assessment or environmental impact statement.

#### *Energy Effects*

This interim final rule has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this interim final rule does not constitute a significant energy action as defined in the Executive order. Procedural in nature, this interim final rule merely extends a compliance date.

#### *Controlling Paperwork Burdens on the Public*

This interim final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and

implementing regulations at 5 CFR part 1320 do not apply.

#### *Federalism and Consultation and Coordination With Indian Tribal Governments*

The Department has considered this interim final rule under the requirements of Executive Order 13132 on federalism, and has made an assessment that the rule conforms with the federalism principles set out in this Executive order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this interim final rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and therefore advance consultation with tribes was not required.

#### *No Takings Implications*

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule will not pose the risk of a taking of private property.

#### *Civil Justice Reform*

This interim final rule has been reviewed under Executive Order 12988 on civil justice reform. This interim final rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

#### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this interim final rule on State, local and tribal governments and the private sector. This interim final rule will not compel the expenditure of \$100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

#### **List of Subjects in 36 CFR Part 219**

Administrative practice and procedure, Environmental impact

statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

■ Therefore, for the reasons set forth in the preamble, Part 219 of Title 36 of the Code of Federal Regulations is amended as follows:

## PART 219—PLANNING

### Subpart A—National Forest System Land and Resource Management Planning

■ 1. The authority citation for subpart A continues to read as follows:

**Authority:** 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

■ 2. Revise paragraph (d) of § 219.35 to read as follows:

#### § 219.35 Transition.

\* \* \* \* \*

(d) The date by which site-specific decisions made by the responsible official must be in conformance with the provisions of this subpart is extended from November 9, 2003, until the Department promulgates the final planning regulations published as proposed on December 6, 2002 (67 FR 72770).

\* \* \* \* \*

Dated: September 3, 2003.

**David P. Tenny,**

*Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. 03–22977 Filed 9–9–03; 8:45 am]

BILLING CODE 3410–11–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–2003–0244; FRL–7322–7]

#### Trifloxystrobin; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for combined residues of trifloxystrobin in or on leaf petioles subgroup 4B; and vegetable, root, except sugar beet, subgroup 1B, except radish. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective September 10, 2003. Objections and

requests for hearings, identified by docket ID number OPP–2003–0244, must be received on or before November 10, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: [brothers.shaja@epa.gov](mailto:brothers.shaja@epa.gov).

#### 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, and pesticide manufacturer. Potentially affected entities may include, but are not limited to:

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

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any 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 Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0244. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records

Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under 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. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select “search,” then key in the appropriate docket ID number.

## II. Background and Statutory Findings

In the **Federal Register** of March 5, 2003 (68 FR 10469) (FRL–7294–5), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 3E6522) by IR-4, 681 U.S. Highway #1 South, New Brunswick, NJ 08902–3390. That notice included a summary of the petition prepared by Bayer CropScience, the registrant. There were no comments received on this petition.

The petition requested that 40 CFR 180.555 be amended by establishing tolerances for combined residues of the fungicide, trifloxystrobin, (benzeneacetic acid, (E,E)- $\alpha$ -(methoxyimino)-2-[[[1-(3-(trifluoromethyl)phenyl]ethylidene)amino]oxy]methyl]-, methyl ester) and the free form of its acid metabolite CGA-321113((E,E)-methoxyimino-[2-[1-(3-trifluoromethyl)phenyl]ethylideneamino]oxy]methyl]phenyl]acetic acid), in or on the