acid, each expressed as diclofop-methyl, in or on the commodity pea seeds (dry) at 0.1 part per million (ppm).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include a rat oral median lethal dose (LD_{50}) study with an LD_{50} of 557 to 580 milligrams per kilogram (mg/kg); a dominant lethal mutagenicity study, negative at 100 mg/kg/day (highest level tested); a micronucleus mutagenicity study, negative at 100 mg/kg/day (highest level tested); an Ames test, negative at 5.0 mg/plate (highest level tested); a mutagenicity study with *Schizosaccharomyces pombe,* negative; a gene conversion study in *Saccharomyces cerevisiae,* negative; and unscheduled DNA synthesis study, negative; a rat teratology study with a teratogentic no-observed-effect level (NOEL) of 100 ppm (highest dose tested) (equivalent to 5.0 mg/kg of body weight (bwt); a rabbit teratology study with a teratogenetic NOEL of 3 mg/kg/day (highest dose tested) and a NOEL for fetotoxicity of 3.0 mg/kg/day; a 3-generation rat reproduction study with NOEL of 30.0 ppm (1.5 mg/kg of bwt); a 2-year rat feeding/oncogenicity study with a NOEL of 20 ppm (1.0 mg/kg of bwt) (highest level tested) and no oncogenic effects under the conditions of the study; a 2-year mouse feeding/oncogenicity study with a systemic NOEL of 2 ppm, (0.3 mg/kg of bwt) and a significant increase in liver neoplasms in males at the highest dose tested, 20 ppm (3.0 mg/kg/day); and a 15-month dog feeding study with a NOEL of 8 ppm (0.2 mg/kg of bwt).

The Agency has evaluated dietary exposure to diclofo-pmethyl residues for the commodity proposed. Assuming that 100 percent of the pea crop will have residues at the tolerance level (0.1 ppm), using a multi-stage model the "worst case" incremental dietary oncogenic risk is calculated to be 1 incidence in 100,000 (10^{-5}). Actual risk will be less, since not all of the dry pea crop will be treated, and those crops treated and sold will have residues less than 0.1 ppm (the level of detection).

Based on the NOEL of 0.3 mg/kg in the chronic mouse-feeding study and a 100-fold safety factor, the acceptable daily intake (ADI) has been set at 0.003 mg/kg/day with a maximum permissible intake (MPI) of 0.18 mg/day for a 60-kg person. This tolerance and previously established tolerances result in a theoretical maximum residue concentration (TMRC) of 0.01815 mg/day in a 1.5-kg diet and use 10.04 percent of the ADI.

The pesticide is considered useful for the purpose for which the tolerance is sought. The metabolism of the pesticide is adequately understood and an adequate analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes. There is no expectation of secondary residues in meat, milk, poultry, and eggs. There are no regulatory actions pending against the continued registration of the pesticide. Based on the information cited above, the Agency has determined that the establishment of the tolerance will protect the public health and is established as set forth below.

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: May 15, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

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

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

2. Section 180.385 is amended by adding and alphabetically inserting the commodity pea seeds (dry), to read as follows:

§ 180.385 Diclofop-methyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Pea seeds (dry)	0.1
* * * * *	

[FR Doc. 86-11520 Filed 5-27-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 265

[SW-FRL-3022-2]

Hazardous Waste Management System; Final Codification Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: The Office of Solid Waste is making a technical correction to the Final Codification rule (FR Doc. 85-13094) that amended EPA's existing hazardous waste regulations to reflect those statutory provisions that have immediate or short-term effects on the regulated community. This correction removes the designation of "reserved" from the paragraph of the regulation under which bulk hazardous and containerized liquid wastes are prohibited from disposal in a landfill, and reinserts language requiring the use of the Paint Filter Liquids Test to determine whether free liquids are present in a waste that will be landfilled.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hazardous Waste Hotline, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (800) 424-9316 (382-3000 in Washington, D.C.). For specific information on this amendment, contact Paul Cassidy, Office of Solid Waste (WH-565E), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-4682.

SUPPLEMENTARY INFORMATION: In the **Federal Register** published on July 15, 1985 (FR Doc. 85-13094), at page 28750, § 265.314(d) was inadvertently reserved. This section was originally promulgated on April 30, 1985 (FR Doc. 85-10278), and stated that the Paint Filter Liquids Test is to be used to determine the absence

or presence of free liquids in either a bulk or a containerized waste. The reserving of paragraph (d), which presents the Paint Filter Liquids Test requirement, was unintentional and is now being corrected. The Paint Filter Liquids Test has been in effect continuously since June 14, 1985, and remains in effect.

