TABLE 1.—ARRANGEMENT OF VALIDATION MEASUREMENTS FOR STATISTICAL ANALYSIS.—Continued

Measurement (or average)	Time	Spiked (ppm)	d_i spiked	Unspiked (ppm)	d_i unspiked
5		S_5		U_5	
6		S_6	$S_6–S_5$	U_6	$U_6–U_5$
7		S_7		U_7	
8		S_8	$S_8–S_7$	U_8	$U_8–U_7$
9		S_9		U_9	
10		S_{10}	$S_{10}–S_9$	U_{10}	$U_{10}–U_9$
11		S_{11}		U_{11}	
12		S_{12}	$S_{12}–S_{11}$	U_{12}	$U_{12}–U_{11}$
Average –>		S_m		M_m	

TABLE 2.—T-VALUES

n-1[a]	t-value	n-1[a]	t-value	n-1[a]	t-value	n-1[a]	t-value
11	2.201	17	2.110	23	2.069	29	2.045
12	2.179	18	2.101	24	2.064	30	2.042
13	2.160	19	2.093	25	2.060	40	2.021
14	2.145	20	2.086	26	2.056	60	2.000
15	2.131	21	2.080	27	2.052	120	1.980
16	2.120	22	2.074	28	2.048	∞	1.960

([a]) n is the number of independent pairs of measurements (a pair consists of one spiked and its corresponding unspiked measurement). Either discreet (independent) measurements in a single run, or run averages can be used.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300540; FRL–5739–6]

RIN 2070–AB18

Vinclozolin; Proposed Revocation of Tolerances for Deleted Uses

AGENCY: Environmental Protection Agency (EPA).
ACTION: Proposed Revocation of Tolerances.

SUMMARY: EPA is proposing the revocation of tolerances for uses of the fungicide vinclozolin which were recently deleted from the vinclozolin labels.
DATES: Public comments, identified by the docket control number [OPP–300540] must be received on or before October 27, 1997.
ADDRESSES: By mail, submit comments to Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person deliver comments to Room 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington VA.

Comments and data may also be submitted electronically by following the instructions under Unit VII. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.
FOR FURTHER INFORMATION CONTACT: By mail: Mark Wilhite, Special Review Branch (7508W), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20046. Office location, telephone number, and e-mail: Special Review Branch, 3rd floor, 2800 Crystal Drive, Arlington, VA, (703) 308–8586; e-mail: wilhite.mark@epamail.epa.gov.
SUPPLEMENTARY INFORMATION:

I. Background Information

Vinclozolin (trade names Ronilan, Curalan, and Ornilan) is a fungicide first registered in 1981 to control various types of rot caused by *Botrytis spp.*, *Sclerotinia spp*, and other types of mold and blight causing organisms, on strawberries, lettuce (all types), stonefruit, raspberries, onions, succulent beans, and turf in recreational areas, golf courses, commercial and industrial sites. Vinclozolin is also registered for use on ornamentals in green houses and nurseries. When BASF requested amendment of its labels to include a use for succulent beans, BASF also requested deletion of several food and non-food uses from its vinclozolin registrations. These deletions were announced in the **Federal Register** Notice of August 13, 1997 (62 FR 43327).

II. Proposed Revocation of Tolerances

This notice proposes to revoke the tolerances for the food uses deleted from the vinclozolin registrations. EPA is proposing to revoke these tolerances because there are no active registrations associated with them. These revocations include the tolerances for the raw agricultural commodities tomatoes, plums, prunes, and grapes other than wine grapes, the food additive tolerances for raisins and prunes, and the animal feed tolerance for grape pomace. Revocation of the tolerances for fresh plums and prunes requires that the tolerance for stonefruits be changed to stonefruits, except plums and prunes. To revoke tolerances for grapes other than wine grapes, the tolerance will be revised to wine grapes.

III. Legal Authority

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., as amended by the Food Quality Protection Act of 1996 (FQPA), Pub. L. 104–170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods pursuant to section 408, 21 U.S.C. 346(a). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 331(a) and 342(a)).

