

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.

#### IV. Regulatory Assessment Requirements

To satisfy requirements for analysis specified by Executive Order 12866, the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Unfunded Mandates Reform Act, EPA has analyzed the impacts of this proposal.

##### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in 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 referred to 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 the rights and obligations of recipients thereof; 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.

##### B. Regulatory Flexibility Act

EPA has reviewed this proposed rule under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.) and has determined that it will not have a significant

economic impact on a substantial number of small businesses, small governments, or small organizations. Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

##### C. Paperwork Reduction Act

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

##### D. Unfunded Mandates Reform Act

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 Part 180

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

Dated: November 30, 1995.

Jack E. Housenger,  
Chief, Special Review Branch, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be 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 § 180.175, by removing paragraph (b) and designating it as "reserved" as follows:

##### § 180.175 Maleic hydrazide; tolerances for residues.

\* \* \* \* \*

(b) [Reserved]

##### § 180.245 [Amended]

3. By amending § 180.245 *Streptomycin; tolerances for residues*, by removing the term "negligible" from the text.

##### § 180.304 [Amended]

4. In § 180.304 *Oryzalin; tolerances for residues* by amending paragraph (a) in the table therein by removing the entries for cottonseed; grain, barley; grain, wheat; peas (succulent); potatoes; and soybeans.

##### § 180.396 [Amended]

5. In § 180.396 *Hexazinone; tolerances for residues* by amending

paragraph (a) in the table therein by removing the entries for eggs; poultry, fat; poultry, mby; poultry, meat; pineapple, fodder; and pineapple, forage.

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BILLING CODE 6560-50-F

#### 40 CFR Part 180

[OPP-300403; FRL-4986-2]

RIN 2070-AC18

#### Tebuthiuron; Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA has completed the reregistration process and issued a Reregistration Eligibility Document (RED) for tebuthiuron. In the reregistration process, all information to support this pesticide's continued registration is reviewed for adequacy and, when needed, supplemented with new scientific studies. Based on the RED tolerance assessment for the pesticide chemical subject to this proposed rule, EPA is proposing to lower the tolerance for grass hay and grass rangeland forage and change the commodity name grass, rangeland forage to grass, forage.

**DATES:** Written comments, identified by the OPP document control number [OPP-300403], must be received on or before January 5, 1996.

**ADDRESSES:** By mail, submit comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted in ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number [OPP-300403]. No 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: Ben Chambliss, Special Review

and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Station #1, 3rd Floor, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8174; e-mail: chambliss.ben@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Legal Authorization

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., authorizes the establishment of tolerances (maximum legal residue levels) and exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities pursuant to section 408 (21 U.S.C. 346(a)). Without such tolerances or exemptions, a food containing pesticide residues is considered to be "adulterated" under section 402 of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 342). To establish a tolerance or an exemption under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would "protect the public health" (21 U.S.C. 346a(b)). For a pesticide to be sold and distributed the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq.).

In 1988, Congress amended FIFRA and required EPA to review and reassess the potential hazards arising from currently registered uses of pesticides registered prior to November 1, 1984. As part of this process, the Agency must determine whether a pesticide is eligible for reregistration and if any subsequent actions are required to fully attain reregistration status. EPA has chosen to include in the reregistration process a reassessment of existing tolerances or exemptions from the need for a tolerance. Through this reassessment process, EPA can determine whether a tolerance must be amended, revoked, or established, or whether an exemption from the requirement of one or more tolerances must be amended or is necessary.

The procedure for establishing, amending, or repealing tolerances or exemptions from the requirement of tolerances is set forth in the Code of Federal Regulations, 40 CFR parts 177 through 180. Pursuant to 40 CFR 180.32, EPA is proposing the amendment of the following tolerances. The Administrator of EPA or any person may initiate an action proposing to establish, amend,

revoke, or exempt a tolerance for a pesticide registered for food uses. Each petition or request for a new tolerance, an amendment to an existing tolerance, or a new exemption from the requirement of a tolerance must be accompanied by a fee. Current Agency policy on tolerance actions identified during the reregistration process is to waive the payment of fees if the tolerance action concerns revision or revocation of an established tolerance. Comments submitted in response to the Agency's published proposals are reviewed; the Agency then publishes its final determination regarding the specific tolerance actions.

