

participants with sufficient information about results under the PRC version to warrant requiring a Postal Service witness to sponsor the results. Institutional discovery and technical conferences remain available to participants. Accordingly, the suggestion will not be adopted at this time.

Finally, ABA/NAPM request that the Commission clarify that the proposed amendment to rule 54(a)(1) does not change the reporting requirements regarding attribution procedures, but rather that they will now be covered by rule 53(c).<sup>67</sup> The Commission clarifies that ABA/NAPM's understanding is correct.

### Conclusion

For the reasons discussed above, the Commission hereby amends subparts B and C of its rules of practice and procedure as set forth below. Any suggestion or request to modify the Commission's rules raised by any participant not specifically addressed herein is denied.

It is ordered:

1. The Commission adopts the provisions set forth below as final rules amending 39 CFR 3001.53, 54, and 63.

2. These rules will take effect on October 1, 2003.

3. The Secretary shall cause this notice and order adopting final rule to be published in the **Federal Register**.

By the Commission.

Dated: August 7, 2003.

**Garry J. Sikora,**  
*Acting Secretary.*

### List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

■ For the reasons stated in the accompanying order, the Commission adopts the following amendments to 39 CFR part 3001—Rules of Practice and Procedure Subpart B—Rules Applicable to Requests for Changes in Rates or Fees and Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule as follows:

### PART 3001—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 3001 continues to read as follows:

**Authority:** 39 U.S.C. 404(b); 3603; 3622–24; 3661, 3662, 3663.

### Subpart B—Rules Applicable to Requests for Changes in Rates or Fees

■ 2. Revise § 3001.53 to read as follows:

### § 3001.53 Filing of prepared direct evidence.

(a) *General requirements.* Simultaneously with the filing of the formal request for a recommended decision under this subpart, the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding on the record before the Commission to establish that the proposed changes or adjustments in rates or fees are in the public interest and are in accordance with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits which shall be filed in accordance with § 3001.31.

(b) *Overview of filing.* As part of its direct evidence, the Postal Service shall include a single piece of testimony that provides an overview of its filing, including identifying the subject matter of each witness's testimony, explaining how the testimony of its witnesses interrelates, and describing changes in cost methodology, volume estimation, or rate design, as compared to the manner in which they were calculated by the Commission to develop recommended rates and fees in the most recent general rate proceeding. This testimony should also identify, with reference to the appropriate testimony, each witness responsible for addressing any methodological change described in paragraph (c) of this section.

(c) *Proposed changes.* As part of its direct evidence, the Postal Service shall submit testimony that identifies and explains each material change in cost methodology, volume estimation, or rate design, compared to the method employed by the Commission in the most recent general rate proceeding. This requirement shall not apply to any such change adopted by the Commission in an intervening proceeding. The testimony required in this paragraph (c) shall also include a discussion of the impact of each such change on the levels of attributable costs, projected volumes, and rate levels.

■ 3. In § 3001.54 paragraph (a)(1) is revised to read as follows:

### § 3001.54 Contents for formal requests.

(a) *General requirements.* (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance, and impact of the proposed changes or adjustments in rates or fees and to show that the changes or

adjustments in rates or fees are in the public interest and in accordance with the policies of the Act and the applicable criteria of the Act. To the extent information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (r) of this section. If a request proposes to change the cost attribution principles applied by the Commission in the most recent general rate proceeding in which its recommended rates were adopted, the Postal Service's request shall include an alternate cost presentation satisfying paragraph (h) of this section that shows what the effect on its request would be if it did not propose changes in attribution principles.

\* \* \* \* \*

### Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

■ 4. Revise § 3001.63 to read as follows:

### § 3001.63 Filing of prepared direct evidence.

(a) *General requirements.* Simultaneously with the filing of the formal request for a recommended decision under this subpart, the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding on the record before the Commission to establish that the mail classification schedule or changes therein proposed by the Postal Service are in accordance with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits which shall be filed in accordance with § 3001.31.

(b) *Requests affecting more than one subclass.* Each formal request filed under this subpart affecting more than one subclass or special service is subject to the requirements of § 3001.53(b) and (c).

[FR Doc. 03–20566 Filed 8–12–03; 8:45 am]

BILLING CODE 7710-FW-P

### ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–2003–0180; FRL–7315–9]

### Tralkoxydim; Time-Limited Pesticide Tolerance

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

<sup>67</sup> ABA/NAPM Comments at 2–3.

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of tralkoxydim in or on barley, grain; barley, hay; barley, straw; wheat, forage; wheat, grain; wheat, hay; wheat, straw. Syngenta Crop Protection, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The tolerance will expire on May 1, 2005.

