

we are adopting without change the provisions of the proposed rule as a final rule.

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect only the processing of claims by VA and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604. In addition, since no notice of proposed rule making is required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: April 6, 1998.

**Togo D. West, Jr.,**  
*Acting Secretary.*

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below.

#### PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

**Authority:** 38 U.S.C. 501(a).

#### § 20.611 [Removed]

2. In subpart G, § 20.611 is removed.

[FR Doc. 98–16363 Filed 6–18–98; 8:45 am]  
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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 159

[OPP–60010J; FRL–5792–2]

RIN 2070–AB50

#### Reporting Requirements For Risk/Benefit Information; Amendment and Correction

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

**ACTION:** Final rule.

**SUMMARY:** This is a two-fold action to make minor adjustments to the reporting requirements for risk/benefit information regulation. EPA is amending and correcting the final regulation published in the **Federal**

**Register** on September 19, 1997 (62 FR 49370). The regulation codified EPA's interpretation and enforcement policy regarding the requirement of pesticide registrants to report to the Agency information concerning unreasonable adverse effects of their products as mandated in section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In the first part of this action, EPA is issuing a final rule to change the definition of a registrant to provide consistency with that which is in the statute. The amendment to the regulation will also serve to clarify the scope of the registrant's responsibilities and liabilities. In the second part of this action, the Agency is making technical corrections to the regulations for clarification purposes. These corrections include omitted, yet implied, reporting time frames and required information, missing conjunctions, and minor editorial changes.

**DATES:** These actions will become effective June 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** By mail: Kathryn Bouve, Office of Pesticide Programs (7502C), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, Room 224, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703) 305–5032; bouve.kate@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Affected Parties

Entities potentially affected by this rule are persons who hold or ever held a pesticide registration under FIFRA section 3 or 24(c). This rule may also affect any officer, employee, agent, or any other person acting on behalf of a registrant. This listing is not intended to be exhaustive, but rather to provide examples of those entities that are likely to be affected by this action. To determine whether you or your business is affected, refer to the regulatory text contained in § 159.153 (definition of registrant), and § 159.155(d). Any questions regarding applicability should be directed to the Agency Contact Person listed above.

##### II. Background

In the **Federal Register** of September 19, 1997 (62 FR 49370) (FRL–5739–1), EPA issued a final rule to codify its interpretation and enforcement policy under section 6(a)(2) of FIFRA. This section of the law requires pesticide registrants to report information concerning unreasonable adverse effects of their products to EPA. The rule

clarifies what information must be submitted, how and when to submit it, as well as what failures to report information, or delays in reporting, will be regarded by EPA as violations of FIFRA section 6(a)(2), and actionable under FIFRA sections 12(a)(2)(B)(ii) and 12(a)(2)(N). The rule is to become effective on June 16, 1998. As published, the final regulation contains several errors which may prove to be misleading and are in need of clarification. This notice makes the needed corrections to the regulation.

EPA is issuing the first part of this action as a final rule without prior proposal because it believes public comment on this part of the rule would be unnecessary, impracticable, and contrary to the public interest, and therefore is not required pursuant to the "good cause" exemption under section 553(b)(B) of the Administrative Procedure Act. The Agency believes it is important to make this change as expeditiously as possible, so that the change can be incorporated into the new part 159 before publication of the next volume of the Code of Federal Regulations, and so that the change can be effective before the new part 159 becomes effective on June 16, 1998. A provision for public comments is not warranted because the rule only implements a technical correction and does not impose any new requirements. As explained below, the change is being made to assure that the definition of registrant in the rule is consistent with that which is in the underlying statute authorizing the rule.

##### III. Agency Decision

Section 6(a)(2) of FIFRA imposes an obligation on pesticide registrants to report to the Agency additional factual information regarding unreasonable adverse effects on the environment related to their pesticide products. By its terms, this requirement is placed only on a "registrant," a term defined in section 2(y) of FIFRA as "a person who has registered any pesticide pursuant to [FIFRA]."

The Agency changed the definition of "registrant" in the final rule issued on September 19, 1997 from that in the proposal to include agents and other persons acting on behalf of a registrant. As explained in the preamble to the final rule, the purpose of the change was to clarify that "registrants [are] responsible for the actions of their agents" and that "registrants will be held liable for the actions of their agents." The intent in drafting the rule was to make absolutely clear that a registrant is deemed to possess information when certain people

working for the benefit of the registrant possess the information.

The effect of including language on agents in the definition of registrant in § 159.153, however, was to make agents potentially liable themselves for failing to report information to the Agency pursuant to section 6(a)(2). A number of persons have complained to the Agency that this broadens the reach of section 6(a)(2), because the statutory requirement is imposed only upon registrants, and because agents who have never registered a pesticide product can not be considered a registrant under FIFRA. This was never the Agency's intent, and the Agency agrees that the definition in the final rule published in September 1997 could be interpreted to exceed, as written, the statutory reach of section 6(a)(2).

The Agency is therefore issuing this final rule to correct the definition of registrant in § 159.153, so that it only will include "any person who holds, or ever held, a registration for a pesticide product issued under FIFRA section 3 or 24(c)." The rest of the definition in the final rule published in September 1997 referring to employees and agents has been moved to § 159.155(b) (redesignated as § 159.155(d) in this document). The effect of this change is that registrants are still responsible under section 6(a)(2) for information possessed by their employees and agents, but the employees and agents themselves, who are not registrants under FIFRA, are not themselves responsible for reporting adverse effects information to the Agency.

#### IV. Technical Corrections

The corrections listed in this notice address errors in the regulation published on September 19, 1997. The technical corrections consist of three types: reporting time frames, required information, and editorial.

The majority of the corrections ensure that the time frames for submitting all types of adverse effects information are clearly established. In the proposed rule, the time frame for reporting all section 6(a)(2) information was 30 days. In response to the public comments it received, the Agency decided to allow for different reporting schedules for different types of information. The final rule, however, listed only those categories where the time frames had been changed and erroneously failed to establish time frames for all other types of submissions.

Information concerning pesticides in food or feed above the tolerance level or if no tolerance has been established; metabolites, degradates, contaminants, and impurities; efficacy failure studies

for public health products; substantiated incidents of pest resistance; and other information described in § 159.195 must be received by EPA no later than the 30th calendar day after the registrant first possesses or knows of the information. Incidents of efficacy failure of public health products and pesticide detections in water above the maximum contaminant level (MCL) or health advisory level (HAL) may be accumulated for 1 month and submitted by the end of the month following the accumulation period.

A correction will be made to the regulation to specify that detections of pesticides in water below the MCL or HAL but otherwise reportable (§ 159.178(b)) may be accumulated for 3 months and submitted by the end of the second month following the accumulation period. The preamble to the final rule stated that this type of information must be aggregated into quarterly statistical summaries as described in § 159.184(d)(3) and (e).

Other technical corrections ensure that useful information is submitted to the Agency. Although these informational items are implied, the specifics relating to the information required was inadvertently omitted. First, for detections of pesticides in or on food or feed (§ 159.178), and in surface water and ground water (§ 159.184(c)(4)(iv) and (v)) will be changed to specify that the amount of pesticide detected is reportable. Second, the technical corrections will create a cross reference between the requirement to report detections of pesticides in or on food or feed, or water found in § 159.178 with the appropriate specified reportable data elements listed in § 159.184(c).

The last group of corrections to the regulation include missing conjunctions, typographical errors, and minor cross referencing errors.

#### V. Statutory Review Requirements

A draft of this rule was provided to the Secretary of Agriculture (USDA), the Committee on Agriculture, Nutrition, and Forestry of the United States Senate, and to the Committee on Agriculture of the House of Representatives. The FIFRA Scientific Advisory Panel has waived its review of this rule.

#### VI. Regulatory Assessment Requirements

This final rule does not impose any new requirements. It only implements a technical correction to a previously issued **Federal Register** notice and the Code of Federal Regulations (CFR). Any assessments necessary for the original

final rule being corrected through this action are discussed in that final rule and are not affected by today's action. In fact, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or 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, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

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

Pursuant to the Congressional Review Act (5 U.S.C. 801(a)(1)(A)), the Agency 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 rule in today's **Federal Register**. This is a technical correction to the CFR and is not a major rule as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 159

Environmental protection, Pesticides and pests, Policy statements, Reporting and recordkeeping requirements.

Dated: June 5, 1998.

Lynn R. Goldman,

*Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

#### Amendment to 40 CFR Part 159

Therefore, 40 CFR part 159 is amended as follows:

#### PART 159—[AMENDED]

1. The authority citation for part 159 continues to read as follows:  
**Authority:** 7 U.S.C. 136–136y.

2. In § 159.153 the definition of "Registrant" is revised to read as follows:

#### § 159.153 Definitions.

\* \* \* \* \*

*Registrant* includes any person who holds, or ever held, a registration for a pesticide product issued under FIFRA section 3 or 24(c).

