

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 any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); 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 or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, 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. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of

power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

#### V. 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 to 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 this final rule in the **Federal Register**. This final 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 5, 2000.

**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), 346(a) and 371.

#### § 180.361 [Amended]

2. In § 180.361, amend the table in paragraph (b) by revising the expiration/revocation date "5/31/00" to read "12/31/01" each place it occurs.

[FR Doc. 00-18094 Filed 7-18-00; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-301012; FRL-6594-1]

RIN 2070-AB78

#### Azoxystrobin or Methyl (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-; Extension of Tolerance for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for combined residues of the fungicide azoxystrobin or methyl (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3- and its metabolites in or on strawberries at 10.0 parts per million (ppm), soybean forage at 0.2 ppm, soybean hay at 1.0 ppm, soybean hulls at 2.0 ppm, soybean meal at 0.3 ppm, soybean oil at 2.0 ppm, soybean seed at 0.1 ppm, soybean silage at 2.0 ppm, and sugar beet roots at 0.05 ppm, sugar beet, molasses at 0.70 ppm, and sugar beet, pulp, dried at 1.0 ppm, and sugar beet refined sugar at 0.70 ppm for an additional 18 month period. These tolerances will expire and are revoked on December 30, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberries, soybeans, and sugar beets. 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 section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

**DATES:** This regulation is effective July 19, 2000. Objections and requests for hearings, identified by docket control number OPP-301012, must be received by EPA on or before September 18, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301012 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Jackie Mosby-Gwaltney, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-6792; and e-mail address: gwaltney.jackie@epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does This Action Apply to Me?

You may be 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:

Cat-egories	NAICS codes	Examples of po-tentially affected entities
Industry	111	Crop production
	112	
	311	Animal produc-tion
	32532	Food manu-facturing Pesticide manu-facturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register-Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgrstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301012. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents.

The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 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 PIRIB telephone number is (703) 305-5805.

## II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of January 29, 1999 (64 FR 4572) (FRL-6050-6), 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 a time-limited tolerance for the combined residues of azoxystrobin or methyl (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yl]oxy]phenyl]-3- and its metabolites in or on strawberries at 10.0 ppm, soybean forage at 0.2 ppm, soybean hay at 1.0 ppm, soybean hulls at 2.0 ppm, soybean meal at 0.3 ppm, soybean oil at 2.0 ppm, soybean seed at 0.1 ppm, soybean silage at 2.0 ppm, and sugar beet roots at 0.05 ppm, sugar beet, molasses at 0.70 ppm, and sugar beet, pulp, dried at 1.0 ppm, and sugar beet refined sugar at 0.70 ppm with an expiration date of December 30, 2001. EPA established these 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 section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of azoxystrobin or methyl (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yl]oxy]phenyl]-3- on strawberries for this year's growing season because the Florida Department of Agriculture and Consumer Services requested an emergency exemption on September 28, 1998, for the control of anthracnose on strawberries. Anthracnose adversely affect the plants in a variety of ways. It can cause plant losses (crown rot, root rot, anthracnose of the stolon and petiole, but rot, and leaf spots) and fruit losses (anthracnose fruit rot and flower blight). There are several fungicides

currently labeled for use on Florida grown strawberries. These include: Ridomil, Rovral, Captan, Sulfur, Aliette, Copper, Benlate, and Topsin. Of all these products, only two have demonstrated efficacy toward anthracnose: Benlate and Captan. An experiment conducted by the University of Florida demonstrates the lack of efficacy of both products last season. Thus, both products have only limited utility against anthracnose.

The two factors that have brought about this emergency condition include variety shift and lack of efficacy of previously effective fungicides. No single variety has all the desirable characteristics. Among these desirable characteristics important to Florida growers are: season-long production, early and late production, disease resistance, insect and mite resistance, etc. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of azoxystrobin or methyl (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yl]oxy]phenyl]-3- on strawberries for control of anthracnose disease in strawberries.

