

## II. Administrative Procedure Act

Under the Administrative Procedure Act ("APA"), notice of a proposed rulemaking is not required when the agency, for good cause, finds "that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."<sup>8</sup> FinCEN is making technical amendments to the Temporary Exemption Rule to ensure that the list of temporarily exempted financial institutions is accurate and not confusing. FinCEN, therefore, finds that publishing the amendments for comment is unnecessary.

In addition, publication of a substantive rule not less than 30 days before its effective date is required by the APA except as otherwise provided by the agency for good cause.<sup>9</sup> For the same reasons described above with respect to notice and opportunity for comment, FinCEN finds that there is good cause for making these technical amendments effective on January 11, 2008.

## III. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.<sup>10</sup>

## IV. Executive Order 12866

This final rule is not a "significant regulatory action" as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required.

### List of Subjects in 31 CFR Part 103

Banks and banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirements.

### Authority and Issuance

■ For the reasons set forth above, FinCEN is amending 31 CFR part 103 as follows:

### PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

<sup>8</sup> 5 U.S.C. 553(b).

<sup>9</sup> 5 U.S.C. 553(d).

<sup>10</sup> See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Act analyses, the term "rule" means any rule for which the agency publishes a general notice of proposed rulemaking).

## Subpart I—Anti-Money Laundering Programs

### § 103.170 [Amended]

- 2. Section 103.170 is amended by:
  - a. Removing paragraphs (b)(1)(i) and (b)(1)(ix); and
  - b. Redesignating paragraphs (b)(1)(ii) as (b)(1)(i); (b)(1)(iii) as (b)(1)(ii); (b)(1)(iv) as (b)(1)(iii); (b)(1)(v) as (b)(1)(iv); (b)(1)(vi) as (b)(1)(v); (b)(1)(vii) as (b)(1)(vi); (b)(1)(viii) as (b)(1)(vii); (b)(1)(x) as (b)(1)(viii); (b)(1)(xi) as (b)(1)(ix); and (b)(1)(xii) as (b)(1)(x).

Dated: December 20, 2007.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

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**BILLING CODE 4810–02–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2007–0546; FRL–8347–7]

### Thiabendazole; Threshold of Regulation Determination

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes by rule that there is no need for a tolerance or tolerance exemption under the Federal Food Drug and Cosmetic Act (FFDCA) for the use of the fungicide thiabendazole as a seed treatment on dry peas. This determination is based on EPA's finding that any residues that remain in food from this use will be both non-detectable and below the level of regulatory concern.

**DATES:** This regulation is effective January 11, 2008. Objections and requests for hearings must be received on or before March 11, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0546. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in

[www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@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 those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide 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. 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 Access Electronic Copies of this Document?*

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgrstr>. You may also access a frequently updated electronic version of EPA’s tolerance regulations at 40 CFR part 180 through the Government Printing Office’s pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

*C. Can I File an Objection or Hearing Request?*

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0546 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 as required by 40 CFR part 178 on or before March 11, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0546, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket’s normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special

arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

## II. Background

In the **Federal Register** of October 3, 2007 (72 FR 56325) (FRL–8151–6), EPA issued a proposed rule pursuant to sections 408(e) and 701(a) of the Federal Food, Drug, and Cosmetic Act (FFDCA). The proposed rule explained the Agency’s determination that the use of the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] as a seed treatment on dry peas does not need an FFDCA tolerance or tolerance exemption based on EPA’s finding that any residues that remain in food from this use will be both non-detectable and below the level of regulatory concern. The proposed rule included a discussion of the Agency’s threshold of regulation (TOR) policy and identified the information (including toxicity data, residue data and the analytical method) that EPA relied on in making this TOR determination; it also established a 60-day public comment period. There were no comments received in response to the proposed rule.

## III. Action on the Proposed Regulation

Based upon the rationale and findings set forth in the proposed rule, the use of thiabendazole as a seed treatment on dry peas (including field pea, pigeon pea, chickpea or lentil) is designated as below the threshold of regulatory concern and thus as not requiring a tolerance or a tolerance exemption under FFDCA. The use is identified as such under 40 CFR 180.2010 (Threshold of regulation determinations).

