

address in "ADDRESSES" at the beginning of this document.

### IX. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408(l)(6). 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). 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) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from

Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted 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 General

Accounting Office prior to publication of this rule in today's **Federal Register**. This 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: October 22, 1997.

**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. 346a and 371.

2. In § 180.433, by alphabetically inserting the following item into the table in paragraph (b) to read as follows:

#### § 180.433 Sodium salt of fomesafen; tolerance for residues.

\* \* \* \* \*

(b) \* \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
* * *	* * *	
Beans, dry .....	0.05	10/31/98

\* \* \* \*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 180 and 185

[OPP-300475A; FRL-5746-5]

RIN 2070-AC78

#### Hydroprene Biochemical Pest Control Agent; Pesticide Tolerance

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

**ACTION:** Final Rule.

**SUMMARY:** This rule expands the tolerance for residues of hydroprene, [(S)-(Ethyl (2E,4E,7S)-3,7,11-trimethyl-2,4-odecadienoate)], an insect growth regulator, on all food items in food-handling establishments to include

perimeters and pantries, and warehouses to the list of permissible food storage sites and ultra low volume (ULV) fogging as a permissible treatment method under certain precautions and conditions. This rule also permits the use of point source device treatments providing those devices do not come into direct contact with food preparation surfaces and are kept a minimum distance of 3 feet from exposed foods. This rule also restricts the tolerance expression to residues of [(S)-(Ethyl(2E,4E,7S)-3,7,11-trimethyl 2,4-dodecadienoate)], the *S*-racemer of hydroprene since the *R*-racemer is no longer being supported in reregistration. **DATES:** This regulation is effective November 19, 1997. Objections and requests for hearings must be received by EPA on or before January 20, 1998. **ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300475A], must be submitted to: Hearing Clerk (1900), Environmental Protection

Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300475A], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of

electronic objections and hearing requests must be submitted as an ASCII file avoiding 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 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300475A]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Diana Horne, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511W) Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location, telephone number and e-mail address: Room 5-W42, 5th Floor, CS#1, 2800 Crystal Drive, Arlington, VA (703) 308-8367; horne.diana@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 4, 1997 (62 FR 30549)(FRL-5600-6) EPA issued a proposal to amend 40 CFR parts 180 and 185 by removing § 185.3625 and adding § 180.501, and by adding perimeters, pantries and warehouses to the list of permissible food storage sites and ultra low volume (ULV) fogging as a permissible treatment method under certain precautions and conditions. The Agency is also permitting the use of point source device treatments providing those devices do not come into direct contact with food preparation surfaces and must be kept a minimum distance of 3 feet from exposed foods. The Agency also proposed restricting the tolerance expression to residues of [(S)-(Ethyl (2E,4E,7S)-3,7,11-trimethyl-2,4-dodecadienoate)], the S-racemer of hydroprene. The R-racemer is being removed from the tolerance expression since Sandoz Agro Inc., the manufacturer, is supporting only the reregistration of (S)-hydroprene and no longer manufacturers the R/S hydroprene racemic mixture.

There were no comments in response to this proposed rule. The data submitted in the petition and other material have been evaluated.

Based on the reasoning and findings set forth in the preamble to the proposed rule, 40 CFR part 180 is amended as set forth below.

### **I. Objections and Hearing Requests**

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by January 20, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the hearing clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(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). 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 issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). 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.

### **II. Public Record and Electronic Submissions**

EPA has established a record for this rulemaking under docket number [OPP-300475A] (including any comments and data submitted electronically). 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 public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may 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.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

### **III. Regulatory Assessment Requirements**

This action finalizes an exemption from the tolerance requirement under FFDCA section 408(e). 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). In addition, 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) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR

58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require special OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## **XII. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

### **List of Subjects**

#### **40 CFR Part 180**

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

#### **40 CFR Part 185**

Environmental protection, Food additives, Pesticides and pests

Dated: October 31, 1997.

**Stephen L. Johnson,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended 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 348.
  - b. Section 180.501 is added to read as follows:

### **§ 180.501 Hydroprene; tolerances for residues.**

(a) *General.* A tolerance of 0.2 part per million is established for residues of hydroprene [(S)-(Ethyl (2E,4E,7S)-3,7,11-trimethyl-2,4-dodecadienoate)], (CAS Reg. No. 65733-18-8) on all food items in food-handing establishments in accordance with the following prescribed conditions:

(1) Application shall be limited to spot, crack and crevice, perimeter and ultra low volume (ULV) fogging treatment in food storage or food-handling establishments, including warehouses, food service, manufacturing, and processing establishments such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries where food and food products are held, processed, and served: Provided that the food is removed or covered prior to such use, and food-processing surfaces are covered during treatment or thoroughly cleaned before using, or in the case of point-source device treatments, devices must not come into direct contact with food preparation surfaces and must be in a minimum distance of 3 feet from exposed foods.

(2) To assure safe use of the insect growth regulator, the label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

### **PART 185—[AMENDED]**

#### **2. In part 185:**

a. The authority citation for part 185 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 348.

### **§ 185.3625 [Removed]**

b. Section 185.3625 is removed.

[FR Doc. 97-30382 Filed 11-18-97; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Maritime Administration**

#### **46 CFR Part 383**

[Docket No R-156]

RIN 2133-AB16

### **Determination of Fair and Reasonable Guideline Rates for the Carriage of Less-Than-Shipload Lots of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Liner Vessels; Removal of Part**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Final Rule.

**SUMMARY:** In connection with the President's Regulatory Reinvention Initiative, the Maritime Administration (MARAD), after having initiated a rulemaking with a notice of proposed rule-making (NPRM), has reviewed the subject regulations at 46 CFR part 383 and has determined to withdraw that rulemaking and remove the entire part. Part 383 has become unnecessary in view of the decline in the volume of U.S.-flag vessel liner service.

**DATES:** This rule is effective November 21, 1997.

**FOR FURTHER INFORMATION CONTACT:** Michael P. Ferris, Director, Office of Costs and Rates, Telephone: (202) 366-2324.

**SUPPLEMENTARY INFORMATION:** In administering the cargo preference program pursuant to the Cargo Preference Act of 1954, incorporated in section 901(b), Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1241(b)), MARAD provides guideline rates for the carriage of agricultural preference cargoes to the U.S. Department of Agriculture (USDA) and the Agency for International Development (AID) ("sponsoring agencies") for bagged and packaged agricultural commodities carried on bulk vessels. The methodology for calculating guideline rates is stated in regulations at 46 CFR part 382. Those sponsoring agencies requested that MARAD extend the scope of its regulations at 46 CFR part 383 to provide them with guideline rates for bagged and packaged agricultural commodities carried on liner vessels in less-than-shipload lots. Accordingly, MARAD published a NPRM (60 FR 20069; April 24, 1995) proposing to amend its regulations in part 383 to provide guideline rates for bagged or packaged agricultural commodities in parcels of 5,000 tons and greater on vessels in liner services.