EPA also received requests to extend the use of azoxystrobin or methyl (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yl]oxy]phenyl]-3- on soybean, and sugar beets for this year's growing season because the Minnesota Department of Agriculture requested an emergency exemption in April of 1998, for the control of cercospora leafspots on sugar beets. The registered alternative fungicides benomyl, thiabendazole thiophanate methyl, triphenyltin hydroxide, EBDCs (Mancozeb and Meneb), and copper hydroxide for controlling cercospora leaf spots do not control the disease effectively because of resistance and/or tolerance in the pathogen. Moderately resistant cultivars of sugar beet are available, but their yield potentials are lower than the susceptible. Cultural practices are not very effective in managing the disease. During 1998, the disease severity is expected to be higher and yield losses significant due to mild winter temperature (El Nino effects).

Minnesota also claims that triphenyltin hydroxide (TPTH) is still used in controlling the disease, but it is significantly less effective than in the past.

In August 1998, the Arkansas Department of Agriculture also requested an emergency exemption for the control of aerial blight on soybeans. The disease is particularly aggressive in years of above-normal night temperatures, high humidity, and

frequent rainfall. Conditions in 1998, have been near perfect for development of sheath blight of rice, with night temperatures in the 78–82 range and oppressively high relative humidity within crop canopies. Rainfall in northeast Arkansas has also contributed to the problem. Soybean has just entered the most susceptible flowering and early pod formation stages and aerial blight has become exceptionally aggressive as weather conditions continue to favor its development. Damage to soybean yield is through destruction of foliage, and to a greater extent—flowers, pods and seeds. Yield losses in some Arkansas field in the past have been estimated as high as 50%, however, this is a very rare occurrence most years.

EPA assessed the potential risks presented by residues of azoxystrobin or methoxychlor (E)-2-[2-[6-(cyanophenoxy)pyrimidin-4-yl]oxy]phenyl]-3- in or on strawberries, soybeans, and sugar beets. In doing so, EPA considered the safety standard in FFDC section 408(b)(2), and decided that the necessary tolerance under FFDC 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 rule of January 29, 1999 (64 FR 4572) for strawberries, and November 25, 1998 (63 FR 65078) (FRL-6045-4) for soybeans, and sugar beets. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 18-month period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 30, 2001, under FFDC section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberries, soybeans, and sugar beets 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 tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

### III. Objections and Hearing Requests

Under section 408(g) of the FFDC, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a

hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDC by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to “object” to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDC sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

#### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-301012 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 18, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor’s contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). 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.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone

number for the Office of the Hearing Clerk is (202) 260-4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it “Tolerance Petition Fees.”

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 the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP-301012, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a 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(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

### IV. Regulatory Assessment Requirements

This final rule establishes a time-limited exemption from the tolerance requirement under FFDCA section 408. 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 any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); 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 or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the exemption 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. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

### V. 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 to 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 this final rule in the **Federal Register**. This final 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: June 29, 2000.

**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.

#### § 180.507 [Amended]

2. In § 180.507, by amending the table in paragraph (b), by revising the expiration/revocation date for the following commodities: "Strawberries" from "7/30/00" to read "12/30/01" and "Soybean forage," "Soybean hay," "Soybean hulls," "Soybean meal," "Soybean oil," "Soybean seed," "Soybean silage," "Sugar beet roots," "Sugar beet tops," "Sugar beets molasses", "Sugar beet, pulp, dried" and "Sugar beet, refined sugar" from "6/30/00" to read "12/30/01".

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 51 and 54

[CC Docket No. 98-121, FCC 00-173]

#### Applications of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana .

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** This document denies to reconsider the Commission's Second BellSouth Louisiana Order with respect to the issues on which reconsideration is sought, no petitioner raises arguments that would cause us to change our decision to deny BellSouth's application to provide long distance service in the state of Louisiana.

**DATES:** Effective July 19, 2000.

#### FOR FURTHER INFORMATION CONTACT:

Janice M. Myles, Paralegal Specialist; Johanna Mikes; and/or Ann Stevens, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration adopted May 15, 2000, and released June 19, 2000. The full text of this Order is available for inspection and copying during normal business