

activity in the stimulated rat ovarian microsomal system.

9. A mouse lymphoma forward mutation assay; a DNA repair synthesis study in rat liver culture systems; Ames test in *salmonella typhimurim* and in *E. coli*; and *in vivo* chromosome aberration in the Chinese hamster. Fenarimol did not demonstrate mutagenic activity in any of these studies.

The adverse reproductive effects (irreversible infertility) in rats are considered species-specific caused by testosterone aromatase inhibition. A NOEL of 35 mg/kg bw/day for reproductive effects was established in the multigeneration reproduction study in the guinea pig.

Data currently lacking is a 1-year feeding study in dogs. This study has been submitted to the Agency and is presently being reviewed and evaluated.

The acceptable daily intake (ADI) based on the 2-year rat chronic feeding study (NOEL of 1.25 mg/kg bw/day) and using a 100-fold safety factor is calculated as 0.0125 mg/kg bw/day. The maximum permitted intake (MPI) for a 60-kg person is calculated to be 0.75 mg/day. The theoretical maximum residue contribution (TMRC) from the tolerance is 0.00005 mg/day and utilizes 0.12 percent of the ADI. No previous tolerances have been established for fenarimol. The chemical has demonstrated oncogenic effect in rats, producing a significant increase in hepatic adenomas and hyperplastic nodules at the highest dose tested (17.5 mg/kg bw/day). Based on these results, a theoretical oncogenic risk for dietary exposure from eating pecan meat containing 0.1 ppm of fenarimol residues was calculated to be 7.3×10^{-9} .

The chemical also demonstrated the teratogenic effect of hydronephrosis at 35 mg/kg bw/day in rats. The NOEL, as previously stated, for this effect was 13 mg/kg bw/day. Based on these data, a margin of safety was calculated for a single dietary portion of pecan meat containing 0.1 ppm of fenarimol residues. The margin of safety for teratogenic effects is $> 56,000$.

The nature of the terminal residues in pecans is adequately understood. No data is available concerning the metabolism in poultry and livestock. However, pecan hulls are not considered feed items for either poultry or livestock. Therefore, 40 CFR 180.6(a)(3) applies to this tolerance. An adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of fenarimol.

Any person adversely affected by this regulation may, within 30 days after

publication of this document in the **Federal Register**, file written objections with the Hearing Clerk; at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 18, 1986.

Susan H. Sherman,
Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a.

2. Section 180.421 is added to read as follows:

§ 180.421 Fenarimol; tolerances for residues.

Tolerances are established for residues of the fungicide fenarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol] in or on the following raw agricultural commodities:

Commodities	Parts per million
Pecans.....	0.1

[FR Doc. 4487 Filed 3-4-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 468

[OW-FRL-2942-1]

Copper Forming Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final regulation.

SUMMARY: EPA is amending 40 CFR Part 468, a regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works by existing and new sources that form copper and copper alloys ("copper forming regulation"); EPA agreed to propose and take final action on these amendments in a settlement agreement to resolve a lawsuit challenging the final copper forming regulation promulgated by EPA on August 15, 1983 (48 FR 36942). The amendments modify the copper forming regulation as it applies to the forming of beryllium copper.

DATES: In accordance with 40 CFR Part 23 (50 FR 7268, February 21, 1985), this regulation shall be considered issued for the purpose of judicial review at 1:00 p.m. Eastern time on March 19, 1986. This regulation shall become effective April 18, 1986. Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: Address questions on the final rule to Ms. Janet K. Goodwin, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The record for the final rule will be available for public review not later than April 4, 1986 in the EPA Public Information Reference Unit, Room 2404 (Rear) (EPA Library) 401 M Street, SW., Washington, DC. The EPA information regulation provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice may be addressed to Mr. Ernst P. Hall at (202) 382-7126.

SUPPLEMENTARY INFORMATION:**Organization of this notice**

- I. Legal Authority
- II. Background
- III. Amendments to the Copper Forming Regulation
- IV. Environmental Impact of the Amendments to the Copper Forming Regulation
- V. Economic Impact of the Amendments
- VI. Executive Order 12291
- VII. Regulatory Flexibility Analysis
- VIII. OMB Review
- IX. List of Subjects in 40 CFR Part 468

I. Legal Authority

The regulation described in this notice is promulgated under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 92-217).

