

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.

#### **IV. 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: July 16, 1999.

**Peter Caulkins,**

*Acting 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.

#### **§ 180.510 [Amended]**

2. In § 180.510, by amending the table in paragraph (b), by revising the expiration/revocation date for Tomatoes from "7/31/99" to read "7/31/01".

[FR Doc. 99-19597 Filed 7-30-99; 8:45 am]

BILLING CODE 6560-50-F

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 180**

[OPP-300902; FRL-6094-2]

RIN 2070-AB78

#### **Propiconazole; Re-establishment of Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation re-establishes time-limited tolerances for combined residues of the fungicide propiconazole and its metabolites in or on grain sorghum, grain at 0.2 parts per million (ppm); grain sorghum, stover at 1.5 ppm and sorghum grain aspirated fractions at 20 ppm. These tolerances expired on July 31, 1998. Additionally, this regulation re-establishes time-limited tolerances for combined residues of

propiconazole and its metabolites in or on dry beans, dry bean forage, and dry bean hay which expired on December 31, 1998. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on grain sorghum and dry beans. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

**DATES:** This regulation becomes effective August 2, 1999. Objections and requests for hearings must be received by EPA, on or before October 1, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300902], 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-300902], 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 also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@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 objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300902]. 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.

**FOR FURTHER INFORMATION CONTACT:** By mail: Stephen Schaible, 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. 271, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-308-9362; e-mail: [schaible.stephen@epa.gov](mailto:schaible.stephen@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of August 13, 1997 (62 FR 43284) (FRL-5735-2), which announced that on its own initiative under 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) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on grain sorghum, grain at 0.2 ppm; grain sorghum, stover at 1.5 ppm and sorghum aspirated grain fractions at 20 ppm, with an expiration date of July 31, 1998.

EPA also issued a final rule, published in the **Federal Register** of June 13, 1997 (62 FR 32224) (FRL-5718-8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104-170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on dry beans at 0.5 ppm; dry bean, forage at 8 ppm; and dry beans, hay at 8 ppm, with an expiration date of December 31, 1998.

EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of propiconazole on grain sorghum and dry beans for this year's growing season due to the continued emergency conditions for grain sorghum growers brought on by the spread of sorghum ergot *Claviceps africana* and for bean growers due to the rust. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of propiconazole on grain sorghum for control of sorghum ergot and on dry beans for control of rust.

EPA assessed the potential risks presented by residues of propiconazole in or on grain sorghum and dry beans. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rules of August 13, 1997 (62 FR 43284) and June 13, 1997 (62 FR 32224). Based on that data and information considered, the Agency reaffirms that re-establishment of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are re-established with an expiration date of July 31, 2000, for grain sorghum commodities and December 31, 2000, for dry bean commodities. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although the tolerances on grain sorghum commodities and dry bean commodities will expire and are revoked on July 31, 2000, and December 31, 2000, respectively, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on grain sorghum, grain; grain sorghum, stover and sorghum aspirated grain fractions; dry beans; dry bean, forage and dry bean, hay after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

### **I. Objections and Hearing Requests**

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 1, 1999, file written objections to any aspect of

this 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 under the "ADDRESSES" section (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). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, 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. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov). Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (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 issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request 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 information that does not contain CBI must be submitted for

inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP-300902] (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: [opp-docket@epa.gov](mailto:opp-docket@epa.gov)

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

## III. Regulatory Assessment Requirements

### A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require 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 under section 408(l)(6) of FFDCA, 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.

## IV. 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: July 20, 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), 346(a) and  
371.

#### **§ 180.434 [Amended]**

2. In § 180.434, by amending the table  
in paragraph (b) by revising the date for  
“Sorghum, aspirated grain fractions,”  
“Sorghum, grain, grain,” and “Sorghum,  
grain, stover” from “7/31/98” to read  
“7/31/00” and the date for “Dry bean  
forage,” “Dry bean hay” and “Dry  
beans” from “12/31/98” to read “12/31/  
00”.