#### Correction to Rule Published in the Federal Register

Accordingly, the publication on September 19, 1997 of the final regulations which were the subject of FR Doc. 97-24937 and published on page 49370 is corrected as follows:

1. On page 49388, in the table of contents for part 159, the title of § 159.160 is corrected to read "Obligations of former registrants."

2. On page 49388, § 159.155 is corrected to read as follows:

#### § 159.155 When information must be submitted.

(a) The following reportable information must be received by EPA not later than the 30th calendar day after the registrant first possesses or knows of the information:

(1) Scientific studies described in § 159.165.

(2) Information about discontinued studies described in § 159.167.

(3) Human epidemiological and exposure studies described in § 159.170.

(4) Detection of a pesticide in or on food or feed described in § 159.178(a).

(5) Detection of metabolites, degradates, contaminants, impurities described in § 159.179.

(6) Failure of performance studies described in § 159.188(a)(2), (b)(2), and (c).

(7) Other information described in § 159.195.

(b) Reportable information concerning detections of pesticides in water described in § 159.178(b), adverse effects incidents described in § 159.184(a), and efficacy failure incidents described in § 159.188(a)(1) and (b)(1) must be reported according to the time frames set forth in § 159.184(d).

(c) EPA may, in its discretion, notify a registrant in writing of a different reporting period that will apply to specific types of reportable information or eliminate reporting requirements entirely. Such notification supersedes otherwise applicable reporting requirements set forth in this part.

(d) For purposes of this part, a registrant possesses or knows of information at the time any officer, employee, agent, or other person acting for the registrant first comes into possession of, or knows of, such information; provided that, such person performs any activities for the registrant related to the development, testing, sale or registration of a pesticide or the

person could be reasonably expected to come into possession of information otherwise reportable under this part. In the case of information known to or possessed by an agent or other person acting for the registrant, a registrant is responsible for such information only if the agent or other person acquired such information while acting for the registrant.

#### § 159.158 [Corrected]

3. On page 49389, § 159.158 is corrected as follows:

i. In paragraph (a) the introductory text, the second sentence is corrected to read:

(a) \* \* \* Information relevant to the assessment of the risks or benefits also includes conclusion(s) or opinion(s) rendered by a person who meets any of the following:

ii. In paragraph (b)(1), after the heading, the introductory text is corrected to read:

(b) \* \* \*  
(1) \* \* \* Information need not be submitted if before that date on which the registrant must submit such information if all of the following conditions are met:

iii. In paragraph (b)(3) introductory text, the phrase "either of the categories described in paragraphs (b)(3)(i) or (b)(3)(ii) of this section." is corrected to read "either of the following categories:"

iv. On page 49390, paragraph (b)(4) introductory text, the phrase "reportable under this part, if:" is corrected to read "reportable under this part, if both of the following conditions are met:"

#### § 159.159 [Corrected]

4. On page 49390, in § 159.159 is corrected as follows:

i. Paragraph (a)(1) introductory text is corrected to read:

(a) \* \* \*  
(1) Information is otherwise reportable under § 159.184, and pertains to an incident that is alleged to have occurred on or after January 1, 1994, and to have involved any of the following:

ii. In paragraph (a)(2), the reference to "§ 159.195(b)," is corrected to read "§ 159.195(c)."

#### § 159.160 [Corrected]

5. On page 49390, in § 159.160, in paragraphs (b)(1), (3), and (4), the phrase "formerly-registered" is corrected to "formerly registered."

#### § 159.165 [Corrected]

6. On page 49390 § 159.165 is corrected as follows:

i. In paragraph (b)(4), the introductory text is corrected to read:

(b) \* \* \*  
(4) For plants when tested at the maximum label application rate or less, if either of the following conditions is met:

ii. On page 49391, paragraphs (d)(1) and (d)(2), the introductory text in both paragraphs is corrected to read:

(d) \* \* \*  
(1) \* \* \* A study using a test regimen lasting 90 calendar days or less, and all of the following conditions are met:

(2) \* \* \* A study using a test regimen lasting 90 calendar days or less, and all of the following conditions are met:

#### § 159.178 [Corrected]

7. On page 49391, § 159.178 is corrected as follows:

i. In paragraph (a), the phrase "the pesticide is present on food or feed" is corrected to read "the pesticide is present in or on food or feed."

ii. In paragraph (a) by adding a new sentence to the end thereof reading as follows:

(a) \* \* \* The information to be submitted is the same as that required in § 159.184(c)(1), (2), (3), and (4)(iv)(E), (F), (G), and (H).

iii. In paragraph (b)(1), in the introductory text, the phrase "the water reference level in:" is corrected to read "the water reference level in any of the following instances:"

iv. By adding paragraph (b)(5) to read as follows:

(b) \* \* \*  
(5) Information to be submitted is the same as that required in § 159.184(c)(1), (2), (3), (4)(iv) and (v), and (5)(vi).

