

Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements, relieves restrictions, and affected parties have known of the underlying rule since August 6, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

The delay in the effective date of the deregulatory provisions (amendments to 40 CFR 261.3(c)(2)(ii)(B), 261.4(a), 261.6(a)(3)(iv)(C), and 266.100(b)(3) and the removal of 40 CFR 261.6(a)(3)(v)) of the August 6, 1998, final rule was caused by OMB's designation of the rule as "major" after EPA had signed the rule and sent it to OFR for publication and EPA's resulting need to resubmit the rule under the CRA. Thus, EPA does not believe that affected persons who acted in good faith relying upon the August 6th effective date stated in the **Federal Register** should be penalized if they were complying with the rule as promulgated from August 6 until today. (This includes persons who may have properly interpreted the amendment to 40 CFR 266.100(b)(3) to be in effect in spite of the typographical error in the **EFFECTIVE DATES** section of the August 6th rule discussed above.) However, since the amendments to 40 CFR 261.3(c)(2)(ii)(B), 261.4(a), 261.6(a)(3)(iv)(C), and 266.100(b)(3) and the removal of 40 CFR 261.6(a)(3)(v) now are not in effect, and will not be in effect until December 8, 1998, affected persons must comply with the existing rules until these provisions take effect on December 8, 1998.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore 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 mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), establish any technical standards subject to the section 12(d) of the National Technology Transfer and Advancement Act, require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or with officials of Indian tribal governments as specified by Executive Orders 12875 and 13084 (63 FR 27655, May 19, 1998), involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), or involve

special consideration of children's health and safety risks under Executive Order 13045 (62 FR 19885, April 23, 1997). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders, as applicable, for the August 6th rule is discussed in the August 6, 1998,

Federal Register notice.

OMB's designation of the August 6th final rule as "major" for purposes of the CRA does not change EPA's analysis of the rule for purposes of other statutes and Executive Orders as described in the August 6th **Federal Register**. The cost information considered by OMB was submitted by a company long after the comment period had closed, while the rule was being reviewed by OMB. The information concerns the cost of leachate management that may result from the August 6th rule and is unverified and unsubstantiated. To address the late information, EPA published a proposed rule, notice of data availability, and request for comment in the same August 6th **Federal Register** asking, among other things, for comment on the information (63 FR 42190). In that notice EPA stated "EPA received this information very late in the rulemaking process" and pointed out that "the information is not even part of the administrative record for the final rule." Although EPA is bound by OMB's determination that the August 6th final rule is "major" for CRA purposes, EPA has no basis to judge whether the recently-submitted cost information is accurate. Thus, EPA has not changed its cost estimates presented in the final rule. As noted in the August 6th proposed rule and notice of data availability, EPA is soliciting comment on this information and may decide temporarily to defer from regulation the leachate in question. Refer to that **Federal Register** notice for more information.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA 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; however, in accordance with 5 U.S.C. 808(2), this rule is effective on October 9, 1998. Even though today's action amends the effective date of a "major rule," today's rule is not a "major rule" as defined in 5 U.S.C. 804(2) separate from the August 6 rule.

Today's final rule only amends the effective date of the August 6 rule; it does not amend any substantive requirements contained in that rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 7006 of the Resource Conservation and Recovery Act, challenges to this amendment must be brought by January 7, 1999.

Dated: September 30, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98-26790 Filed 10-8-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300726; FRL-6032-5]
RIN 2070-AB78

Paraquat; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the herbicide/desiccant/defoliant paraquat (1,1'-dimethyl-4,4'-bipyridinium-ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on dry peas at 0.3 part per million (ppm) for an additional one and one-half-year period, to May 15, 2000. 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 dry peas. 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 October 9, 1998. Objections and requests for hearings must be received by EPA, on or before December 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP-300726], 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-300726], 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, CM #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. 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 objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300726]. 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: Libby Pemberton, 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. 272, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308-9364; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of August 29, 1997, (62 FR 45748) (FRL-5739-8), 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 paraquat (1,1'-dimethyl-4,4'-bipyridinium-ion) in or on dry peas at 0.3 ppm, with an expiration date of November 15, 1998. EPA established the tolerance because section 408(l)(6) of the 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. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of paraquat dichloride for desiccation of weeds infesting green peas grown for seed and dry peas for this year's growing season due to emergency situations occurring in Idaho, Oregon, and Washington, as well as, use for the first year in Montana and North Dakota. After having reviewed the submissions, EPA concurs that emergency conditions exist for these states. EPA has authorized under FIFRA section 18 the use of paraquat dichloride on green peas grown for seed and dry peas [for desiccation of weeds in Idaho, Montana, Oregon, and Washington. A crisis exemption was declared by the state of North Dakota under section 18 of FIFRA for the same use.

EPA assessed the potential risks presented by residues of paraquat (1,1'-dimethyl-4,4'-bipyridinium-ion) in or on dry peas. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of August 29, 1997, (62 FR 45748). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional one and one-half-year period. Although this tolerance will expire and is revoked on May 15, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on dry peas after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) 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 govern 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 December 8, 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 above (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 issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (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 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 issues 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 control number [OPP-300726] (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 119 of the Public Information and Records Integrity Branch, Information Resources and Services 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

A. Certain Acts and Executive Orders

This final rule extends a time-limited tolerance that was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 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).

Since this extension of an existing time-limited tolerance does 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.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR

27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. 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 the rule in the **Federal Register**. This 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 record keeping requirements.

Dated: September 29, 1998.

James Jones,

*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.

§ 180.205—[AMENDED]

2. In § 180.205, in the table for
paragraph (b), the entry for “Peas (dry)”,
change the date “11/15/98” to read “5/
15/00”.

[FR Doc. 98–27273 Filed 10–8–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300741; FRL–6037–1]

RIN 2070–AB78

Cyromazine; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-
limited tolerance for residues of the
insecticide cyromazine and its
metabolites in or on the meat, fat, and
meat byproducts of turkeys at 0.05 part
per million (ppm) for an additional 18-
month period, to April 1, 2000. This
action is in response to EPA’s granting
of an emergency exemption under
section 18 of the Federal Insecticide,
Fungicide, and Rodenticide Act
authorizing use of the pesticide on
turkeys. 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 October 9, 1998. Objections
and requests for hearings must be
received by EPA, on or before December
8, 1998.

ADDRESSES: Written objections and
hearing requests, identified by the
docket control number, [OPP–300741],
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-
300741], 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: Andrew Ertman, 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. 272,
Crystal Mall #2, 1921 Jefferson Davis
Hwy., Arlington, VA 22202, (703)–308-
9367; e-mail:
ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA
issued a final rule, published in the
Federal Register of October 22, 1997
(54784–54790) (FRL–5748–9), which
announced that on its own initiative
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 cyromazine and its metabolites in or
on the meat, fat, and meat byproducts of
turkeys at 0.05 ppm, with an expiration
date of October 1, 1998. EPA established
the tolerance because section 408(l)(6)
of the 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. Such
tolerances can be established without
providing notice or period for public
comment.

EPA received a request to extend the
use of cyromazine on turkeys this year
to control flies. The applicant states that

the flies are thought to carry spiking
mortality, an acute form of Poult
Enteritis Mortality Syndrome (PEMS).
PEMS generally occurs during the
summer months and strikes young birds
between 2 to 6 weeks of age. The onset
of the active infection is rapid. Birds
become infectious within 24 to 36
hours. Birds stop eating and drinking,
and develop diarrhea, losing up to 40%
of their body weight in about 4 days.
Mortality of more than 20% within a
week’s time is typical. Total mortality of
50% is not uncommon.

Research into the cause of PEMS has
been ongoing since 1991. Isolation of
the primary agent has eluded
researchers. Evidence suggests that
house fly (*Musca domestica*) can
transmit the PEMS disease agent(s).
Turkey corona virus and reovirus have
been isolated from house flies (adults
and larvae, and also fly feces) collected
from what was characterized as a PEMS
flock in 1996. Researchers also found
that feeding house flies to turkeys
reproduced the disease. This is the
strongest piece of evidence that house
flies may play a role in the transmission
of PEMS to turkeys.

Alternative products available for use
on house flies in poultry houses, such
as tetrachlorvinphos, dichlorvos, and
dimethoate, are applied as larvicides to
the manure accumulated beneath cages
or slatted floors. These products were
developed for use under caged layers or
in chicken houses with slatted floors;
however, market turkeys are grown in
open-floor environments, and the birds
cannot be easily moved from areas
needing treatment. One problem with
this type of treatment of turkey houses
is that rates for larvicidal use of these
chemicals are generally the highest rates
permitted by the label, creating a
concern for the exposed birds. A second
problem with these alternatives is that
the residual control is 10 to 14 days at
best, thus requiring at least two
treatments over the course of a brooder
house flock cycle. Additionally, it may
not be possible to penetrate the breeding
substrate with a low pressure sprayer as
recommended, due to compaction of the
litter. Finally, these alternatives are
labeled as adulticides, leaving a
question of possible resistance
development by house flies to these
chemicals.

The disease situation has been in
existence for approximately 5 years,
however early losses in South Carolina
were minimal. Over the last 2 to 3 years,
the situation has worsened to a critical
point. The applicant asserts that should
losses continue, the stability of the
turkey industry in South Carolina will
be severely compromised and may