[FR Doc. 99-19598 Filed 7-30-99; 8:45 am]

BILLING CODE 6560-50-F

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 180**

[OPP-300868A; FRL-6097-1]

RIN 2070-AB78

#### **Formaldehyde; Revocation of Exemptions from the Requirement of Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule announces the  
revocation of exemptions from the  
requirement of tolerances for residues  
found in 40 CFR 180.1032 for  
formaldehyde or a mixture of methylene  
bispropionate and oxy(bismethylene)  
bispropionate in or on the grains of  
barley, corn, oats, sorghum, and wheat  
and the forages of alfalfa, Bermuda  
grass, bluegrass, brome grass, clover,  
cowpea hay, fescue, lespedeza, lupines,  
orchard grass, peanut hay, peavine hay,  
rye grass, soybean hay, sudan grass,  
timothy, and vetch from postharvest  
application use as a fungicide to treat  
animal feeds. This action is being taken  
because there are no registered uses for  
formaldehyde on these commodities.  
The regulatory actions in this notice are  
part of the Agency's reregistration  
program under the Federal Insecticide,  
Fungicide, and Rodenticide Act  
(FIFRA), and the tolerance reassessment  
requirements of the Federal Food, Drug,  
and Cosmetic Act (FFDCA). By law,

EPA is required to reassess 33% of the  
tolerances and exemptions in existence  
on August 2, 1996, by August 1999, or  
about 3,200 tolerances and exemptions.  
This document revokes 22 exemptions,  
which will be counted among  
reassessments made toward the August  
1999 review deadline of FFDCA section  
408(q), as amended by the Food Quality  
Protection Act (FQPA) of 1996.

**DATES:** This final rule becomes effective  
November 1, 1999. Objections and  
requests for hearings, identified by  
docket control number [OPP-300868A]  
must be received by EPA on or before  
October 1, 1999.

**ADDRESSES:** Objections and hearing  
requests can be submitted by mail or in  
person. Please follow the detailed  
instructions provided in Unit V of the  
**SUPPLEMENTARY INFORMATION** section of  
this document. To ensure proper  
identification of your objection or  
hearing request, you must identify the  
docket control number [OPP-300868A]  
in the subject line on the first page of  
your request.

**FOR FURTHER INFORMATION CONTACT:** For  
technical information, contact Phil  
Budig, Special Review Branch, (7508C),  
Special Review and Reregistration  
Division, Office of Pesticide Programs,  
U.S. Environmental Protection Agency,  
401 M St., SW., Washington, DC 20460.  
Office location: Special Review Branch,  
CM #2, 6th floor, 1921 Jefferson Davis  
Hwy., Arlington, VA. Telephone: (703)  
308-8029; e-mail: budig.phil@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Does this Action Apply to Me?**

You may be potentially affected by  
this action if you are an agricultural  
producer, food manufacturer, or  
pesticide manufacturer. Potentially  
affected categories and entities may  
include but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry .....	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not exhaustive, but is  
a guide to entities likely to be regulated  
by this action. The North American  
Industrial Classification System  
(NAICS) codes will assist you in  
determining whether this action applies  
to you. If you have 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 or Copies of this or other Support Documents?**

##### **A. Electronically**

You may obtain electronic copies of  
this document and various support  
documents from the EPA Internet Home  
Page at [www.epa.gov](http://www.epa.gov). On the Home  
Page, select “Laws and Regulations,”  
and then look up the entry for this  
document under “**Federal Register** -  
Environmental Documents.” You can  
also go directly to the “**Federal  
Register**” listings at [www.epa.gov/  
fedrgrstr](http://www.epa.gov/fedrgrstr).

##### **B. In Person or by Phone**

If you have any questions or need  
additional information about this action,  
please contact the technical person  
identified in the “FOR FURTHER  
INFORMATION CONTACT” section. In  
addition, the official record for this  
notice, including the public version, has  
been established under docket control  
number [OPP-300868A] (including  
comments and data submitted  
electronically as described below). A  
public version of this record, including  
printed, paper versions of any electronic  
comments, which does not include any  
information claimed as Confidential  
Business Information (CBI), is available  
for inspection in Room 119, Crystal Mall  
#2, 1921 Jefferson Davis Hwy.,  
Arlington VA, from 8:30 a.m. to 4 p.m.,  
Monday through Friday, excluding legal  
holidays. The Public Information and  
Records Integrity Branch telephone  
number is (703) 305-5805.

#### **III. What Action is being Taken?**

This final rule revokes FFDCA  
exemptions from the requirement of  
tolerances for residues of formaldehyde  
in or on certain specified commodities.  
EPA is revoking these exemptions from  
the requirement of tolerances because  
they are not necessary to cover residues  
of the relevant pesticides in or on  
domestically treated commodities or  
commodities treated outside but  
imported into the United States. This  
pesticide is no longer used on these  
commodities within the United States  
and no person has provided comment  
identifying a need for EPA to retain the  
exemptions to cover residues in or on  
imported foods. EPA has historically  
expressed a concern that retention of  
tolerances or exemptions that are not  
necessary to cover residues in or on  
legally treated foods has the potential to  
encourage misuse of pesticides within  
the United States. Thus, it is EPA's  
policy to issue a final rule revoking  
those tolerances for residues of pesticide  
chemicals for which there are no active