

5SG") to treat up to 1,000 acres of head and Chinese (Napa) cabbage, to control the diamondback moth. The Applicant proposes the use of a "new" chemical (an active ingredient not currently found in any registered product). Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemptions. **DATES:** Comments must be received on or before April 1, 1996.

**ADDRESSES:** Three copies of written comments, bearing the identification notation "OPP-181000," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-181000]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. **FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington,

DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8791; e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of emamectin benzoate on head and Chinese (Napa) cabbage to control the diamondback moth. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that the diamondback moth has become resistant to registered materials, which were formerly effective at providing control. The Applicant claims that the larva of this species has caused significant yield reductions in cabbage through its feeding activities, when it was not adequately controlled through use of registered materials. The applicant states that significant economic losses will be suffered by cabbage growers without the use of emamectin benzoate, since the registered alternatives do not provide acceptable levels of control.

The Applicant proposes to apply emamectin benzoate at a rate of 0.0075 to 0.015 lb. active ingredient (a.i.) per acre with six to twelve applications per crop season, but no more than 0.09 lb. a.i. applied per acre per crop season. The proposed use is for up to 1,000 acres of head and Chinese (Napa) Cabbage. Therefore, use under this exemption could potentially amount to a maximum total of 90 lbs. of active ingredient, emamectin benzoate. This is the first time an exemption request for this use has been requested.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt in the Federal Register for an application for a specific exemption proposing the use of a new (unregistered) chemical. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP-181000] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI

is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

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Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Hawaii Department of Agriculture.

#### List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 8, 1996.

Peter Caulkins,  
*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 96-6426 Filed 3-14-96; 8:45 am]

BILLING CODE 6560-50-F

[OPP-181002; FRL 5355-8]

#### **Propazine; Receipt of Application for Emergency Exemption Solicitation of Public Comment**

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

**ACTION:** Notice.

**SUMMARY:** EPA has received a specific exemption request from the Kansas Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide propazine (CAS 139-40-2) to treat up to 500,000 acres of sorghum

to control pigweed. The Applicant proposes the use of a new (unregistered) chemical; additionally, an emergency exemption for this use has been requested for the previous 3 years, and a complete application for registration of this use and a tolerance petition has not been submitted to the Agency.

Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption. **DATES:** Comments must be received on or before April 1, 1996.

**ADDRESSES:** Three copies of written comments, bearing the identification notation "OPP-181002," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-181002]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide

Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8791; e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of propazine or sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicant claims that this has left sorghum growers in Kansas with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. Until 1993-4, the first season an exemption was requested, growers were using existing stocks of propazine. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical. The Applicant claims that significant economic losses will occur without the availability of propazine.

The Applicant proposes to apply propazine at a maximum rate of 1.2 lbs. active ingredient (a.i.) [(2.4 pts. of product)] per acre, by ground on air, with a maximum of one application per crop growing season. Therefore, use under this exemption could potentially amount to a maximum total of 600,000 lbs. of a.i., (150,000 gal. of product) in Kansas. This is the third year that Kansas has applied for this use of propazine on sorghum, and the fourth year that this use has been requested under section 18 of FIFRA. Kansas was

issued an exemption for this use for last growing season.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide), of if an emergency exemption for a use has been requested in any 3 previous years, and a complete application for registration of the use and/or a tolerance petition has not been submitted to the Agency. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP-181002] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Kansas Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 11, 1996.  
 Stephen L. Johnson,  
*Director, Registration Division, Office of Pesticide Programs.*  
 [FR Doc. 96-6427 Filed 3-14-96; 8:45 am]  
 BILLING CODE 6560-60-M

[OPP-300419; FRL-5355-2]

**Identification of Pesticide Tolerances Under Settlement Agreement**

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

**SUMMARY:** With this notice EPA identifies various pesticide food additive regulations under a court-approved settlement agreement. Today's notice does not affect the regulatory status of any raw or processed food tolerance.

