

unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties

on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection,
Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 10, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. § 180.488 is revised to read as follows:

§ 180.488 Hexaconazole; tolerance for residues.

A tolerance is established for residues of the fungicide hexaconazole, [alpha-butyl-alpha-(2,4-dichlorophenyl)-1H-1,2,4-triazole-1-ethanol], in or on the imported raw agricultural commodity bananas at 0.7 parts per million (ppm). There are no U.S. registrations as of June 30, 1999.

[FR Doc. 99-16545 Filed 6-29-99; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300860A; FRL-6087-3]

Aspergillus flavus AF36; Exemption from Temporary Tolerance, Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Technical amendment.

SUMMARY: EPA is issuing a technical amendment to the expiration date for an exemption from temporary tolerance regulation for *Aspergillus flavus* AF36 that published in the **Federal Register** on May 26, 1999 (64 FR 28371) (FRL-6081-2). This amendment corrects the expiration date for the exemption from temporary tolerance for residues of the atoxigenic *Aspergillus flavus* AF36 on cotton grown in certain Counties in Arizona to December 30, 2001, in order to allow clearance of the treated food/feed commodities through the channels of trade.

DATES: This regulation is effective June 30, 1999. You may submit an objection

or request a hearing as specified in Unit IV. of the "SUPPLEMENTARY INFORMATION" section of this document. Any objection or hearing request must identify docket control number [OPP-300860A], and must be received by the EPA Hearing Clerk on or before August 30, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 703-308-8097; e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be affected by this action if you are a cotton producer in certain counties of Arizona (NAICS 11192). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register - Environmental Documents." You can also go directly to the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number [OPP-300860A]. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The PIRIB telephone number is 703-305-5805.

III. What Does this Technical Correction Do?

This technical correction amends the expiration date for an exemption from temporary tolerance for residues of atoxigenic *Aspergillus flavus* AF36 on cotton in Arizona treated in accordance with the Experimental Use Permit 69224-EUP-1. This temporary exemption from a tolerance was established on May 26, 1999 (64 FR 28371) (FRL-6081-2) in response to a petition submitted by the Interregional Research Project Number 4 (IR-4). Specifically, IR-4 requested an exemption from temporary tolerance for residues of *Aspergillus flavus* AF36 on cotton in certain counties in Arizona as specified in the Experimental Use Permit 69224-EUP-1 under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The Notice of Petition appeared in the **Federal Register** on February 19, 1999 (64 FR 8358) (FRL-6057-3).

At the time of the petition, as presented in the notice of petition as published on February 19, 1999, IR-4 specifically requested that the exemption from temporary tolerances be established for residues of this microbial pesticide until December 30, 2001, to allow the treated cotton to clear the channels of trade. (See 64 FR 8358, at 8358). Inadvertently, the expiration date appeared as December 30, 2000 in the May 26, 1999 final rule. However, in granting the request contained in the petition, the Agency intended to grant the expiration date specifically requested by IR-4. This document corrects the expiration date that appears in the May 26, 1999 final rule, by changing December 30, 2000 to December 30, 2001 in the regulation.

This correction to the exemption from a temporary tolerance is subject to the objection procedures in FFDCA section 408(g)(2) and 40 CFR part 178.

IV. Why Is this Technical Correction Issued as a Final Rule?

EPA is publishing this action as a final rule without prior notice and opportunity to comment because the Agency believes that providing notice and an opportunity to comment is unnecessary and would be contrary to the public interest. As explained above, the correction contained in this action will simply correct the expiration date for the exemption from temporary tolerances established for residues of this microbial pesticide to allow the treated cotton to clear the channels of trade. EPA therefore finds that there is

"good cause" under section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) to make this amendment without prior notice and comment. For the same reasons, EPA also finds that there is "good cause" under FFDCA section 408(e)(2) to make this minor modification to the exemption from tolerance without notice and comment.

V. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This final rule does not impose any new requirements. It only implements a technical correction to the Code of Federal Regulations (CFR). As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act (APA) or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

EPA's compliance with these statutes and Executive Orders for the May 26,

1999 final rule, which established the exemption from temporary tolerance for residues of the atoxigenic *Aspergillus flavus* AF36 on cotton grown in certain Counties in Arizona, is discussed in the preamble for the final rule (64 FR 28371, at 28373).

VI. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 United States prior to publication of the rule in the **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental Protection, Administrative Practice and Procedure, Agricultural Commodities, Pesticides and Pests, Reporting and Recordkeeping Requirements.

Dated: June 10, 1999.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.1206 [Amended]

2. Section 180.1206 is amended by revising the date in the last sentence therein to read "December 30, 2001".

[FR Doc. 99-16546 Filed 6-29-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300888; FRL-6089-9]

RIN 2070-AB78

Bifenthrin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the insecticide bifenthrin, (2-methyl[1,1'-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate, in or on the food commodities: cabbage at 4.0 part per million (ppm); the cucurbit vegetable crop group (Crop Group 9) at 0.4 ppm; edible-podded legume vegetable subgroup (Crop Subgroup 6A) at 0.6 ppm; eggplant at 0.05 ppm; globe artichoke at 1.0 ppm; head and stem Brassica subgroup (Crop Subgroup 5A), except cabbage, at 0.6 ppm; rapeseed at 0.05 ppm, succulent shelled pea and bean subgroup (Crop Subgroup 6B) at 0.05 ppm; sweet corn kernel plus cob with husk removed at 0.05 ppm; and corn forage at 3.0 ppm. The Interregional Research Project (IR-4) and FMC Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. **DATES:** This regulation is effective June 30, 1999. Objections and requests for hearings must be received by EPA on or before August 30, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300888], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests 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 requests filed with the Hearing Clerk identified by the docket control number, [OPP-300888], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), 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. 119, Crystal Mall #2,

1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300888]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9368, e-mail: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 7, 1998 (63 FR 53902) (FRL-6026-3), and May 19, 1999 (64 FR 27262) (FRL-6079-8), EPA issued notices pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) announcing the filing of pesticide petitions for tolerances by the Interregional Research Project Number 4 (IR-4), New Jersey Agricultural Experimental Station, P.O. Box 231, Rutgers University, New Brunswick, NJ, and FMC Corporation, 1753 Market Street, Philadelphia, PA 19103. These notices included summaries of the petitions prepared by FMC Corporation, the registrant. There were no comments received in response to the notices of filing.

The petitions requested that 40 CFR 180.442 be amended by establishing tolerances for residues of the insecticide bifenthrin, in or on various food commodities, as follows:

1. IR-4 petition 6E4629 proposes the establishment of a tolerance for globe artichoke at 1.0 ppm. IR-4 first proposed the tolerance for the commodity "artichokes," but the petition was amended to specify the food commodity as "globe artichoke."