

Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, *spickard.angela@epa.gov*, (734) 214-4283.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule on May 6, 2005, (70 FR 24280) that amended the transportation conformity rule (40 CFR part 93) to include the following transportation-related PM<sub>2.5</sub> precursors: nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), sulfur oxides (SO<sub>x</sub>), and ammonia (NH<sub>3</sub>). The final rule specifies when each of these precursors must be considered in conformity determinations in PM<sub>2.5</sub> nonattainment and maintenance areas before and after PM<sub>2.5</sub> state air quality implementation plans (SIPs) are submitted. The preamble to the May 6, 2005, final rule contains two minor errors. This notice is intended to correct these errors.

First, EPA is correcting one paragraph and its corresponding footnote in the discussion on *Volatile Organic Compounds* in Section III.B. *Rationale for This Final Rule* (70 FR 24284). This paragraph discusses the contribution of VOC emissions from biogenic sources (e.g., trees) to PM<sub>2.5</sub> air quality issues. The version of the paragraph printed in the May 6 final rule preamble incorrectly characterizes the existing data and analyses of biogenic source VOC emissions obtained from the PM Supersites Program. This notice corrects the paragraph regarding EPA's understanding of the PM Supersites research and provides the public with the most current reference information.

The incorrect paragraph begins at the bottom of the second column on page 24284 of the May 6 notice with "Additional research is also needed to determine \* \* \*" This paragraph should be stricken and replaced with the following:

"Additional research is also needed to determine the sources of VOC emissions that contribute most to PM<sub>2.5</sub> air quality issues. For example, according to the NARSTO Fine Particle Assessment,<sup>5</sup> secondary sources may contribute up to 50 percent of secondary organic mass, particularly in areas where photochemical transformations of emissions from biogenic sources (e.g., trees) are significant. In addition, data obtained from the Particulate Matter Supersites Program suggest that biogenic emissions may contribute significantly to secondary organic aerosols during days of peak PM<sub>2.5</sub>. Analysis of air quality samples collected in Pittsburgh from 2001 through 2002 indicates that as much as half of the

organic aerosol during peak periods may be attributable to biogenic sources (e.g., trees) as opposed to anthropogenic sources (i.e., man-made sources such as power plants and motor vehicles).<sup>6,7</sup> The Supersites Program has also collected data on the contribution of biogenic source emissions in other locations in the U.S., including Atlanta, Georgia.<sup>8,9</sup> However, these findings have not yet been published and peer-reviewed. The contribution of biogenic emissions to PM<sub>2.5</sub> air quality issues is important because biogenic emissions cannot be controlled."

The footnote five on page 24284 of the May 6 notice should be stricken and replaced with the footnote five below. In addition, new footnotes six through nine are added in the corrected paragraph:

<sup>5</sup>McMurry, P., Shepherd, M., Vickery, J. (ed.) *Particulate Matter Science for Policy Makers—A NARSTO Assessment*. Cambridge: Cambridge University Press, 2004.

<sup>6</sup>Cabada J. C., S. N. Pandis, R. Subramanian, A. L. Robinson, A. Polidori, and B. Turpin (2004) Estimating the secondary organic aerosol contribution to PM<sub>2.5</sub> using the EC tracer method, *Aerosol Sci. Technol.*, 38S, 140-155.

<sup>7</sup>Millet D. B., N. M. Donahue, S. N. Pandis, A. Polidori, C. O. Stanier, B. J. Turpin, and A. H. Goldstein (2005) Atmospheric volatile organic compound measurements during the Pittsburgh Air Quality Study: Results, interpretation, and quantification of primary and secondary contributions, *J. Geophys. Res.*, 110, D07SO7, 10.1029/2004JD004601.

<sup>8</sup>'Sources of carbon in PM<sub>2.5</sub> based on 14C and tracer analysis,' Edgerton, Eric S., John J. Jansen, Mei Zheng and Benjamin E. Hartsell (September 2004), 8th International Conference on Carbonaceous Particles in the Atmosphere, Vienna, Austria.

<sup>9</sup>'Source apportionment of PM<sub>2.5</sub> using a three-dimensional air quality model and a receptor model,' Park, S-K, L. Ke, B. Yan, A. G. Russell, M. Zheng (2005), Proceedings of an AAAR international specialty conference—Particulate Matter Supersites Program and Related Studies, Atlanta, Georgia."

Second, EPA is correcting a footnote in Section III.C.5. *State of the Science* (70 FR 24288) and renumbering two footnotes in this section. Footnotes six and seven in the May 6 final rule should be renumbered as footnotes 10 and 11 in the text referencing the footnotes at the top of the third column on page 24288, and in the footnotes themselves. Footnote seven in the May 6 final rule (corrected to be footnote 11 in this notice) provides a reference to the draft NARSTO Fine Particle Assessment issued in February 2003. EPA is correcting this footnote to include the reference for the final NARSTO report. EPA believes it is important to make

this correction to avoid confusion and provide the public with the most current published information.

