

Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the June 9, 1997 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act, challenges to this amendment must be brought by March 9, 1998.

Dated: December 30, 1997.

**Carol M. Browner,**  
Administrator.

[FR Doc. 98-259 Filed 1-2-98; 10:01 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[FRL-5944-4]

#### Technical Amendments to Zinc Phosphide; Pesticide Tolerances for Emergency Exemptions: Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction of effective date under CRA.

**SUMMARY:** On February 20, 1997 at (62 FR 7679) the Environmental Protection Agency published in the **Federal Register** a final rule under the Federal Food, Drug, and Cosmetic Act that established time-limited tolerances and maximum permissible levels for residues for phosphine resulting from the use of the rodenticide zinc phosphide in or on certain raw agricultural commodities. The rule established an effective date of February 20, 1997. This document corrects the effective date of the rule to January 6, 1998, to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act.

**DATES:** This rule is effective January 6, 1998. Objections and requests for hearings must be received by EPA on or before March 9, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300453], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Room M3708, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Angela Hofmann, Director, Regulatory Coordination Staff, Office of Prevention, Pesticides, and Toxics, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Telephone: (202) 260-2922.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). The EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on February 20, 1997, by operation of law, the rule did not take effect on February 20, 1997 as stated. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997. This document amends the effective date of the rule consistent with the provisions of the CRA.

Under section 408(l)(6) of FFDCA, 21 U.S.C. 346a(l)(6), if the Administrator grants an exemption under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Administrator must establish a tolerance

or exemption from the requirement of a tolerance for the pesticide chemical residue. The Administrator may establish such a tolerance or exemption without providing notice or a period for public comment on the tolerance or exemption. In the underlying rulemaking here, EPA granted a time-limited tolerance under section 408(l)(6) on February 20, 1997, without notice and an opportunity for public comment. In addition, the tolerance was made effective upon publication on February 20, 1997. Because EPA made the original rule final without prior proposal and opportunity for comment and because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter EPA has determined that there is good cause for making today's amendment final without notice and public comment opportunity. Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since February 20, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 808(2).

Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the February 20, 1997 **Federal Register** should be penalized if they were complying with the rule as promulgated.

##### B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule

is discussed in the February 20, 1997 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on January 6, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Nor does it change the April 15, 1998 revocation date. Accordingly, objections, hearing requests and judicial review are limited to the amended effective date. Procedures for filing objections to and requests for hearings on this amendment are described in the February 20, 1997 **Federal Register** document.

Dated: December 30, 1997.

**Carol M. Browner,**  
Administrator.

[FR Doc. 98-257 Filed 1-2-98; 12:20 pm]

BILLING CODE 6560-50-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[FRL-5943-8]

#### Technical Amendments to Sodium Bicarbonate and Potassium Bicarbonate; Tolerance Exemptions: Correction of Effective Date Under Congressional Review Act (CRA)

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

**ACTION:** Final rule; correction of effective date under CRA.

**SUMMARY:** On December 23, 1996 (61 FR 67472), the Environmental Protection Agency published in the **Federal Register** a final rule under the Federal Food, Drug, and Cosmetic Act (FFDCA) that exempted from the requirement of a tolerance residues of the biochemical pesticides sodium bicarbonate and potassium bicarbonate in or on all raw agricultural commodities, when applied as fungicides or post-harvest fungicides. The rule established an effective date of December 23, 1996. This document corrects the effective date of that rule to January 6, 1998, to be consistent with sections 801 and 808 of the

Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act.

**DATES:** This rule is effective January 6, 1998. Objections and requests for hearings must be received by EPA on or before March 9, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket number, [OPP-300440A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Room M3708, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Angela Hofmann, Director, Regulatory Coordination Staff, Office of Prevention, Pesticides, and Toxics, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Telephone: (202) 260-2922.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on December 23, 1996, by operation of law, the rule did not take effect on December 23, 1996 as stated. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 408(e)(2) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e)(2), provides that the Administrator, before issuing a final rule under subsection 408(e)(1), shall issue a proposed rule and allow 60 days for public comment unless the Administrator for good cause finds that it would be in the public interest to provide a shorter period. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under section 408(e)(2). Moreover, since today's action does not create any new regulatory requirements and affected

parties have known of the underlying rule since December 23, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Under section 408(g)(1) of FFDCA, today's rule is effective upon publication.

Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the December 23, 1996 **Federal Register** should be penalized if they were complying with the rule as promulgated.

##### B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the December 23, 1996, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on January 6, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, objections, hearing requests, and judicial review are limited to the amended effective date. Procedures for filing objections to and requests for hearings on this amendment are described in the December 23, 1996, **Federal Register** document.