**DATES:** This regulation is effective August 13, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0180, must be received on or before October 14, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703 305 5697; e-mail address: [tompkins.jim@epa.gov](mailto:tompkins.jim@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 entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturer (NAICS 311)
- Pesticide manufacturer (NAICS 32532)

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. of this preamble. If you have any 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 Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0180. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall#2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

**II. Background and Statutory Findings**

In the **Federal Register** of March 21, 2003 (68 FR 13920-13924) (FRL-7295-5), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104-170), announcing the filing of a pesticide petition (PP 6F4631) by Syngenta Crop Protection, Inc, P.O. Box

18300, Greensboro, N.C, 27419-8300. This notice included a summary of the petition prepared by Syngenta Crop Protection, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.548 be amended by establishing a tolerance for residues of the herbicide tralkoxydim, 2-(Cyclohexen-1-one, 2-[1-(ethoxyimino) propyl]-3-hydroxyl-5-(2,4,6-trimethylphenyl)-(9Cl), in or on barley, grain at 0.02 parts per million (ppm); barley, hay at 0.02 ppm; barley, straw at 0.05 ppm; wheat, forage at 0.05 ppm; wheat, grain at 0.02 ppm; wheat, hay at 0.02 ppm; and wheat, straw at 0.05 ppm. The tolerance will expire on May 1, 2005.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA 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." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance 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. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL-5754-7).

**III. Aggregate Risk Assessment and Determination of Safety**

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a tolerance for residues of tralkoxydim on barley, grain at 0.02 parts per million (ppm); barley, hay at 0.02 ppm; barley, straw at 0.05 ppm;

wheat, forage at 0.05 ppm; wheat, grain at 0.02 ppm; wheat, hay at 0.02 ppm; and wheat, straw at 0.05 ppm EPA's assessment of exposures and risks associated with establishing the tolerance was discussed in the **Federal Register** December 16, 1998 (63 FR 69194-69200) and will not be repeated in this notice.

#### IV. Conclusion

Therefore, the tolerance is established for residues of tralkoxydim, 2-(Cyclohexen-1-one, 2-[1-(ethoxyimino)propyl]-3-hydroxyl-5-(2,4,6-trimethylphenyl)-(9Cl), in or on barley, grain at 0.02 ppm; barley, hay at 0.02 ppm; barley, straw at 0.05 ppm; wheat, forage at 0.05 ppm; wheat, grain at 0.02 ppm; wheat, hay at 0.02 ppm; and wheat, straw at 0.05 ppm

Due to the second species carcinogenicity study data gap: EPA believes it is inappropriate to establish permanent tolerances for the uses of tralkoxydim at this time. EPA believes that the existing data support time-limited tolerances to May 1, 2005. Therefore, time-limited tolerances are established for residues of the herbicide, tralkoxydim, 2-(Cyclohexen-1-one, 2-[1-(ethoxyimino)propyl]-3-hydroxy-5-(2,4,6-trimethylphenyl)-(9Cl), in or on the raw agricultural commodities: barley grain, barley hay, wheat grain and wheat hay at 0.02 ppm, and barley straw, wheat forage and wheat straw at 0.05 ppm. These time-limited tolerances will expire and be revoked on May 1, 2005.

#### VI. 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, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA 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 sections 408 and 409 of the FFDCA. 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 ID number -OPP-2003-0180. 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 14, 2003.

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 (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA-. 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 (703) 603-0061.

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 20460-0001.

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 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.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.1. Mail your copies, identified by docket ID number -OPP-2003-0180., 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 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. 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 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).

#### VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in

response to a petition submitted to the Agency. 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). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). 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 special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or 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 petition under section 408(d) of the FFDCA, 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 section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**VIII. Congressional Review Act**

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 31, 2003.

**Debra Edwards,**

*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.

■ 2. Section 180.548 is amended by revising the table to paragraph (a) to read as follows:

**§ 180.548 Tralkoxydim; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million	Expiration/ revocation date
Barley, grain .....	0.02	5/1/05
Barley, hay .....	0.02	5/1/05
Barley, straw .....	0.05	5/1/05
Wheat, forage .....	0.05	5/1/05
Wheat, grain .....	0.02	5/1/05
Wheat, hay .....	0.02	5/1/05
Wheat, straw .....	0.05	5/1/05

\* \* \* \* \*

[FR Doc. 03-20433 Filed 8-12-03; 8:45 am]

**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2003-0251; FRL-7319-5]

**Hydramethylnon; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of hydramethylnon in or on pineapple. BASF requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective August 13, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0251, must be received on or before October 14, 2003.