Under FFDCA section 408(e)(A), the Administrator may issue a regulation revoking a tolerance for a pesticide

chemical residue. Before such a regulation may become final the Administrator must issue a notice of proposed rulemaking and provide a period of not less than 60 days for public comment. Abandonment of uses constitutes reasonable grounds for revoking a tolerance. [40 CFR 180.32(b)]

IV. Regulatory Background

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients for which FIFRA registrations no longer exist. In accordance with FFDCA section 408, however, EPA will not revoke any tolerance or exemption proposed for revocation if any person will commit to support its retention, and if retention of the tolerance will meet the tolerance standard established under FQPA. Generally, interested parties commit to support the retention of such tolerances in order to permit treated commodities to be legally imported into the United States, since raw agricultural commodities or processed food or feed commodities containing pesticide residues not covered by a tolerance or exemption are considered to be adulterated and subject to seizure.

Tolerances and exemptions established for pesticide chemicals with FIFRA registrations cover residues in or on both domestic and imported commodities. To retain these tolerances and exemptions for import purposes only, EPA must make a finding that the tolerances and exemptions are safe. To make this safety finding, EPA needs data and information indicating that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide residues covered by the tolerances and exemptions.

EPA determines on a case-by-case basis the data required to determine that a tolerance or exemption is safe, and in general requires the same technical chemistry and toxicology data for tolerances without related U.S. registrations as are required to support U.S. food-use registrations and any resulting tolerances or exemptions. (See 40 CFR part 158 for EPA's data requirements to support domestic use of a pesticide and the establishment and maintenance of a tolerance. At a future date, EPA will announce its import tolerance policy.) In most cases, EPA also requires residue chemistry data (crop field trials) that are representative of growing conditions in exporting countries in the same manner that EPA requires representative residue chemistry data from different U.S. regions to support domestic use of a pesticide and any resulting tolerance(s) or exemption(s). Good Laboratory Practice (GLP) requirements for studies submitted in support of tolerances and exemptions for import purposes only are the same as for domestic purposes; i.e., the studies are required to either fully meet GLP standards, or have sufficient justification presented to show that deviations from GLP requirements do not significantly affect the results of the studies.

Under FFDCA section 408(f), if EPA determines that additional data are needed to support continuation of a tolerance, EPA may require that those data be submitted by registrants under FIFRA section 3(c)(2)(B), or by other persons by order after opportunity for hearing.

Section 408(f) of the FFDCA states that if EPA determines that additional data are needed to support the continuation of an existing tolerance or exemption, EPA shall issue a notice that:

1. Requests that any parties identify their interest in supporting the tolerance or exemption.
2. Solicits the submission of data and information from interested parties.
3. Describes the data and information needed to retain the tolerance or exemption.
4. Outlines how EPA will respond to the submission of supporting data.
5. Provides time frames and deadlines for the submission of such data and information.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). This includes monitoring for pesticide residues in or on commodities imported into the United States. It is generally FDA's enforcement policy to not consider imported foods with residues adulterated until three years after the effective date of the revocation.

V. Proposed Actions

This notice proposes to revoke the tolerances listed below. EPA is proposing these revocations because EPA has deleted their uses from the registrations for the pesticide chemical associated with the tolerances, and it is EPA's general practice to propose revocation of those tolerances for residues of pesticide chemicals for which there are no active registrations.

VI. Effective Dates

These proposed revocations will become effective 30 days following the publication in the **Federal Register** of a final rule revoking the tolerances. FDA's enforcement policy is, in most cases, to not consider imported foods with residues adulterated until 3 years after the effective date of the revocation. Prior to the August 1996 amendment of the FFDCA, it was generally the practice of EPA in similar instances to establish an effective date for each tolerance revocation that took into consideration the time needed for legally treated food to pass entirely through the channels of trade. That is no longer necessary because under section 408(l)(5), food lawfully treated will not be rendered adulterated despite the lack of a tolerance, so long as the residue on the food complies with the tolerance in place at the time of treatment.

VII. Public Comment Procedures

EPA invites interested persons to submit written comments, information, or data in response to this proposed rule. Comments must be submitted by October 27, 1997. Comments must bear a docket control number. Three copies of the comments should be submitted to either location listed under ''ADDRESSES'' at the beginning of this notice.

In formation submitted as a comment concerning this notice may be claimed confidential by marking any or all that information as Confidential Business Information (CBI). EPA will not disclose information so marked, except in accordance with procedures set forth in 40 CFR part 2. A second copy of such comments, with CBI deleted, also must be submitted for inclusion in the public record. EPA may publicly disclose without prior notice information not marked confidential.

After consideration of comments, EPA will issue a final rule. Such rule will be subject to objections. Failure to file an objection within the appointed period will constitute waiver of the right to raise in future proceedings issues resolved in the final rule.

This proposal provides 60 days for any interested person to request that a tolerance be retained. If EPA receives a comment to that effect, EPA will not revoke the tolerance, but will take steps to ensure the submission of supporting data and will issue an order in the Federal Register under FFDCA section 408(f). The order would specify the data needed, the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. Thereafter, if the data are not submitted as required, EPA will take appropriate action under FIFRA or FFDCA.

VIII. Rulemaking Record

The official record for this proposed revocation, as well as the public version, has been established for this document under docket control number [OPP–300540] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP–300540. Electronic comments on this document may be filed at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget and the requirements of the Executive Order. Under section 3(f), E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in this Executive Order.

Pursuant to the terms of E.O. 12866, EPA has determined that this proposed rule is not a significant regulatory action and, since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Absent extraordinary circumstances, EPA believes that revocation of a tolerance after use of the pesticide becomes illegal in this country will not have a significant impact on a substantial number of small entities.

In the case of domestically grown food, the tolerance revocations proposed today will have no economic impact. The associated pesticide registered uses have already been canceled. Since U.S. growers may no longer use the pesticide in those ways, revoking the tolerance should have no effect on food grown in the United States after cancellation of the registered uses of the pesticide. As for food grown before the cancellation occurred, it will not be considered adulterated if it was treated in a way that complied with the tolerance in effect at the time of treatment.

Revocation has a greater potential to affect foreign-grown food, since the uses of the pesticide prohibited in the United States may still be lawful in other countries. If foreign growers use the pesticide in the ways prohibited in the United States, the food they grow will be considered adulterated once the tolerance is revoked. However, while revocation may have an economic effect on foreign growers that import food to the United States, the RFA is concerned only with the effect of U.S. regulations on domestic small entities.

Revocation may also have an effect on domestic importers of foreign-grown food to the extent their suppliers use pesticides in ways that result in residues no longer allowed in the United States. However, EPA believes that the effect on U.S. importers will be minimal. Theoretically, U.S. importers could face higher food prices and transactions costs. The revocation of a particular tolerance, though, is unlikely to have a significant impact on the price of a commodity on the international market. Transaction costs may occur as a result of having to find alternative suppliers of food untreated with pesticides for which tolerances were revoked. Affected importers would have the options of finding other suppliers in the same country or in other countries, or inducing the same supplier to switch to alternative pest controls. Given the existence of these options, EPA expects any price increases or transaction costs resulting from revocations will be minor. Any such impacts will be further reduced by the FDA's enforcement policy of not considering imported foods with residues adulterated until, in most cases, three years after the effective date of the revocation. EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with the revoked pesticide, generally within the same countries from which the relevant commodities are currently imported.

Moreover, whatever the effect on U.S. importers of foreign-grown food, EPA believes that it would be inappropriate and inconsistent with the purpose of the RFA to ameliorate that effect. To the extent any adverse effect occurs, it will be the result of foreign growers using pesticides in ways not allowed in the U.S. Domestic growers have no choice but to refrain from using pesticides in ways prohibited by U.S. law. U.S. growers and those who follow them in the chain of commerce— distributors and consumers—will bear the cost of complying with U.S. law. For EPA to somehow address the economic effect of the revocation on U.S. distributors of foreign-grown food would potentially give those distributors a competitive advantage over distributors of U.S.-grown food, and that advantage could potentially translate to a competitive advantage for foreign growers over domestic growers. The RFA was enacted in part to preserve competition in the marketplace, and it would be perverse to implement it in a way that creates competitive inequities, particularly between United States and foreign products.

Finally, EPA notes that potential increased costs to importers would not be cognizable as grounds for not revoking the tolerance. Because no

extraordinary circumstances exist as to the present revocation that would change EPA's above analysis, I certify that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects 40 CFR Part 180

Environmental protection, Vinclozolin, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: August 18, 1997.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended to read as follows:

PART 180—[AMENDED]

1. In part 180:

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

Authority: 21 U.S.C. 346a and 371.

b. Section 180.380 is amended by revising paragraph (a) to read as follows:

§ 180.380 Vinclozolin; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide vinclozolin (3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione) and its metabolites containing the 3,5-dichloroaniline moiety in or on the food commodities in the table below. There are no U.S. registrations for Belgian endive, tops, cucumbers, grapes (wine), kiwi, pepper (bell) as of July 30, 1997. The tolerances will expire and are revoked on the date(s) listed in the following table:

Commodity	Parts per million	Expiration/Revocation Date
Beans, succulent	2.0	10/1/99
Belgian endive, tops	5.0	None
Cucumbers	1.0	None
Grapes, (wine)	6.0	None
Kiwifruit	10.0	None
Lettuce, head	10.0	None
Lettuce (leaf)	10.0	None
Onions (dry bulb)	1.0	None
Peppers (bell)	3.0	None
Raspberries	10.0	None
Stonefruits except plums/fresh prunes	25.0	None
Strawberries	10.0	None

* * * * *

[FR Doc. 97–22808 Filed 8-26-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket No. 94–124; FCC 97–267]

Use of Radio Frequencies Above 40 GHz for New Radio Applications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Fourth Notice of Proposed Rule Making* (4th NPRM) the Commission proposes to amend the rules to provide a spectrum etiquette for operation of unlicensed services in the 59–64 GHz frequency. The Commission seeks comment on the proposed spectrum etiquette.

DATES: Comments must be filed on or before September 26, 1997, and reply comments must be filed October 14, 1997. Interested parties wishing to comment on the information collections should submit comments September 26, 1997.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via electronic mail to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: John A. Reed (202) 418–2455 or Rodney P. Conway (202) 418–2904. Via electronic mail: jreed@fcc.gov or rconway@fcc.gov, Office of Engineering and Technology, Federal Communications Commission. For additional information concerning the information collections, or copies of the information collections contained in this NPRM contact Judy Boley at (202) 418–0217, or via electronic mail at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Fourth Notice of Proposed Rule Making,* ET Docket 94–124, FCC 97–267, adopted July 28, 1997, and released August 14, 1997.

This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

A full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, phone (202) 857–3800, facsimile (202) 857–3805, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the 4th NPRM

1. In the *Second Notice of Proposed Rule Making,* 61 FR 14041, March 29, 1996, the Commission requested comment regarding a spectrum etiquette for operation in the 59–64 GHz band. The Commission provided one year for a spectrum etiquette to be submitted and encouraged industry to form a working group to develop a spectrum etiquette to permit efficient use of the 59–64 GHz band. In response, the Millimeter Wave Communications Working Group (MWCWG) was formed and proposed a Spectrum Etiquette for equipment operating in the 59–64 GHz band. The MWCWG proposed Spectrum Etiquette can be accessed at [http://www.fcc.gov/oet/dockets/et94–124/]. MWCWG seeks adoption of its proposal to permit efficient use of the spectrum by enabling greater frequency reuse and lowering the probability of interference.