#### § 159.179 [Corrected]

8. On page 49391 § 159.179 is corrected as follows:

i. In paragraph (a), in the introductory text, the phrase "must be submitted if:" is corrected to read "must be submitted if either of the following conditions is met:"

ii. In paragraph (a)(2), in the introductory text, the phrase "and one of the conditions in paragraph (a)(3)(i)

or (ii) of this section is met:" is corrected to read "and either of the following conditions is met:".

#### § 159.184 [Corrected]

9. On page 49392, § 159.184 is corrected as follows:

i. In paragraph (c)(2), in the introductory text, the phrase "reports must be submitted if the registrant" is corrected to read "reports must be submitted for each pesticide that may have contributed to the incident, if the registrant".

ii. Paragraph (c)(2)(vi) is removed.

iii. On page 49393, paragraph (c)(4)(iv)(G), is corrected to read:

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(iv) \* \* \*

(G) Pesticides and degradates analyzed for, the detection limits, and the amount detected.

\* \* \* \* \*

iv. In paragraph (c)(4)(v)(A) is corrected to read:

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(v) \* \* \*

(A) Pesticides and degradates analyzed for, the analytical method used, the detection limits, and the amount detected.

\* \* \* \* \*

v. On page 49393 in paragraph (c)(5)(iii), in the introductory text, the phrase "if any of the criteria listed in paragraphs (c)(5)(iii)(A) through (c)(5)(iii)(G) of the section are met, or" is corrected to read "if any of the following criteria are met, or".

vi. On page 49393, in paragraph (c)(5)(iii)(D), the word "relativelycommon" is corrected to read "relatively common."

vii. On page 49394, in paragraph (c)(5)(iii)(G), the word "orthreatened" is corrected to read "or threatened."

viii. On page 49394, paragraph (c)(5)(iv), in the introductory text, the phrase "if the single criterion listed in paragraph (c)(5)(iv)(A) of this section is met, or" is corrected to read "if the following criterion is met, or".

ix. On page 49394, paragraphs (d)(2) and (d)(3) are corrected to read as follows:

\* \* \* \* \*

(d) \* \* \*

(2) Information concerning incidents which meet the criteria for the following exposure and severity category labels described in paragraph (c)(5) of this section, reports of detections of pesticides in water, and efficacy failure

incidents described in § 159.188(a)(1) and (b)(1), may be accumulated for a 30-day period, and submitted to the Agency within 30 days after the end of each 30-day accumulation period for: Humans, H-B, and H-C; Wildlife, W-A; Plants, P-A; Water, G-A; Property Damage, PD-A.

(3) Incidents or reports of detections of pesticides in water meeting all other exposure and severity label categories, information may be accumulated by registrants for 90 days and submitted within 60 days after the end of each 90-day accumulation period.

\* \* \* \* \*

#### § 159.195 [Corrected]

10. On page 49395, in § 159.195, paragraph (b), the word "sectioin" is corrected to read "section," and the phrase "otherwise-reportable" is corrected to read "otherwise reportable."

[FR Doc. 98-16410 Filed 6-18-98; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-300667; FRL-5794-7]  
RIN 2070-AB78

#### Buprofezin; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This rule extends time-limited tolerances for residues of the pesticide buprofezin and its metabolite BF 12 in or on citrus fruit at 2.0 parts per million (ppm); dried citrus pulp at 10 ppm; cotton seed at 1.0 ppm; cotton gin byproducts at 20 ppm; milk at 0.03 ppm; and cattle, sheep, hogs, goats, and horse meat at 0.02 ppm, fat at 0.02 ppm, and meat byproducts at 0.5 ppm for an additional 1-year period, to July 31, 1999. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on citrus and cotton. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (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.

**DATES:** This regulation becomes effective June 19, 1998. Objections and requests for hearings must be received by EPA, on or before August 18, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300667], 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-300667], 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. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-9356; e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of July 30, 1997 (62 FR 40735) (FRL-5732-1), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of buprofezin and its metabolites in or on citrus fruit at 2.0 ppm, dried citrus pulp at 10 ppm; cotton seed at 1.0 ppm; cotton gin byproducts at 20 ppm; milk at 0.03 ppm, and cattle, sheep, hogs, goats, and horse meat at 0.02 ppm, fat at 0.02 ppm, and meat byproducts at 0.5 ppm, with an expiration date of July 31, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA