

year. If the volume of grain inspected is less than the agreed upon amount, any excess monies paid to the Service shall be applied to the next fiscal year's administrative fee unless a request for a refund is made by the applicant.

(f) *Advance payment.* As necessary, the Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by the applicant.

(g) *Form of payment.* Bills for fees assessed under the regulations for official services performed by FGIS shall be paid by check, draft, or money order, payable to the U.S. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration.

Dated: November 22, 1995.

James R. Baker,

*Acting Assistant Secretary, Marketing and Regulatory Programs.*

[FR Doc. 95-29115 Filed 11-29-95; 8:45 am]

BILLING CODE 3410-EN-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 185 and 186

[FAP 4H5710/P636; FRL-4983-5]

RIN 2070-AC18

### Deltamethrin; Food and Feed Additive Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to establish food and feed additive regulations for residues of the pyrethroid deltamethrin in or on food and feed items as a result of use in food- and feed-handling establishments. Roussel Uclaf Corp. requested these regulations pursuant to Federal Food, Drug and Cosmetic Act (FFDCA) that would establish the maximum permissible levels for residues of the pesticide in or on certain food and feed items.

**DATES:** Comments, identified by the document control number [PP4H5710/P636], must be received on or before January 2, 1996.

**ADDRESSES:** Submit written comments by mail 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 comments to: Rm. 1132, CM #2, 1921

Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any parts or all of that information as "Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. through 4:30 p.m., Monday through Friday, excluding legal holidays. Comments and data may also be submitted 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 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 4H5710/P636]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed 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: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: larocca.george@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the Federal Register of February 8, 1995 (60 FR 7541), which announced that, Roussel Uclaf Corp., 95 Chestnut Ridge Rd., P.O. Box 30, Montvale, NJ 07645, had submitted pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348, a food additive petition, FAP 4H5710, that proposed amending 40 CFR part 185 by establishing a food additive regulation to permit residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] in or on food as a result of use in food-

handling establishments at 0.02 part per million (ppm). On March 20, 1995, Roussel Uclaf Corp. submitted a request to amend 40 CFR part 186 by proposing a feed additive regulation to permit residues of the insecticide deltamethrin in or on feed items as a result of use in feed-handling establishment at 0.02 ppm.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of these tolerances include the following:

1. Chronic 2-year feeding in dogs with a systemic NOEL greater than 40 ppm (highest doses treated (HDT)).

2. A 24-month chronic feeding/carcinogenicity study in rats with a systemic NOEL of 20 ppm (1 mg/kg/day) and LEL of 50 ppm (2.5 mg/kg/day based on decreased body weight. No carcinogenic effects were observed in this study.

3. Mutagenicity tests include an Ames assay, a structural chromosomal aberration assay in Chinese hamster ovary (CHO) cells, and an unscheduled DNA synthesis assay in rat hepatocyte. All tests were negative for genotoxicity.

4. A metabolism study in rats demonstrates that deltamethrin is relatively well absorbed. Urine and fecal excretions were almost complete at 48 hours post dose.

5. An oral development toxicity study in rats with a developmental NOEL of 11 mg/kg/day (highest dose tested). The maternal NOEL was 3.3 mg/kg/day with the LEL of 7 mg/kg/day based on one death and excessive salivation. An oral developmental toxicity study in rabbits with a maternal NOEL of 10 mg/kg/day and a maternal LEL of 25 mg/kg/day based on decreased defecation. The developmental NOEL was 25 mg/kg/day with a developmental LEL of 100 mg/kg/day based on statistically significant trend for an increase in fetal incidence of unossification of pubic and tail bones.

6. A three-generation reproduction study in rats noted no parental effects. NOEL greater than 50 ppm.

A chronic dietary exposure/risk assessment was performed for deltamethrin using a reference dose (RfD) of 0.01 mg/kg bwt/day based on a NOEL 1.00 mg/kg bwt/day from the 2-year rat feeding study with an uncertainty factor of 100. The end-point effect of concern was decreased body weight. The Theoretical Maximum Residue Contribution (TMRC) from established tolerances utilizes 3.7% of the RfD for the U.S. population and 2.3% of the RfD for the subpopulation

most highly exposed, nonnursing infants (less than 1-year old). Establishing the new tolerances would utilize 5.1% of the RfD for the U.S. population and 20.7% for nonnursing infants (less than 1-year old). If the new tolerances are approved, the total percentages of the RfD utilized for the U.S. population and nonnursing infants (less than 1-year old) are 8.8% and 23.0%, respectively. Generally speaking, EPA has no cause for concern if total residue contribution for published tolerances is less than the RfD. EPA concludes that the chronic dietary risk of deltamethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

The nature of the deltamethrin residue in plants and animals for this use is adequately understood. The residues of concern is deltamethrin. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry from the proposed use as delineated in 40 CFR 180.6(a)(3).