The correct footnote is as follows:

<sup>11</sup>McMurry, P., Shepherd, M., Vickery, J. (ed.) *Particulate Matter Science for Policy Makers—A NARSTO Assessment*. Cambridge: Cambridge University Press, 2004."

No changes are being made to the final rule language or other preamble language published on May 6, 2005, through this action. EPA finds good cause to make this correction notice effective less than 30 days after publication in the **Federal Register**. The final rule published on May 6 will become effective on June 6, 2005. Today's correction notice does not make any changes to the final rule. This correction notice only clarifies explanatory text and corrects reference citations in the preamble to the final rule which are intended to provide the public with EPA's rationale for its decision. Therefore EPA concludes that it will be in the public interest to have this correction notice also become effective on June 6, 2005.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: May 25, 2005.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Office of Air and Radiation.*

[FR Doc. 05-10853 Filed 5-31-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2005-0078; FRL-7714-1]

### Tetraconazole; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of tetraconazole 1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-tetrafluoroethoxy) propyl]-1H-1,2,4-triazole in or on soybean, poultry, and eggs. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on soybeans. This regulation establishes maximum permissible levels for residues of tetraconazole in these food commodities. The tolerances will expire and are revoked on December 31, 2009.

**DATES:** This regulation is effective June 1, 2005. Objections and requests for hearings must be received on or before August 1, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under docket identification (ID) number OPP-2005-0078. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

**FOR FURTHER INFORMATION CONTACT:** Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number (703) 308-9367; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

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 manufacturing (NAICS 311)
- Pesticide manufacturing (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.

##### *How Can I Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), 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 E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

##### **II. Background and Statutory Findings**

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the fungicide tetraconazole, [1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-tetrafluoroethoxy) propyl]-1H-1,2,4-triazole], in or on soybean seed at 0.05 part per million (ppm); poultry meat at 0.0003 ppm; poultry fat at 0.004 ppm; poultry liver at 0.03 ppm; poultry meat byproducts (excluding liver) at 0.002 ppm; and egg at 0.03 ppm. These tolerances will expire and are revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

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 FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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. . . .”

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that “emergency conditions exist which require such exemption.” This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

##### **III. Emergency Exemption for Tetraconazole on Soybeans and FFDCA Tolerances**

The States of Minnesota and South Dakota, as lead state agencies in what is essentially a “national” section 18 request for all soybean growing States, have petitioned the Agency requesting an emergency exemption for tetraconazole to control soybean rust under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). On November 10, 2004, U.S. Department of Agriculture’s Animal and Plant Health Inspection Service (USDA/APHIS) confirmed the presence of *Phakopsora pachyrhizi*, the pathogen that causes soybean rust, on soybean leaf samples taken from two plots associated with a Louisiana State University research farm. Soybean rust has been designated as a biosecurity threat and therefore, it is important that control measures be available for the disease. EPA has authorized under FIFRA section 18 the use of tetraconazole on soybeans for control of soybean rust in Minnesota, South Dakota, and all the other States that have requested an exemption for this use. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of tetraconazole in or on soybean, poultry, meat and egg commodities. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerances under section 408(l)(6) of the FFDCA 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 entitled "Tetraconazole; Time-Limited Pesticide Tolerance" published in the **Federal Register** of April 22, 2005 (70 FR 20821) (FRL-7702-4). The risk assessment discussed in that document included contribution to risk from this soybean use. Based on that data and information considered, the Agency concludes that establishing these time-limited tolerances will meet the requirements of section 408(l)(6) of the FFDCA.

Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although these tolerances will expire and are revoked on December 31, 2009, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on soybean, poultry, meat and egg commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed levels that were authorized by these tolerances at the time of that application. 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.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether tetraconazole meets EPA's registration requirements for use on soybeans or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of tetraconazole by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than those which have been granted exemptions as part of the soybean rust section 18 to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for tetraconazole, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

#### IV. Aggregate Risk Assessment and Determination of Safety

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 November 26, 1997 (62 FR 62961) (FRL-5754-7).

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 tetraconazole and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for time-limited tolerances for residues of tetraconazole in or on soybean seed at 0.05 ppm; poultry meat at 0.0003 ppm; poultry fat at 0.004 ppm; poultry liver at 0.03 ppm; poultry meat byproducts at 0.002 ppm (excluding liver); and egg at 0.03 ppm. For purposes of this section 18 petition, parent tetraconazole is being considered. The Agency does have concern about potential toxicity of 1,2,4-triazole and two conjugates, triazolylalanine and triazolyl acetic acid. These three compounds are metabolites to most of the triazole-containing fungicides. To support the extension of existing parent triazole-derivative fungicide tolerances, EPA conducted an interim human health assessment for aggregate exposure to 1,2,4-triazole. The exposure and risk estimates presented in this assessment are overestimates of actual likely exposures and therefore, should be considered to be highly conservative. Based on this assessment EPA concluded that for all exposure durations and population subgroups, aggregate exposures to 1,2,4-triazole are not expected to exceed its level of concern. This assessment should be considered interim due to the ongoing series of studies being conducted by the U.S. Triazole Task Force (USTTF). Those studies are designed to provide the Agency with more complete toxicological and residue information for free triazole and are expected to be submitted to the Agency in late 2004. Upon completion of the review of these data, EPA will prepare a more sophisticated assessment based on the revised toxicological and exposure databases.

The most recent estimated aggregate risks resulting from the use of tetraconazole, are discussed in the **Federal Register** of April 22, 2005 (70

FR 20821) (FRL-7702-4), final rule establishing tolerances for residues of tetraconazole in/on sugarbeet and livestock commodities. In that prior action, risk was estimated assuming tolerance level residues in all commodities for established and proposed tolerances, including the tolerances for soybean and animal commodities discussed in this document. Therefore, establishing these tolerances will not change the most recent estimated aggregate risks resulting from use of tetraconazole, as discussed in the April 22, 2005 **Federal Register** document. Refer to the April 22, 2005 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in that **Federal Register** document in support of this action.

Available residue data indicate that the use pattern for the emergency exemptions for soybean will not result in residues of tetraconazole over the following levels: Soybean seed at 0.05 ppm; poultry meat at 0.0003 ppm; poultry fat at 0.004 ppm; poultry liver at 0.03 ppm; poultry meat byproducts (excluding liver) at 0.002 ppm; and egg at 0.03 ppm. Therefore, tolerances are being established for these commodities at these levels. Based on the risk assessments discussed in the final rule published in the **Federal Register** of April 22, 2005, EPA concludes that there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to tetraconazole residues.

#### V. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate enforcement methodology (capillary gas chromatography with electron capture detector (GC/ECD)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: [residue\\_methods@epa.gov](mailto:residue_methods@epa.gov).

##### B. International Residue Limits

There are no established Codex, Canadian, or Mexican Maximum Residue Limits established for tetraconazole.

#### VI. Conclusion

Therefore, the tolerances are established for residues of tetraconazole, 1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-

tetrafluoroethoxy) propyl]-1H-1,2,4-triazole, in or on soybean, seed at 0.05 ppm; poultry, meat at 0.0003 ppm; poultry, fat at 0.004 ppm; poultry, liver at 0.03 ppm; poultry, meat byproducts, except liver at 0.002 ppm; and egg at 0.03 ppm.

## VII. 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) of the FFDCA, 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-2005-0078 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 August 1, 2005.

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 (1900L), 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 Suite 350, 1099 14th St., NW., Washington, DC 20005. 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) 564-6255.

2. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by the docket ID number OPP-2005-0078, 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 **ADDRESSES**. 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).

## VIII. Statutory and Executive Order Reviews

This final rule establishes time-limited tolerances under section 408 of the FFDCA. 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 FIFRA section 18 exemption under section 408 of the FFDCA, 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. The Agency hereby certifies that this rule will not have significant negative economic impact on a substantial number of small entities. 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.

#### IX. 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: May 12, 2005.

**Lois Rossi,**

*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.

■ 2. Section 180.557 is amended by adding text to paragraph (b) to read as follows:

#### § 180.557 Tetraconazole; tolerances for residues.

(a) \* \* \*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the fungicide tetraconazole 1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-tetrafluoroethoxy) propyl]-1H-1,2,4-triazole in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances will expire and are revoked on the dates specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Egg .....	0.03	12/31/09
Poultry, fat	0.004	12/31/09
Poultry, liver .....	0.03	12/31/09
Poultry, meat ....	0.0003	12/31/09
Poultry, meat byproduct, except liver .....	0.002	12/31/09
Soybean, seed ....	0.05	12/31/09

\* \* \* \* \*

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**BILLING CODE 6560-50-S**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-2005-0028; FRL-7713-2]

#### 3-Hexen-1-ol, (3Z)-; Exemption from the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of cis -3-hexen-1-ol also known as leaf alcohol or 3-hexen-1-ol, (3Z)- (CAS Reg. No. 928-96-1) when used as an inert ingredient - an odorant or alerting agent in certain pesticide formulations. Syngenta Crop Protection, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of cis -3-hexen-1-ol.

**DATES:** This regulation is effective June 1, 2005. Objections and requests for hearings must be received on or before August 1, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit XII. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket identification (ID) number OPP-2005-0028. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

#### FOR FURTHER INFORMATION CONTACT:

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