

of the United States. The 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). This rule will be effective September 28, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 28, 1999. 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), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Municipal Waste Combustors, Reporting and recordkeeping requirements.

Dated: July 19, 1999.

Randall F. Smith,

Acting Regional Administrator, Region 10.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart WW—Washington

2. Sections 62.11860 and 62.11870 are added, along with undesignated centerheads, to subpart WW, reading as follows:

Plans for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.11860 Identification of Plan.

(a) *Identification of Plan.* Washington State Designated Facility Plan (Section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing municipal waste combustors was submitted by State of Washington Department of Ecology on January 4, 1999.

(2) RESERVED.

(c) *Designated Facilities.* The plan applies to existing facilities in the following category of sources:

(1) Existing municipal waste combustors.

(2) [RESERVED]

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors With the Capacity to Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.11870 Identification of sources.

The plan applies to existing facilities at the following municipal waste combustor sites:

(1) Spokane Regional Solid Waste System, Spokane, WA.

(2) [RESERVED]

[FR Doc. 99-19431 Filed 7-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300899; FRL-6093-3]

RIN 2070-AB78

Propiconazole; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole and its metabolites in or on blueberries, cranberries and raspberries at 1.0 part per million (ppm) for an additional 1-year period. The tolerance for cranberries will expire and is revoked on July 31, 2000; the tolerances for blueberries and raspberries will expire and are revoked on December 31, 2000. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on blueberries, cranberries and raspberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act 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 FIFRA section 18.

DATES: This regulation becomes effective July 30, 1999. Objections and requests for hearings must be received by EPA, on or before September 28, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP-300899], 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-300899], 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 (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@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-300899]. 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: Stephen Schaible, 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. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of April 11, 1997 (62 FR 17710) (FRL-5600-5), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) it established a time-limited tolerance for the combined residues of propiconazole and its metabolites in or on cranberries at 41.0 ppm, with an expiration date of July 31, 1998. The tolerance level was corrected to be 1.0 ppm in the **Federal Register** of May 2, 1997 (62 FR 24045) (FRL-5714-5). EPA extended the expiration date of this tolerance to July 31, 1999, in a **Federal Register** notice published April 20, 1998 (63 FR 19408) (FRL-5783-5). EPA also issued a final rule, published in the **Federal Register** of January 20, 1999 (64 FR 2995) (FRL-6049-8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104-170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on blueberries and raspberries at 1.0 ppm, with an expiration date of December 31, 1999. EPA established these tolerances 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 FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of propiconazole on blueberries and cranberries for this year's growing season due to the continued emergency situation facing blueberry and cranberry growers due to the cancellation of the fungicide triforine, which was the only product registered to control cottonball disease in cranberries or mummy berry disease in blueberries. Raspberry growers in Oregon and Washington requested the use of propiconazole be extended due to the continued unfavorable weather conditions which result in severe disease pressure from yellow rust. After having reviewed the submissions, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the uses of propiconazole on blueberries for control of mummy berry disease, on cranberries for control of cottonball

disease, and on raspberries for control of yellow rust.

EPA assessed the potential risks presented by residues of propiconazole in or on blueberries, cranberries and raspberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rules of April 11, 1997 (62 FR 17710), and January 20, 1999 (64 FR 2995). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although the tolerance on cranberries will expire and is revoked on July 31, 2000, and the tolerances on blueberries and raspberries will expire and are revoked on December 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on blueberries, cranberries and raspberries 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 these tolerances 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 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 September 28, 1999, 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). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, 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. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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 regulation under docket control number [OPP-300899] (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 Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. 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) (Public Law 104-4). Nor does it require any 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 tolerances and exemptions that are established under section 408(l)(6) of FFDCA, 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 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 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 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 recordkeeping requirements.

Dated: July 20, 1999.

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. 321(q), 346a and 371.

§ 180.434 [Amended]

2. In § 180.434, by amending the table
in paragraph (b) by revising the date for
“Cranberries” from “7/31/99” to read
“7/31/00” and by revising the date for
“Blueberries” and “Raspberries” from
“12/31/99” to read “12/31/00”.

[FR Doc. 99–19596 Filed 7–29–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300881; FRL 6087–2]

RIN 2070–AB78

Diuron; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a
time-limited tolerance for combined
residues of diuron in or on catfish. 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 in
catfish ponds. This regulation
establishes a maximum permissible
level for residues of diuron in this food
commodity pursuant to section 408(l)(6)
of the Federal Food, Drug, and Cosmetic
Act, as amended by the Food Quality
Protection Act of 1996. The tolerance
will expire and is revoked on June 30,
2001.

DATES: This regulation is effective July
30, 1999. Objections and requests for
hearings must be received by EPA on or
before September 28, 1999.

ADDRESSES: Written objections and
hearing requests, identified by the
docket control number [OPP–300881],
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–
300881], 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@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–300881].
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: David Deegan, 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. 286,
Crystal Mall #2, 1921 Jefferson Davis
Hwy., Arlington, VA, 703–308–9358; e-
mail: deegan.dave@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on
its own initiative, pursuant to sections
408(l)(6) of the Federal Food, Drug, and
Cosmetic Act (FFDCA), 21 U.S.C. 346a,
is establishing a tolerance for combined
residues of the herbicide diuron and its
metabolites, convertible to 3,4-
dichloroaniline in or on catfish at 2.0
parts per million (ppm). This tolerance
will expire and is revoked on June 30,
2001. EPA will publish a document in
the **Federal Register** to remove the
revoked tolerance from the Code of
Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of
1996 (FQPA) (Public Law 104–170) was
signed into law August 3, 1996. FQPA
amends both the Federal Food, Drug,
and Cosmetic Act (FFDCA), 21 U.S.C.
301 *et seq.*, and the Federal Insecticide,
Fungicide, and Rodenticide Act
(FIFRA), 7 U.S.C. 136 *et seq.* The FQPA
amendments went into effect
immediately. Among other things,
FQPA amends FFDCA to bring all EPA
pesticide tolerance-setting activities
under a new section 408 with a new
safety standard and new procedures.
These activities are described in this
preamble and discussed in greater detail
in the final rule establishing the time-
limited tolerance associated with the
emergency exemption for use of
propiconazole on sorghum (61 FR
58135, November 13, 1996) (FRL–5572–
9).

New section 408(b)(2)(A)(i) of the
FFDCA allows EPA to establish a
tolerance (the legal limit for a pesticide
chemical residue in or on a food) only
if EPA determines that the tolerance is
“safe.” Section 408(b)(2)(A)(ii) defines
“safe” to mean that “there is a
reasonable certainty that no harm will
result from aggregate exposure to the
pesticide chemical residue, including
all anticipated dietary exposures and all
other exposures for which there is
reliable information.” This includes
exposure through drinking water and in
residential settings, but does not include
occupational exposure. Section
408(b)(2)(C) requires EPA to give special
consideration to exposure of infants and
children to the pesticide chemical
residue in establishing a tolerance and
to “ensure that there is a reasonable
certainty that no harm will result to
infants and children from aggregate
exposure to the pesticide chemical
residue. . . .”

Section 18 of FIFRA authorizes EPA
to exempt any Federal or State agency
from any provision of FIFRA, if EPA
determines that “emergency conditions
exist which require such exemption.”
This provision was not amended by
FQPA. EPA has established regulations
governing such emergency exemptions
in 40 CFR part 166.

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.