

affected conduct, as required by section 3 of Executive Order 12988, entitled Civil Justice Reform (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630, entitled Governmental Actions and Interference with Constitutionally Protected Property Rights (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

For information about the applicability of the regulatory assessment requirements to the final rule that was issued on May 24, 2000 (65 FR 33703) (FRL-6041-9), please refer to the discussion in Unit III of that document.

**V. Will EPA Submit this Final Rule to Congress and the Comptroller General?**

Yes. The Congressional Review Act (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. (5 U.S.C. 808(2)). EPA has made such a good cause finding for this final rule, and established an effective date of May 24, 2000. Pursuant to 5 U.S.C. 808(2), this determination is supported by the brief statement in Unit III of this document. 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 the rule in the **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, Pesticides and pest.

Dated: July 26, 2000.

**James Jones,**  
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

**PART 180— [AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a, and 371.

**§ 180.176 [Amended]**

2. In § 180.176, amend the table in paragraph (b) by revising the expiration/revocation date "12/31/99" to read "12/31/01".

[FR Doc. 00-20734 Filed 8-15-00 8:45 am]

**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-301036; FRL-6737-1]

RIN 2070-AB78

**Propiconazole; Extension of Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole and its metabolites in or on sorghum, grain, grain at 0.2 part per million (ppm); sorghum, grain, stover at 1.5 ppm; sorghum, aspirated grain fractions at 20 ppm; dry beans at 0.5 ppm; dry bean, forage at 8 ppm; dry bean, hay at 8 ppm; and blueberries, cranberries and raspberries at 1.0 ppm. The sorghum and cranberry tolerances are extended for an additional 17-month period; the dry bean, raspberry, and blueberry tolerances are extended for an additional 1-year period. All of these tolerances will expire and are revoked on December 31, 2001. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing uses of the pesticide on sorghum, dry beans, blueberries, cranberries, and raspberries. 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 August 16, 2000. Objections and requests for hearings, identified by docket control number OPP-301036,

must be received by EPA on or before October 16, 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-301036 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-9362; and e-mail address: [schaible.stephen@epa.gov](mailto:schaible.stephen@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	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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," "Regulations and Proposed Rules," 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/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301036. 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 August 13, 1997 (62 FR 43284) (FRL-5735-2), 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 time-limited tolerances for the combined residues of propiconazole and its metabolites in or on sorghum, grain, grain at 0.2 ppm; sorghum, grain, stover at 1.5 ppm; and sorghum, aspirated grain fractions at 20 ppm, with an expiration date of July 31, 1998.

EPA also issued a final rule, published in the **Federal Register** of April 11, 1997 (62 FR 17710) (FRL-5600-5), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104-170) it established a time-limited tolerance for the combined residues of propiconazole and its metabolites in or on cranberries at 41.0 ppm, with an expiration date of July 31, 1998. The tolerance level was corrected to be 1.0 ppm in the **Federal Register** of May 2, 1997 (62 FR 24045) (FRL-5783-5).

EPA additionally issued a final rule, published in the **Federal Register** of June 13, 1997 (62 FR 32224) (FRL-5718-8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104-170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on dry beans at 0.5 ppm; dry bean forage at 8 ppm and dry bean hay at 8 ppm, with an expiration date of December 31, 1998.

EPA also issued a final rule, published in the **Federal Register** of January 20, 1999 (64 FR 2995) (FRL-6049-8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104-170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on blueberries and raspberries at 1.0 ppm, with an expiration date of December 31, 1999.

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 FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of propiconazole on blueberries and cranberries for this year's growing season due to the continued emergency situation facing blueberry and cranberry growers due to the cancellation of the fungicide triforine, which was the only product registered to control cottonball disease in cranberries or mummy berry disease in blueberries. Raspberry growers in Oregon and Washington requested the use of propiconazole be extended due to wet and mild weather conditions in the Pacific Northwest which result in severe disease pressure from yellow rust. Disease pressure from sorghum ergot and rust led the sorghum and dry bean growers, respectively, to request the use of propiconazole on these crops. After having reviewed these submissions, EPA concurs that emergency conditions exist for these growers. EPA has authorized under FIFRA section 18 the use of propiconazole on sorghum for control of sorghum ergot in Kansas, Nebraska, New Mexico, Oklahoma and Texas; the use on dry beans for control of rust in Kansas, Minnesota, and North Dakota; the use on blueberries for control of mummy berry disease in Connecticut, Maine, Massachusetts, New Hampshire,

Rhode Island, and Washington; the use on cranberries for control of cottonball disease in Washington and Wisconsin; and the use of propiconazole on raspberries for control of yellow rust in Oregon and Washington.

EPA assessed the potential risks presented by residues of propiconazole in or on the above commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA 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 rules of April 17, 1997 (62 FR 17710) (FRL-5600-5), June 13, 1997 (62 FR 32224) (FRL-5718-8), August 13, 1997 (62 FR 43284) (FRL-5735-2), and January 20, 1999 (64 FR 2995) (FRL-6049-8). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances for sorghum and cranberries are extended for an additional 17-month period; the time-limited tolerances for dry beans, blueberries and raspberries are extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on blueberries; cranberries; raspberries; dry beans; dry bean forage; dry bean hay; sorghum grain, sorghum grain, grain; sorghum grain, stover; and sorghum aspirated grain fractions 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 tolerances. EPA will take action to revoke these tolerances 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 FFDCA, 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 FFDCA 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 FFDCA 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-301036 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 October 16, 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-301036, 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: [opdocket@epa.gov](mailto:opdocket@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 extends time-limited tolerances 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 tolerances 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 FFDC 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: August 4, 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), (346a) and 371.

#### § 180.434 [Amended]

2. In § 180.434, amend the table in paragraph (b), by revising the revocation/expiration date for “Cranberries,” “Sorghum, aspirated

grain fractions,” “Sorghum, grain, grain,” and “Sorghum, grain, stover” from “7/31/00” to read “12/31/01” and by revising the revocation/expiration date for “Blueberries,” “Dry bean forage,” “Dry bean hay,” “Dry beans,” and “Raspberries” from “12/31/00” to read “12/31/01”.

[FR Doc. 00-20733 Filed 8-15-00; 8:45 am]

BILLING CODE 6560-50-S

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-301039; FRL-6738-3]

RIN 2070-AB78

#### Coumaphos; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of coumaphos (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate in or on honey and beeswax. 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 in beehives. This regulation establishes maximum permissible levels for residues of coumaphos in these food commodities. These tolerances will expire and are revoked on December 31, 2002.

**DATES:** This regulation is effective August 16, 2000. Objections and requests for hearings, identified by docket control number OPP-301039, must be received by EPA on or before October 16, 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 VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301039 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone

number: (703) 305-6463; and e-mail address: madden.barbara@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

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

You may be potentially 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:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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,” “Regulations and Proposed Rules,” 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/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301039. 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).