II. Background

On November 12, 1982, EPA proposed a regulation to establish effluent limitations guidelines for existing direct dischargers based on the best practicable control technology currently achievable ("BPT") and the best available technology economically achievable ("BAT"); new source performance standards ("NSPS") for new direct dischargers; and pretreatment standards for existing and new indirect dischargers ("PSES" and "PSNS", respectively) for the copper forming point source category (47 FR 51279.) EPA published final effluent limitations guidelines and standards for the copper forming category on August 15, 1983 (40 CFR Part 468; 48 FR 36942) and technical corrections to the final rule on November 3, 1983 (48 FR 50717). This regulation established one subcategory that applies to all wastewater discharges resulting from the forming of copper and copper alloys. See 40 CFR 468.01. The preamble to the final copper forming effluent limitations guidelines and standards ("copper forming regulation") contains a complete discussion of the development of the regulation.

Following promulgation of the copper forming regulation, Brush Wellman, Inc. ("Brush") and Cerro Copper Products Company together with the Village of Saugat ("Cerro") filed petitions to review the regulation. These challenges were consolidated into one lawsuit by the United States Court of Appeals for the Seventh Circuit (*Cerro Copper Products Company et al. v. EPA*, Nos. 83-3053 and 84-1087.) At the request of all parties, the two cases were

subsequently deconsolidated since each raised distinctly different issues.

On September 29, 1984, EPA and Brush executed a Settlement Agreement to resolve all issues raised by Brush with respect to the copper forming effluent limitations guidelines and standards. The Agreement applies only to the challenges made by Brush; it does not resolve challenges made by Cerro nor is Cerro a party to the Agreement. All the provisions in the copper forming regulation challenged by Cerro were upheld in *Cerro Copper Products Company v. Ruckelshaus* (7th Cir., July 1, 1985).

Brush challenged the copper forming regulation on the grounds that this regulation and single subcategory were not appropriate as applied to its facilities for two related reasons. First, Brush forms beryllium copper alloys that differ from other copper alloys because the beryllium oxide coating formed on the surface of the metal during heat treating is both tenacious and abrasive and must be removed by special treatment before the alloys can be further processed. Second, one facility owned by Brush produces exclusively very high gauge beryllium copper strip and wire products. Brush claims this causes the volume of wastewater and mass of pollutants discharged to vary significantly from other copper forming plants.

Subsequent data and information submitted by Brush which were not available to EPA before promulgation support its contention that beryllium copper forming involves technical considerations not adequately addressed by the single subcategory of the copper forming regulation. In addition, substantial quantities of beryllium will be present in wastewaters from the removal of the beryllium oxide coating which were not taken into account during the copper forming rulemaking.

Because of these differences, EPA concluded that discharges from beryllium copper forming are best handled as a separate subcategory. Accordingly, EPA agreed to propose certain amendments to the copper forming regulation and to take final action on that proposal. Specifically, EPA agreed to propose to exclude the forming of beryllium copper alloys from the existing copper forming regulation and to create a new subcategory in the regulation reserved for effluent limitations guidelines and standards for the forming of beryllium copper alloys. EPA also agreed to propose that the term "beryllium copper" shall mean copper that is alloyed to contain 0.1 percent or more beryllium. Brush in turn

agreed that if the provisions of the copper forming amendments were consistent with the Settlement Agreement, it would voluntarily dismiss its petition for review and withdraw its request for a "fundamentally different factors" variance which it also submitted pursuant to 40 CFR Part 125, Subpart D. Brush also agreed not to seek judicial review of any final amendments that are consistent with the Settlement Agreement.

As part of the Settlement Agreement, the parties jointly requested the United States Court of Appeals for the Seventh Circuit to stay the effectiveness of 40 CFR Part 468 as it applies to discharges from beryllium copper forming pending final action by EPA on the amendments. On November 8, 1984, the court denied the joint motion. EPA and Brush subsequently filed a joint motion to reconsider the denial. The court granted the motion and entered the stay described above on March 5, 1985. Therefore, 40 CFR Part 468, Subpart A, currently does not apply to discharges from beryllium copper forming. Copies of the Settlement Agreement and the court's stay have been sent to EPA Regional Offices and State NPDES Permit issuing authorities.

III. Amendments to the Copper Forming Regulation

In accordance with the Settlement Agreement, on June 24, 1985, EPA proposed to exclude the forming of beryllium copper alloys from the existing copper forming regulation and to create a new subcategory in the regulation reserved for effluent limitations guidelines and standards for the forming of beryllium copper alloys. EPA also proposed to define "beryllium copper alloy" as specified in the Settlement Agreement.

EPA received only one comment on the proposal, from Brush Wellman. Brush Wellman supported the proposal to exclude beryllium copper alloys from the copper forming regulation as well as the proposed definition of "beryllium copper alloy." Accordingly, EPA is promulgating the proposed provisions as final amendments to the copper forming regulation.

Below is a detailed explanation of those sections of the copper forming regulation subject to these final amendments. All limitations and standards contained in the final copper forming regulation published on August 15, 1983 which are not specifically listed below are not affected by the amendments.

