

[The text of proposed § 1.925(b)-1 consisting of paragraph (b)(3)(i) is the same as the text of § 1.925(b)-1T(b)(3)(i) as amended elsewhere in this issue of the **Federal Register**].

**§ 1.927(c)-1 [Added]**

**Par. 4.** Section 1.927(e)-1 is amended as follows:

[The text of proposed § 1.927(e)-1 is the same as the text of § 1.927(e)-1T published elsewhere in this issue of the **Federal Register**].

**Michael P. Dolan,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 98-5127 Filed 3-2-98; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300618; FRL-5772-4]

RIN 2070-AB18

**Potassium Dihydrogen Phosphate; Proposed Exemption from the Requirement of a Tolerance**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to establish an exemption from the requirement of a tolerance for residues of potassium dihydrogen phosphate ( $\text{KH}_2\text{PO}_4$ ) in or on all food commodities, when applied as a fungicide in accordance with good agricultural practices to control powdery mildew in fruits and vegetables. EPA is proposing this regulation on its own initiative.

**DATES:** Comments, identified by the docket control number [OPP-300618] must be received on or before May 4, 1998.

**ADDRESSES:** By mail, submit written comments 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, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit IV of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document 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 comment that does not contain CBI must be submitted for inclusion in the public 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. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Suku Oonnithan, c/o Product Manager (PM) 91, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location; telephone number; and e-mail address: Crystal Station #1, 5th Floor, 2800 Crystal Drive, Arlington, VA 22202; 703-308-9524; oonnithan.suku@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. section 346a(d), EPA proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of potassium dihydrogen phosphate in or on all food commodities.

**I. Risk Assessment and Statutory Authority**

New section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food commodity) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." These include exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(B) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue." EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues.

First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

**II. Risk Assessment and Statutory Findings**

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, reliability, and relationship to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

**A. Toxicological Profile**

Potassium dihydrogen phosphate is a naturally occurring mineral and is widely used as a fertilizer with no reported adverse effects. The acute toxicological data available on potassium dihydrogen phosphate include: acute oral toxicity in rats ( $\text{LD}_{50} > 500 \text{ mg/kg}$  and Toxicity Category III), acute dermal toxicity in rabbits ( $\text{LD}_{50} > 2,000 \text{ mg/kg}$  and Toxicity Category III), primary eye irritation in rabbits (Toxicity Category III), and primary skin irritation in rabbits (Toxicity Category IV).

Phosphate is ubiquitous and abundant in biological materials. Most of the phosphate ingested by humans and animals is converted to orthophosphate, both as  $\text{H}_2\text{PO}_4$  and  $\text{HPO}_4$  in the digestive tract, prior to absorption in the small intestine. Phosphate is found in blood, cytoplasm, bone, teeth, urine, and feces. It is essential in the tightly regulated physiological and metabolic processes of energy production, carbohydrate metabolism, iron absorption, plasma buffering, maintenance of certain hormone levels, and muscular contraction. Phosphates are molecular components of phospholipids, nucleic acids, energy generating compounds, certain sugars, and some proteins. Dietary phosphate, that is not absorbed is passed through the body via the feces and the absorbed excess phosphate is excreted renally via the urine.

Potassium also is ubiquitous in nature and in biological systems. It is an essential cationic component of body fluids and cytoplasm. It is essential for amino acid and sugar transport, cell permeability, muscle contraction, and is required as a cofactor for certain enzymes. Excess potassium is excreted in the urine. Potassium also is found in

saliva, sweat, tears, and in gastric secretions and fluids.

Potassium phosphate is widely used as a fertilizer. Therefore its use as a pesticide is not likely to significantly increase exposure that already occurs in the diet from natural sources, including drinking water. While deficiencies of potassium and phosphate may adversely impact human health, excessive intake via natural exposures does not.

#### B. Aggregate Exposure

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure*—i. *Food*. It is anticipated that no significant residues of potassium dihydrogen phosphate will occur in treated foods other than that present as a mineral and as mineral complexes manufactured by the plant through photosynthesis and enzymatic processes.

ii. *Drinking water exposure*. Potassium dihydrogen phosphate is used as an agricultural fertilizer. Exposure to its residues in drinking water from pesticidal use is not expected to be significant or harmful to human health.

2. *Other non-occupational exposure*—i. *Dermal exposure*. No undue risk is expected as a result of the use of potassium dihydrogen phosphate as a fungicide.

ii. *Inhalation exposure*: None expected as a result of the use of potassium dihydrogen phosphate as a fungicide.

