

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 180

[FRL-5982-3]

**Technical Amendments to
Imidacloprid; Pesticide Tolerances for
Emergency Exemptions; Correction of
Effective Date Under Congressional
Review Act (CRA)**
AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On July 9, 1997 (62 FR 36691), the Environmental Protection Agency published in the **Federal Register** a final rule establishing time-limited tolerances for combined residues of imidacloprid in or on the crop group citrus fruits and processed commodity dried citrus pulp, which established an effective date of July 9, 1997. This document corrects the effective date of the rule on May 4, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on May 4, 1998.

FOR FURTHER INFORMATION CONTACT: Angela Hofman, Office of Pesticide Programs and Toxic Substances at (202) 260-2922.

SUPPLEMENTARY INFORMATION:
I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on the date stated in the July 9, 1997, **Federal Register** document, by operation of law, the rule did not take effect on July 9, 1997, as stated therein. Now that EPA has discovered its error, the rule has been resubmitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 408(e)(2) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e)(2), provides that the Administrator, before issuing a final rule under section 408(e)(1), shall issue a proposed rule and allow 60 days for

public comment unless the Administrator for good cause finds that it would be in the public interest to provide a shorter period. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under section 408(e)(2). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since July 9, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 808(2). Under section 408(g)(1) of FFDCA, today's rule is effective upon publication.

Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in July 9, 1997, **Federal Register** should be penalized if they were complying with the rule as promulgated.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 9, 1997, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the

U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on May 4, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amendment effective date.

Dated: April 22, 1998.

Carol Browner,
Administrator.

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**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 180

[FRL-5982-4]

**Technical Amendments to
Myclobutanil; Pesticide Tolerances for
Emergency Exemptions; Correction of
Effective Date Under Congressional
Review Act (CRA)**
AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On July 9, 1997 (62 FR 36671), the Environmental Protection Agency published in the **Federal Register** a final rule establishing a time-limited tolerance for combined residue of myclobutanil in or on peppers (bell and non-bell), peppermint and spearmint, which established an effective date of July 9, 1997. This document corrects the effective date of the rule to May 4, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective May 4, 1998.

FOR FURTHER INFORMATION CONTACT: Angela Hofman, Office of Pesticide Programs and Toxic Substances at (202) 260-2922.

SUPPLEMENTARY INFORMATION:
I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to