A. *Section 468.01 Applicability.* EPA is correcting a typographical error

changing the CFR unit from subpart to part.

B. Section 468.02 Specialized Definitions. EPA is adding a definition for the term beryllium copper alloy to mean an alloy of copper which is annoyed to contain 0.10 percent beryllium or greater. In the proposal, we explained that this definition would cover all beryllium copper alloys that are manufactured or will be manufactured within the foreseeable future. Also, any alloy with beryllium present in this amount is expected to have the unique properties characteristic of all beryllium copper alloys. We used the term "alloyed to contain" to specify that the beryllium must be intentionally added.

C. Section 468.10 Applicability; description of the copper forming subcategory. Section 468.10 of the final copper forming rule contains only one subcategory to cover discharges from the forming of all copper and copper alloys. This was based on information available to the Agency at the time of promulgation which indicated that wastewater generated by forming any copper alloy contained similar pollutant constituents in amounts effectively controlled by the same model wastewater pollution control technology. Accordingly, EPA established a single subcategory in the copper forming effluent limitations guidelines and standards.

After promulgation, Brush submitted information indicating that copper alloys containing beryllium have unique properties requiring different forming techniques than the forming of other copper alloys. These differences are discussed in the preceding section of this preamble. Because of these differences, the Agency is excluding beryllium copper forming from the existing regulation and creating a new subcategory reserved for effluent limitations guidelines and standards for all beryllium copper alloys. The Agency made this change by adding "except beryllium copper alloys" at the end of § 468.10, Applicability of Subpart A.

The final copper forming regulation includes beryllium copper alloys in the copper forming subcategory. EPA is establishing a new Subpart B reserved for a separate subcategory for beryllium copper forming to account for significant process differences from the forming of other copper alloys. The Agency has already begun gathering data relative to beryllium copper forming and expects to propose limitations and standards for this subcategory in the near future.

The unique physical properties of beryllium copper alloys, which cause unique forming problems, also apply to

other metal alloys containing significant quantities of beryllium and pure beryllium metal. Therefore, the Agency may decide to combine the forming of all alloys that are alloyed to contain beryllium at 0.1 percent or greater under one subcategory. Brush Wellman, in its comments on both the notice of new data for the nonferrous metals forming category and the proposal to amend the copper forming regulation (50 FR 26128, June 24, 1985), objected to this suggestion. EPA is reserving judgment on the appropriate categorization of beryllium and beryllium alloys, including beryllium copper, until it gathers additional data and proposes effluent limitations guidelines and standards for beryllium copper.

IV. Environmental Impact of the Amendments to the Copper Forming Regulation

These amendments will not increase the discharge of pollutants generated by copper forming plants which continue to be covered by the copper forming requirements of Subpart A. EPA estimates that five to nine plants are affected by today's final amendments. Until beryllium copper forming effluent limitations guidelines and standards are established, these plants will be regulated on a case-by-case basis. The Agency does not expect a significant increase of pollutants discharged.

V. Economic Impact of the Amendments

The amendments will not alter the recommended technologies for complying with the copper forming regulation. The Agency considered the economic impact of the regulation when the final regulation was promulgated (see 48 FR 36948). These amendments will not alter the determinations with respect to the economic impact to copper forming plants other than beryllium copper forming and since these amendments do not establish any effluent requirements, they should have no impact on beryllium copper forming plants.

VI. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Major rules are defined as rules that impose an annual cost to the economy of \$100 million or more, or meet other economic criteria. This regulation, like the copper regulation promulgated August 15, 1983, is not major because it does not fall within the criteria for major regulations established in Executive Order 12291.

VII. Regulatory Flexibility Analysis

Pub. L. 96-354 requires that EPA prepare a Regulatory Flexibility Analysis for regulations that have a significant impact on a substantial number of small entities. In the preamble to the August 15, 1983 final copper forming regulation, the Agency concluded that there would not be a significant impact on a substantial number of small entities (48 FR 36950). For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to these amendments, since the amendments would not alter the economic impact of the regulation. The agency did not, therefore, prepare a formal analysis for this regulation.

VIII. OMB Review

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street, SW., Washington, DC 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding federal holidays.

List of Subjects in 40 CFR Part 468

Copper forming, Water pollution control, Waste treatment and disposal.

Dated: February 24, 1986.

Lee M. Thomas,
Administrator.

For the reasons state above, EPA is amending 40 CFR Part 468 as follows:

PART 468—COPPER FORMING POINT SOURCE CATEGORY

1. The authority citation for Part 468 continues to read as follows:

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

2. Section 468.01 is amended by revising paragraph (a) to read as follows:

§ 468.01 Applicability.