#### C. Cumulative Exposure to Substances with Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency considers "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of the toxicity for conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out

to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanisms of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity for evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanism of toxicity increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism can be resolved. These include pesticides that are toxicologically and structurally dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

Potassium dihydrogen phosphate does not share any common mechanisms of toxicity with other pesticide chemicals. Its use as a fungicide should not significantly increase exposure to other uses as an agricultural fertilizer. Therefore, no impact on the potential for toxic effects from the pesticidal use of potassium dihydrogen phosphate is expected.

#### D. Safety Determinations

1. *U.S. population*. Potassium dihydrogen phosphate has low mammalian toxicity and EPA has exempted it from tolerance when used as an inert ingredient as a buffering agent in pesticide formulations (40 CFR 180.1001(d)). The subject chemical occurs in nature and has been used as a fertilizer for many years with no reported adverse effects. Based on available information, the Agency believes that exposure to this chemical will not pose any appreciable risks to human health.

2. *Infants and children*. Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. In this instance, the Agency believes that there is reliable data to support that potassium dihydrogen phosphate is practically non-toxic to mammals, including infants and children, and, thus, there are no threshold effects, and EPA has not used a margin of exposure (safety) approach to assess the safety of potassium dihydrogen phosphate. As a result, the provision requiring an additional margin of exposure (safety) does not apply.

#### E. Other Considerations

1. *Endocrine disruptors*. There are no reports of any estrogenic and other adverse effects to human population as a result of the use of potassium dihydrogen phosphate as an agricultural fertilizer. Based on this information combined with its low mammalian toxicity, EPA concludes that there is a reasonable certainty that no adverse endocrine effects will result from the use of potassium dihydrogen phosphate as a fungicide.

2. *Analytical method(s)*. Since the Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation, the Agency has concluded that an analytical method is not required for enforcement purposes for the residues of potassium dihydrogen phosphate.

#### F. Existing Tolerances

No existing tolerances or exemptions from the requirement of a tolerance have been issued for potassium dihydrogen phosphate as an active ingredient in the United States.

#### G. International Tolerances

There are no CODEX tolerances or international tolerance exemptions for potassium dihydrogen phosphate.

#### H. Conclusion

Based on the information and data considered, EPA is proposing that an exemption from the requirement of a tolerance be established as set forth below.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the

available scientific data and other relevant information in support of this action. Based on the information and data considered, the Agency has determined that, in amending 40 CFR part 180 as proposed, there is reasonable certainty that no harm to the general population including infants and children will result from aggregate exposure to the pesticide chemical residue.

### III. Comments

Under FFDCA section 408(e)(2), EPA must provide for a public comment period before issuing a final tolerance or tolerance exemption under section 408(e)(1). The public comment period is to be for 60 days unless the Administrator for good cause finds that it is in the public interest to reduce that comment period.

### IV. Public Docket and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number [OPP-300618] (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

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. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP-300618]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

### V. Regulatory Assessment Requirements

This action proposes an exemption from the tolerance requirement under FFDCA section 408(e). 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). In addition, this proposed 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) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or 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 special 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, under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), 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 was published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### VI. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted 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 prior to publication of this rule in today's **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 record keeping requirements.

Dated: February 18, 1998.

**Janet L. Andersen,**

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

Therefore, it is proposed that 40 CFR chapter I 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. Section 180.1193 is added to subpart D to read as follows:

#### **§ 180.1193 Potassium dihydrogen phosphate; exemption from the requirement of a tolerance.**

Potassium dihydrogen phosphate is exempted from the requirement of a tolerance in or on all food commodities when applied as a fungicide in accordance with good agricultural practices.

[FR Doc. 98-5418 Filed 3-2-98; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 98-18, RM-9204]

#### **Radio Broadcasting Services; Macon and Hampton, GA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by U.S. Broadcasting Limited Partnership seeking the reallocation of Channel 300C1 from Macon to Hampton, GA, as the community's first local aural service, and the modification of its license for Station WPEZ to specify Hampton as the station's community of license. Channel 300C1 can be allotted to Hampton in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.4 kilometers (12.7 miles) southwest of the community, at coordinates 33-15-30 North Latitude and 84-26-21 West Longitude, to accommodate petitioner's desired transmitter site.

**DATES:** Comments must be filed on or before April 13, 1998, and reply comments on or before April 28, 1998.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the