The amendatory language in paragraph 50 on page 28750 of the **Federal Register** is correced by removing the reference to paragraph (d). Paragraph (d) of § 265.314 remains as added at page 18374 in the **Federal Register** published on April 30, 1985, (FR Doc. 85–10278).

Dated: May 13, 1986.

J.W. McGraw,

Acting Assistant Administrator.

Accordingly, in the **Federal Register** of July 15, 1985, (FR Doc. 83–13094), on page 28750, second column, paragraph 50, is corrected by changing the comma after the word "respectively" to a period, and by removing the words "and paragraph (d) is reserved."

For the convenience of the user, the text of § 265.314(d) is reprinted as follows:

§ 265.314 Special requirements for bulk and containerized liquids.

* * * * *

(d) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods." [EPA Publication No. SW–846].

* * * * *

[FR Doc. 86–11928 Filed 5–27–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[BERC–106–F]

Medicaid Program—Mental Retardation; Definition of "Persons With Related Conditions"

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule..

SUMMARY: This rule amends a definition in Medicaid regulations concerning intermediate care facilities for the mentally retarded (ICF/MR) and persons with related conditions. The definition of "persons with related conditions" contained in our regulations was tied to the definition of developmental disability included in the Developmental Disabilities Assistance and Bill of Rights Act (DDABRA) as amended in 1978. The DDABRA, as amended, however, also included the mentally ill within the definition of developmental disability. The prior cross-reference in our regulations to the DDABRA definition resulted in confusion about the kind of care covered by the ICF/MR benefit. To avoid misunderstandings in the future, this rule establishes an independent Medicaid definition of persons with conditions related to mental retardation.

EFFECTIVE DATE: June 27, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Hoyer, (301) 594–9446.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1904 of the Social Security Act (Act) authorizes optional Medicaid coverage for services in intermediate care facilities (ICFs). ICFs are facilities that provide health-related care to individuals who do not need the degree of care commonly provided in hospitals or skilled nursing facilities, but who do require care and services, above the level of room and board, which can only be made available to them through institutional facilities. Section 1905(d) of the Act indicates that the term "intermediate care facility services" may include services in a public institution for the mentally retarded or "persons with related conditions" (ICF/MR). This statutory provision is reflected in current regulations at 42 CFR 435.1009 and 440.150.

Initial Medicaid regulations published in 1974 defined "persons with related conditions" by using a cross-reference to the definition of developmental disability in the Developmental Disabilities Services and Facilities Construction Act (DDSFC), Pub. L. 91–517, enacted on October 30, 1970 (changed to the Developmental Disabilities Assistance and Bill of Rights Act in 1975, (DDABRA)). That definition of developmental disability used specific diagnoses to limit its scope to impairments closely related to mental retardation. The definition read ". . . a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, whose disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual."

Since 1970, the DDABRA definition of developmental disability has been amended twice. In 1975, Pub. L. 94–103 amended the definition to:

(1) Add autism to the list of specific conditions; dyslexia resulting from a disability otherwise specified in the definition was also added;

(2) Expand the reference to "other neurological conditions" to cover any conditions closely related to mental retardation by virtue of a similar impairment or a requirement for similar treatment; and

(3) Relate "substantial handicap" to the ability to function normally in society.

On October 1, 1978, an amendment to DDABRA, Pub. L. 95–602 revised the definition of developmental disability even further to read as follows:

"The term 'developmental disability' means a severe, chronic disability of a person which—

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(a) Self-care.

(b) Receptive and expressive language.

(c) Learning.

(d) Mobility.

(e) Self-direction.

(f) Capacity for independent living.

(g) Economic self-sufficiency.

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

This last amendment changed the focus of the definition from a categorical to a functional one. Thus, the definition no longer listed specific diagnoses that previously had been used to limit the definition to those impairments closely resembling mental retardation, but included any person with a mental or physical impairment that limits the person's functional ability in certain activities. Furthermore, the age by which a condition must manifest itself was changed from 18 to 22.

In 1974, Medicaid regulations were promulgated to implement the ICF/MR benefit under Medicaid. The DDABRA (then, DDSFCA) definition of "developmental disability" was adopted