##### II. Chemical-Specific Information and Proposed Actions

###### *Tebuthiuron: Amendment to 40 CFR 180.390*

###### 1. *Regulatory background.*

Tebuthiuron is a nonselective soil activated herbicide used to control broadleaf and woody weeds, grasses, and brush on terrestrial feed crop and terrestrial nonfood crop sites. Tolerances exist for tebuthiuron use on grass hay and forage as well as secondary residues in meat of cattle, goats, horses, sheep, and in milk. Tebuthiuron was registered by the Elanco Products Co. in 1974. The registration was later transferred to DowElanco in 1989. A Registration Standard was issued in July 1987 for all pesticide products containing tebuthiuron. Under this standard, registrants were required to generate and supply missing data and to replace unacceptable data. In June 1994, the Agency issued the Reregistration Eligibility Document for Tebuthiuron. This document reflects a reassessment of all data submitted in response to the Registration Standard of Tebuthiuron.

2. *Proposed action*—a. Lower the tolerance for grass hay and forage from 20 parts per million (ppm) to 10 ppm. A tolerance reduction from 20 ppm to 10 ppm is recommended for grass hay and forage based on data showing that combined residues of tebuthiuron and its regulated metabolites did not exceed 10 ppm on any grass forage or hay sample in field trials conducted under label conditions.

b. Amend the commodity definition listed in 40 CFR 180.390 to conform to commodity definitions currently used by EPA to read as follows: "Grass, rangeland, forage" is proposed to read as "Grass, forage".

##### III. Public Comment Procedures

Interested persons are invited to submit written comments, information,

or data in response to this proposed rule. Comments must be submitted by January 5, 1996. Comments must bear a notation indicating the document control number. Three copies of the comments should be submitted to either location listed under **ADDRESSES**.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of a comment 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.

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.

Documents considered and relied upon by EPA pertaining to this action, and all written comments filed pursuant to this proposed rule, will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. To satisfy requirements for analysis specified by Executive Order 12866 and the Regulatory Flexibility Act, EPA has considered the impacts of this proposal.

A record has been established for this rulemaking under docket number [OPP-300403] (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.

IV. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in 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 referred to 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 the rights and obligations of recipients thereof; 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, it has been determined that this rule is not a "significant regulatory action," because it does not meet any of the regulatory-significance criteria listed above.

B. Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.), and EPA has determined that it will not have a significant economic impact on a substantial number of small businesses,

small governments, or small organizations.

Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

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

D. Unfunded Mandates

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 Part 180

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

Dated: November 30, 1995.  
Jack E. Housenger,  
Chief, Special Review Branch, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be 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 § 180.390, by amending the table therein by revising the entries for grass, hay and grass, rangeland, forage to read as follows:

**§ 180.390 Tebuthiuron; tolerances for residues.**

Commodity	Parts per million
* * * * *	
Grass, hay .....	10.0
Grass, forage .....	10.0
* * * * *	

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**40 CFR Parts 180 and 186**

[PP 3F4169 and FAP 3H5655/P628; FRL-4971-7]

RIN 2070-AC18

**Imidacloprid; Pesticide Tolerances**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish permanent tolerances for residues of the insecticide (1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine) (also known as imidacloprid) and its metabolites in or on cottonseed and cotton gin byproducts, to revoke the existing feed additive tolerance for imidacloprid on cotton meal, and to establish a maximum residue limit for imidacloprid on cottonseed meal. Bayer Corp. (formerly Miles, Inc.) submitted petitions pursuant to the Federal Food, Drug Cosmetic Act (FFDCA) requesting these regulations to establish certain maximum permissible levels for residues of the insecticide.

DATES: Comments, identified by the document control number, [PP 3F4169 and FAP 3H5655/P628], must be received on or before January 5, 1996.

ADDRESSES: By mail, submit written comments 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 part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth 40 CFR part 2. A copy of the comment 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. All Written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

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