Designation of this use as below the level of regulatory concern does not legalize any detectable residues of thiabendazole on food. It does mean that, despite labeling for this use on a food or feed crop, it may be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, without obtaining a tolerance or exemption from the requirement of a tolerance as otherwise required by 40 CFR 152.112(g). The text of the regulation has been clarified on this point.

Adequate analytical methodology (High Pressure Liquid Chromatography/Fluorescence Detector (HPLC/FLD) method) is available to detect residues of thiabendazole in/on dry peas. 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: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

## IV. Statutory and Executive Order Reviews

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, as amended by Executive Order 13422, 72 FR 2763, January 18, 2007). Because this rule has been exempted from review under Executive Order 12866, 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 or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks or Safety Risks* (62 FR 19885, April 23, 1997). This rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, 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).

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency, for the reasons explained in the proposed rule, certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities because this rule does not have any adverse economic impacts.

This rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 6, 2000) do not apply to this rule. In addition, this rule does not impose an 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).

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).

**V. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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: December 31, 2007.

**Debra Edwards,**

*Director, 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 180.2010 is amended by adding text to read as follows:

**§ 180.2010 Threshold of regulation determinations.**

The following pesticide chemical uses on food or feed, or food or feed crops, do not need a tolerance or exemption from the requirement of a tolerance, and may be registered under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*, without obtaining such tolerance or exemption, based on EPA’s determination that the uses are below the threshold of regulation.

Pesticide Chemical	CAS Reg. No.	Use/Limits	Analytical Method
Thiabendazole .....	148-79-8	As a seed treatment for dry pea (including field pea, pigeon pea, chickpea or lentil), using a maximum application rate of 0.075 pounds of active ingredient per 100 pounds of seed. Vines or hay grown from treated seed may not be fed to livestock..	High Performance Liquid Chromatography/Florescence Detector method <sup>1</sup> ; Modification of <i>Ion-Pairing Liquid Chromatographic Determination of Benzimidazole Fungicides in Foods</i> , Gilvydis and Walters, JAOAC, vol. 73, no. 5, 1990.

<sup>1</sup>Available from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov*

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**ENVIRONMENTAL PROTECTION AGENCY**

**48 CFR Parts 1516, 1533, and 1552**

[Docket ID No. EPA-HQ-OARM-2003-0001; FRL-8515-8]

RIN 2030-AA89

**Acquisition Regulation: Guidance on Use of Award Term Incentives; Administrative Amendments**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) amends the EPA Acquisition Regulation (EPAAR) to add policy, procedures, and contract clauses for the use of award term incentives. This rule makes two administrative changes to the EPAAR. One change is to reflect the Civilian Board of Contract Appeals as EPA’s new forum for appeals under the Contract Disputes Act of 1978. The other change corrects a numbering error in Subpart 1516.4.

**DATES:** This final rule is effective on February 11, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OARM-2003-0001. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., 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 through *www.regulations.gov* or in hard copy at EPA Docket Center, OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

**FOR FURTHER INFORMATION CONTACT:** Marilyn E. Chambers, U.S. EPA, Office of Acquisition Management, Mail Code (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-4398; fax number:

(202) 565-2474; e-mail address: *chambers.marilyn@epa.gov*.

**I. Supplementary Information**

*A. Background*

EPA published a proposed rule in the **Federal Register** at 72 FR 56708, October 4, 2007 to add guidance to the EPAAR on the use of award term contracts and make two administrative changes. The comment period closed on December 3, 2007. One comment was received. The respondent pointed out, effective January 6, 2007, the Board of Contract Appeals that existed at the General Services Administration was terminated and the cases were transferred to the Civilian Board of Contract Appeals. Our proposed rule stated EPA has changed its forum for appeals under the Contract Disputes Act of 1978 from the Department of Interior Board of Contract Appeals to the General Services Administration Board of Contract Appeals. The rule should have stated EPA has changed its forum for appeals under the Contract Disputes Act of 1978 from the Department of Interior Board of Contract Appeals to the Civilian Board of Contract Appeals. The final rule is revised to substitute the Civilian Board of Contract Appeals for the General Services Administration Board of Contract Appeals in section