**FOR FURTHER INFORMATION CONTACT:** By mail: Jean M. Frane, Policy and Special Projects Staff (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. Office location: Room 1113, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone: 703-305-5944; e-mail address: frane.jean@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On February 9, 1995, in a court-approved settlement agreement, EPA agreed to take certain actions related to the Delaney clause of the Federal Food, Drug and Cosmetic Act (FFDCA). The Delaney clause prohibits the establishment or maintenance of any food additive regulation (commonly referred to as a tolerance) for a pesticide that is found to induce cancer.

One of the actions agreed to by EPA is to review, within 5 years of the date of approval of the settlement, toxicological and food processing studies submitted as of the date of settlement, to determine the following:

1. Whether any such toxicological studies show that any pesticides not included in Appendix III of the settlement "induce cancer" within the meaning of the Delaney clause. Additionally, EPA agreed to identify any existing or needed processed food tolerances for such pesticides found to induce cancer, and

2. Whether any such food processing studies show that any pesticides included in Appendix III need processed food tolerances.

EPA agreed to issue a notice in the Federal Register, annually for 5 years,

listing any pesticide food additive tolerances and underlying raw food tolerances identified in its review of the toxicological and processing studies. Today's notice is the first such annual notice.

**II. Listing of Pesticide Tolerances**

**A. Pesticides Newly Identified as "Inducing Cancer"**

Prior to and since the settlement agreement, EPA has issued a series of proposed revocations of processed food tolerances, in which the Agency has made determinations that the pesticide induces cancer. Each of these pesticides is currently identified in Appendix III of the settlement, and thus are not considered to be newly identified for the purposes of this notice.

EPA has made no determinations that any pesticide not currently identified in Appendix III of the settlement "induces cancer" within the meaning of the Delaney clause.

**B. Pesticides Newly Identified as Having or Needing Food Additive Tolerances**

EPA has determined, based upon its review of processing studies, that the pesticides listed in the following table have raw food tolerances and need processed food tolerances. This listing is merely a reporting of determinations made at various times over the past year. Such determinations were made in accordance with policies in existence at the time of the review. In the last year, EPA has revised many of its policies that determine when a processed food tolerance is needed. Some of today's determinations on the need for a processed food or feed tolerance do not reflect consideration of EPA's revised policies. Before taking any regulatory action with respect to the raw or processed tolerances in today's notice, EPA will evaluate the need for a food/feed additive tolerance in accordance with its new policies.

Pesticide	Raw crop tolerance (CFR cite)	Processed Food/Feed Form
Iprodione .....	Fresh prune (180.399)	Dried prune
Metolachlor ....	Potatoes (180.368)	Processed potato waste
Permethrin .....	Apples (180.378)	Wet apple pomace
Phosmet .....	Grapes (180.261)	Raisin waste
.....		Pomace (wet and dry)
Thiophanate-methyl.	Apples (180.371)	Wet apple pomace

Dated: March 6, 1996.  
 Penelope A. Fenner-Crisp,  
*Acting Director, Office of Pesticide Programs.*  
 [FR Doc. 96-6158 Filed 3-14-96; 8:45 am]  
 BILLING CODE 6560-50-F

[FRL-5442-2]

**Notice of Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act**

**AGENCY:** Environmental Protection Agency.  
**ACTION:** Notice; Request for public comment; opportunity for public meeting.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), notice is hereby given of a proposed administrative *de minimis* settlement concerning the Novak Sanitary Landfill Superfund Site in Lehigh County, Pennsylvania, with the parties listed below. The settlement requires the settling parties to pay a total of \$300,920.38 to the Hazardous Substances Superfund. The settlement includes an EPA covenant not to sue the settling parties pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), provides EPA with authority to enter into *de minimis* settlements.

For thirty days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will reconsider the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Parkland Library located at 4422 Walbert Avenue, Allentown, PA and at the USEPA Region III, 841 Chestnut Street, Philadelphia, PA 19107. Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).