(a) The provisions of this part are applicable to discharges resulting from the manufacture of formed copper and copper alloy products. The forming operations covered are hot rolling, cold rolling, drawing, extrusion, and forging.

The casting of copper and copper alloys is not controlled by this part. (See 40 CFR Part 451.)

3. Section 468.02 is amended by adding a new paragraph (y) to read as follows:

§ 468.02 Specialized Definitions.

(y) The term "beryllium copper alloy" shall mean any copper alloy that is alloyed to contain 0.10 percent or greater beryllium.

4. Section 468.10 is revised to read as follows:

§ 468.10 Applicability; description of the copper forming subcategory.

This subpart applies to discharges of pollutants to waters of the United States, and introduction of pollutants into publicly owned treatment works from the forming of copper and copper alloys except beryllium copper alloys.

5. Part 468 is amended by adding a new subpart (B) as follows:

Subpart B—Beryllium Copper Forming Subcategory

§ 468.20 Applicability; description of the beryllium copper forming subcategory.

This subpart applies to discharges of pollutants to waters of the United States, and introduction of pollutants into publicly owned treatment works from the forming of beryllium copper alloys.

[FR Doc. 4752 Filed 3-4-86; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Amdt. E-259]

Procurement Sources and Programs; Dollar Thresholds, for Billing Adjustments

AGENCY: Federal Supply Service, GSA.
ACTION: Final rule.

SUMMARY: This regulation deletes the \$25 threshold for billing adjustments prescribed in the FPMR and replaces it with a reference to the current thresholds in the GSA Handbook, Discrepancies or Deficiencies in GSA or DoD Shipments, Material, or Billings (FPMR 101-26.8). This will update and simplify the FPMR coverage on dollar thresholds for billing adjustments.

FOR FURTHER INFORMATION CONTACT: Gary L. Hood, Deputy Director, Inventory and Requisition Management Division (703-557-8570).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management.

1. The authority citation for Part 101-26 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 101-26.803-2 is revised to read as follows:

§ 101-26.803-2 Adjustments.

GSA and DoD will adjust billings whenever the difference involved, resulting from over or under charges or discrepancies or deficiencies in shipments or material, meets the dollar value requirement prescribed in the GSA Handbook, Discrepancies or Deficiencies in GSA or DoD Shipments, Material, or Billings (FPMR 101-26.8).

Dated: February 19, 1986.

T.C. Golden,
Administrator of General Services.
[FR Doc. 86-4745 Filed 3-4-86; 8:45 am]
BILLING CODE 6820-24-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25, 28 and 29

Easements, Clarification of Jurisdiction; National Wildlife Refuge System

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Final rule.

SUMMARY: This rule revises portions of 50 CFR Subchapter C to clarify the applicability of U.S. Fish and Wildlife Service (Service) regulations in easement areas. These revisions clarify misinterpretations that have arisen concerning the application of certain

Service regulations to areas of the National Wildlife Refuge System that were acquired in less than fee title through easement and are administered by the Service. The rule adds and defines the terms "easement" and "coordination area," and redefines "national wildlife refuge" and "wildlife management area." It also states the requirement for special use permits for certain types of activities in easement areas, and the regional directors' authority to issue those permits.

EFFECTIVE DATE: April 4, 1986.

FOR FURTHER INFORMATION CONTACT:

James F. Gillett, Chief, Division of Refuge Management, Room 2343 Interior, U.S. Fish and Wildlife Service, Washington, DC 20240; Telephone (202) 343-4311.

SUPPLEMENTARY INFORMATION:

Subchapter C, 50 CFR Parts 25 through 29 contain the administrative, public use and land use management provisions for the National Wildlife Refuge System (NWRS). The purposes of those regulations are to, among other things, regulate general administration of various units of the NWRS and provide for issuing permits for activities otherwise prohibited on such units. The National Wildlife Refuge System Administration Act (NRSAA), 16 U.S.C. 668dd et seq., defines these units as including land, water and interests therein which are administered as national wildlife refuges, endangered or threatened species habitat, wildlife ranges, game ranges, wildlife management areas and waterfowl production areas. Consistent with this definition in the NRSAA, regulations in Subchapter C define the NWRS as including any Service interest in land and water, including less than fee simple interests such as wetland easements. Application of this definition has been misconstrued by some to mean that all of the general regulations for the NWRS in subchapter C are applicable to areas acquired by the Service through easement agreement. This makes the regulations subject to an overly expansive interpretation. It was not the original intent of the rules, nor does it accurately reflect how the rules have been either interpreted or administered by the Service. Rather, the Service has always considered only some of the regulations as applicable to NWRS easement areas, given the limited property interest the Service acquires in those areas. In order to clarify which regulations do or do not apply to less than fee areas, the Service decided to issue a revised set of regulations on this subject.