The metabolism of the chemical in animals for this use is adequately understood. An adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

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

The pesticide is considered useful for the purposes for which it is sought. Based on the information and data considered, the Agency concludes that the proposed tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking

proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [FAP 4H5710/P636]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [FAP 4H5710/P636] (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 Resources 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:  
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 all comments 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.

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 entitlement, 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 a "significant regulatory action" because it does not meet any of the regulatory significance criteria listed above.

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, or establishing or raising food additive regulations 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).

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paper Reduction Act of 1980, 44 U.S.C. 3501 et seq.

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, for State, local, or tribal governments or the private sector because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Parts 185 and 186

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

Dated: November 7, 1995.

Susan Lewis,  
*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR parts 185 and 186 be amended as follows:

#### **PART 185—[AMENDED]**

1. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 185.1580, by designating the existing text as paragraph (a) and by adding new paragraph (b), to read as follows:

**§ 185.1580 Deltamethrin.**

\* \* \* \* \*

(b) A food additive tolerance of 0.02 part per million is established for residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] as follows:

(1) In or on all food items (other than those covered by a higher tolerance as a result of use on growing crops) resulting from use in food-handling establishments.

(2) The insecticide may be present as a residue from application of deltamethrin in food-handling establishments, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in food-handling establishments where food and food products are held, processed, prepared, and served. General surface application may be used only when facility is not in operation provided exposed food is covered or removed from area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed food is covered or removed from area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of food-contact surfaces shall be avoided.

(ii) To assure safe use of the pesticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

**PART 186—[AMENDED]**

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By adding new § 186.1580, to read as follows:

**§ 186.1580 Deltamethrin.**

(a) A feed additive tolerance of 0.02 part per million is established for residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] as follows:

(1) In or on all feed items (other than those covered by a higher tolerance as a result of use on growing crops) resulting from use in feed-handling establishments.

(2) The insecticide may be present as a residue from application of deltamethrin in feed-handling establishments, including feed manufacturing and processing establishments in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in feed-handling establishments where feed and feed products are held, processed, prepared, and served. General surface application may be used only when facility is not in operation provided exposed feed is covered or removed from area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed feed is covered or removed from area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of feed-contact surfaces shall be avoided.

(ii) To assure safe use of the pesticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

(b) [Reserved]

[FR Doc. 95-29251 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-F

**40 CFR Parts 261, 271, and 302**

[SWH-FRL-5336-3]

**Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries**

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) again is extending the comment period for the proposed listing determination for the dyes and pigments industry, which appeared in the Federal Register

on December 22, 1994 (see 59 FR 66072-66114). The public comment period for this proposed rule was to end on November 30, 1995. The purpose of this notice is to extend again the comment period to end on December 15, 1995.

**DATES:** EPA will accept public comments on this proposed listing determination until December 15, 1995.

**ADDRESSES:** The public must send an original and two copies of their comments to EPA RCRA Docket Number F-94-DPLP-FFFFF, RCRA Information Center (5305W), U.S. EPA, 401 M Street, SW, Washington, DC. To hand-deliver comments, or to review docket materials, the address is U.S. EPA, Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For technical information concerning this notice, please contact Wanda Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260-7458.

**SUPPLEMENTARY INFORMATION:** This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the production of dyes and pigments because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 59 FR 66072-114 (December 22, 1994) for a more detailed explanation of the proposed rule.

These proposed hazardous waste listings were based in part upon data claimed as confidential by certain dye and pigment manufacturers. Although EPA hopes to publish these data or information derived from these data to the extent relevant to the proposed listing, the Agency is unable to do so at the present time due in large part to the issuance of a preliminary injunction against EPA in *Magruder Color Co. v. EPA*, Civ. No. 94-5768 (D.N.J.). EPA is pursuing avenues to allow publication of the information and hopes to supplement the public record with and allow public comment on such information prior to issuance of a final listing. However, because EPA anticipates that its obligation to publish a final rule pursuant to a consent decree