

red pepper, a common additive/component of the human diet, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from tolerance 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 to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [PP 5F4509/R2221] (including any comments and data submitted electronically). 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 Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

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.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

References Cited

The following reference is cited in this tolerance rule:

(1) Rehm, S. and G. Espig. (1991). *The Cultivated Plants of the Tropics and Subtropics - Cultivation, Economic Value, Utilization*. Verlag Josef Margraf Scientific Books. Berlin, Germany. pp. 279-280.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

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).

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, EPA has determined that this regulation does not impose a Federal mandate upon State, local, or tribal governments or the private sector and does not contain any regulatory requirements that might significantly or uniquely affect small governments because the regulation does not impose any enforceable duties upon those entities.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Daniel M. Barolo,
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 and 371.
2. In subpart D, by adding § 180.1164, to read as follows:

§ 180.1164 Food and food by-products; exemption from the requirement of a tolerance.

(a) Meat meal, a sterilized food by-product, is exempt from the requirement of a tolerance on all raw agricultural commodities when used as an olfactory animal repellent.

(b) Red pepper (*Capsicum spp.*) is exempt from the requirement of a tolerance on all raw agricultural commodities when used as a gustatory animal repellent.

[FR Doc. 96-7444 Filed 3-26-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 4E4375/R2219; FRL-5357-6]

RIN 2070-AB78

Pesticide Tolerance for Benzoic Acid**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide benzoic acid (3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide), in or on the raw agricultural commodity apples. The regulation to establish a maximum permissible level for residues of the insecticide was requested in a petition submitted by the Rohm and Haas Co.

EFFECTIVE DATE: This regulation becomes effective March 27, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 4E4375/R2219], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 4E4375/R2219]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be

filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Richard P. Keigwin, Jr., Product Manager (PM) 10, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 210, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-305-6788; e-mail: keigwin.rick@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice (FRL-4948-2), published in the Federal Register of April 5, 1995 (60 FR 17357), which announced that Rohm and Haas Co. had submitted pesticide petition (PP) 4E4375 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish a tolerance for residues of the insecticide benzoic acid (3,5-dimethyl-1,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide), in or on the raw agricultural commodity apples at 1.0 parts per million (ppm). As of February 29, 1996 there are no U.S. registrations for apples.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include:

1. A 1-year dog feeding study with a lowest-observable-effect level (LOEL) of 250 ppm (8.7 mg/kg/day for male and 8.9 mg/kg/day for female dogs) based on growth retardation in the male and in both sexes decreases in RBC, HCT, and HGB, increases in Heinz bodies, methemoglobin, MCV, MCH, reticulites, platelets, plasma total bilirubin, spleen weight, and spleen/body weight ratio, and liver weight and liver/body weight ratio. Hematopoiesis and sinusoidal engorgement occurred in the spleen, and hyperplasia occurred in marrow of the femur and sternum. The liver showed an increased pigment in the Kupffer cells. The no-observable-effect level (NOEL) for systemic toxicity is 50 ppm (1.8 mg/kg/day for males and 1.9 mg/kg/day for females).

2. An 18-month mouse carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 1,000 ppm (males 155 mg/kg/day; females 186 mg/kg/day).

3. A 2-year rat carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 2,000

ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

4. A 2-generation rat reproduction study with a NOEL of 150 ppm (12.1 mg/kg/day) for reproductive effects compared to a systemic NOEL of 10 ppm (0.85 mg/kg/day).

5. A rat developmental study with a NOEL of 1,000 mg/kg/day for developmental toxicity and a NOEL of 250 mg/kg/day for maternal toxicity.

6. A rabbit developmental study with a NOEL of 1,000 mg/kg/day for developmental toxicity.

7. Several mutagenicity tests which were all negative. These include an Ames assay with and without metabolic activation, an *in vivo* cytogenetic assay in rat bone marrow cells, an *in vitro* chromosome aberration assay in CHO cells, a CHO/HGPRT assay, a reverse mutation assay with *E. coli*, and an unscheduled DNA synthesis assay (UDS) in rat hepatocytes.

The reference dose (RFD), for chronic toxicity as defined in a 1-year chronic dog study is 0.018 mg/kg/day based upon a NOEL of 1.8 mg/kg/day in male dogs and applying an uncertainty factor of 100. Granting this use of benzoic acid (3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide) on apples raises the theoretical maximum residue contribution (TMRC) for the overall U.S. population from 0.000001 mg/kg/day to 0.000792 mg/kg/day and represents 4.4% of the RFD. The TMRC for the highest exposed subgroup, non-nursing infants is raised from 0.000001 mg/kg/day to 0.008051 mg/kg/day and represents 44.7% of the RFD for that subgroup.

The metabolism of benzoic acid, (3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide), is adequately understood.

An adequate analytical method, HPLC separation with UV detection, is available for enforcement purposes.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. The pesticide is considered useful for the purposes for which the tolerance is sought. Therefore, the tolerance 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 to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the

address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under the docket number [PP 4E4375/R2219] (including any comments and data submitted electronically). 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 Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore

subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 9-354, 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

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Stephen L. Johnson,

Director, Registration Division, 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 and 371.

2. In § 180.482, by adding alphabetically to the table, an entry for the raw agricultural commodity "apples", to read as follows:

§ 180.482 Benzoic acid; tolerances for residues.

* * * * *

Commodities	Parts per million
Apples	1.0
* * *	*

[FR Doc. 96-7450 Filed 3-26-96; 8:45 am]
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40 CFR Part 180

[PP 4E3060/R2218; FRL-5357-2]

RIN 2070-AC78

Pesticide Tolerance for 2,4-D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is extending the tolerance for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodity soybeans. The Agency has not completed the regulatory assessment of its science findings; therefore, the Agency is extending this tolerance for 3 years.

EFFECTIVE DATE: This extension is effective March 27, 1996. The tolerance expires on December 31, 1998.

ADDRESSES: Written objection and hearing requests, identified by the docket number, [PP 4E3060/R2218], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing request filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: oppdocket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII