

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 13, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(194)(i)(C)(5) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(194) * * *
(i) * * *

(C) * * *

(5) Rule 4201, adopted on December 17, 1992.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0010; FRL-6833-3]

RIN 2070-AB78

Revocation of Certain Obsolete Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final rule.

SUMMARY: EPA is amending 40 CFR part 180 subpart D to revoke various exemptions from the requirement of a tolerance for eight specific inert ingredients because those substances are no longer used in pesticide products, making these tolerance exemptions unnecessary. The Agency is acting on its own initiative. These regulatory actions are part of the tolerance reassessment requirements of section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. This regulatory action will count for 10 tolerance reassessments toward the August 2002 deadline.

DATES: This rule is effective on August 2, 2002 without further notice, unless EPA receives adverse comment by June 3, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. It is imperative that you identify docket control number OPP-2002-0010 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Treva C. Alston, Registration Division 7505C], Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8373; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. **Electronically.** You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations"; "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. 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, a beta site currently under development.

2. **In person.** The Agency has established an official record for this action under docket control number OPP-2002-0010. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the

documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-2002-0010 in the subject line on the first page of your response. EPA also encourages you to submit your comments electronically, if at all possible, which will facilitate timely receipt by the Agency and avoid potential delays associated with the processing of government mail.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-2002-0010. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Authority

A. What is the Agency's Authority for Taking this Action?

This direct final rule is issued pursuant to section 408(e) of FFDCA, as amended by the FQPA (21 U.S.C. 346a(e)). Section 408 of FFDCA authorizes the establishment of tolerances, 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. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342 (a)).

B. Why is EPA Issuing this as a Direct Final Rule?

EPA is issuing this action as a direct final rule without prior proposal because the Agency believes that this action is not controversial and is not likely to result in any adverse comments. This action removes various exemptions from the requirement of a tolerance for eight specific inert ingredients because those substances are no longer used in pesticide products. These tolerance exemptions are unnecessary.

This rule is effective on August 2, 2002 without further notice, unless EPA receives adverse comment by June 3, 2002. If, however, EPA receives a relevant adverse comment during the comment period, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will also publish a notice of proposed rulemaking in a future edition of the **Federal Register**. EPA will address the comments on the direct final rule as part of that proposed rulemaking.

III. Background

A. What Action is the Agency Taking?

In **Federal Register** Notices of November 22, 1989, (54 FR 58314) and June 24, 1998, (63 FR 34384)(FRL-5792-3) the Agency removed certain chemicals from its list of pesticide product inert ingredients that were no longer used as inert ingredients in registered pesticide products. At that time, the Agency indicated that future use of these chemicals as inert ingredients in pesticide products would not be permitted unless a petitioner or registrant satisfied all data requirements as identified by the Agency, and the Agency was able to make a determination that the use of the inert ingredient will not pose unreasonable risk to human health or the environment.

On its own initiative, the Agency is amending 40 CFR 180.1001, 180.1014, and 180.1046 by revoking exemptions from the requirement of a tolerance for eight inert ingredients that are no longer

used in pesticide products applied to food and feed commodities.

B. Which Tolerance Exemptions are Being Removed?

1. On November 22, 1989, (54 FR 58314) the Agency removed benzene and formaldehyde from its list of chemicals currently used in pesticide products. These substances, both of which were initially classified as List 1 inert ingredients, were determined to no longer be in use as pesticide product inert ingredients and were therefore removed from all lists of inert ingredients. The exemptions from the requirement of a tolerance for the inert ingredient uses of benzene and formaldehyde are now being revoked.

i. In 40 CFR 180.1001(d), there is an exemption from the requirement of a tolerance for benzene. This exemption is for its use as a solvent and cosolvent.

ii. An exemption from the requirement of a tolerance for formaldehyde exists in 40 CFR 180.1001(d). This exemption is limited to not more than 1% of the pesticide formulation with a prescribed use as a preservative for the formulation.

2. On June 24, 1998, (63 FR 34384) EPA removed certain chemicals from its list of pesticide product inert ingredients that are not currently used in pesticide products. Included among those removed inert ingredients were six substances for which exemptions from the requirement of a tolerance existed for their use as inert ingredients and for which the tolerance exemptions are now being revoked.

i. In 40 CFR 180.1001(d) there are exemptions from the requirement of a tolerance for coal (derived only from anthracite and bituminous coals) and coke (from anthracite and bituminous coals only and petroleum). These two tolerance exemptions are limited to soil application and are for use as carriers and extenders.

ii. An exemption from the requirement of a tolerance for dioxane is in 40 CFR 180.1001(d) for dioxane for use as a solvent and cosolvent. In the above cited **Federal Register** Notice, the Agency removed dioxane from its list of pesticide product inert ingredients that are currently used in pesticide products.

iii. There are two tolerance exemptions for methylene chloride (dichloromethane) for use as a solvent currently in 40 CFR 180.1001(d) and (e). The exemption in 40 CFR 180.1001(d) is for a use as a solvent and co-solvent. The use in 40 CFR 180.1001(e) is as a dispersing and wetting agent.

iv. In 40 CFR 180.1014 there is an exemption from the requirement of a tolerance for pentane when used in

accordance with good commercial practice as an adjuvant in liquid grain fumigants for the fumigation of the following grains; barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

v. There are two exemptions from the requirement of a tolerance for dimethylformamide. In 40 CFR 180.1001(d), the exemption is for use as a solvent and cosolvent with its use limited to preemergence application prior to formation of edible parts of food plants, and seed and transplant treatment, and also as part of the U.S. Department of Agriculture witchweed quarantine program, postemergent application in field corn, after silking and tasseling of the corn. The second exemption from the requirement of a tolerance exists in 40 CFR 180.1046 for dimethylformamide for the following two uses:

a. When used in accordance with good agricultural practices in formulations with the fungicide triforine (N,N-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)] bis [formamide]) if such formulations contain not more than 30 percent dimethylformamide in or on the following raw agricultural commodities: almonds, apples, apricots, bell peppers, blueberries, cantaloupes, cherries, cranberries, cucumbers, eggplants, hops, nectarines, peaches, plums, prunes (fresh), strawberries, and watermelons.

b. When used by the U.S. Department of Interior, Fish and Wildlife Service as a solvent for the lampicide sodium salt of alpha, alpha, alpha-trifluoro-4-nitro-meta-cresol or 4-nitro-3-(trifluoromethyl) phenol in the Great Lakes.

C. What is the Contribution to Tolerance Reassessment?

Section 408(q) of FFDCA, as amended by FQPA requires EPA to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. This direct final rule revokes 10 tolerance exemptions. Therefore, if there are no adverse comments, 120 days after publication of the direct final rule, 10 tolerance reassessments will be counted toward the August 2002 deadline.

IV. Regulatory Assessment Requirements

EPA is removing 10 tolerance exemptions that are no longer necessary. Since this direct final rule does not impose any new requirements, it is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), Executive

Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), or Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This direct final rule directly regulates food processors, food handlers, and food retailers, but does not affect States, local or Tribal governments directly. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal government and States or Indian tribes. As a result, this action does not require any action under Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Nor does it 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 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 Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988).

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).

Under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that these revocations will not have significant negative economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. These chemical substances are no longer used in pesticide products applied to food and feed commodities. These

exemptions from the requirement for a tolerance are no longer necessary.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 28, 2002.

Peter Caulkins,

Acting 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 374.

§ 180.1001 [Amended]

2. In § 180.1001 by:

i. Removing from the table in paragraph (d) the entries for "benzene", "coal (derived only from anthracite and bituminous coals)", "coke (from anthracite and bituminous coals only and petroleum)", "dimethylformamide", "dioxane", "formaldehyde", and "methylene chloride (dichloromethane)".

ii. Removing from the table in paragraph (e) the entry for "methylene chloride".

§ 180.1014 [Removed]

3. By removing § 180.1014.

§ 180.1046 [Removed]

4. By removing § 180.1046

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BILLING CODE 6560-50-S

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7781]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**. **EFFECTIVE DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street, SW.; Room 411, Washington, DC 20472, (202) 646-3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date

in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits