

right); or a "3-2" approach (front left, right and center, rear left and right). In both examples, front left and right channels, and rear left and right channels are considered "natural" groupings in audio systems. Pending clarification, CEA stated that any of these approaches might be acceptable, provided that only one is agreed upon by the industry. With the expectation of future developments in multichannel audio technology, CEA has suggested that the Commission apply a flexible interpretation of the term "associated" to the testing and measuring of the power output for any "associated" audio channels that may be added in the future. CEA stated that this complex situation demands that the audio industry now take an active leadership role in reviewing and revising existing industry standards to apply them to multichannel receivers and amplifiers.

CEA, therefore, has formed an industry working group, the purpose of which is to establish a voluntary industry consensus standard for measuring the power output of multichannel receivers and amplifiers. CEA has encouraged the Commission to continue its cooperative approach to revising the Amplifier Rule, and consider incorporating its final rule any new voluntary standard developed by CEA for testing, measuring, and specifying the power output of all amplifiers within the scope of the Rule.

The Commission is aware that the issues raised by the SNPR **Federal Register** notice are complex and technical. In the Commission's view, therefore, the public interest would best be served at this time by allowing the industry the opportunity to develop a voluntary standard for testing, measuring, and specifying the power output of multichannel amplifiers and receivers. If the industry is successful in establishing a consensus standard in a reasonable period of time, the Commission will evaluate the technical merits of the standard and consider whether it can function satisfactorily as a voluntary standard, or whether it, or an alternative standard, should be incorporated into the Rule's requirements.

Accordingly, in light of CEA's comment, the Commission has decided to defer action on the proposed rule, but keep open the rulemaking record in this proceeding to allow sufficient time for CEA to address the issues raised in the SNPR, and encourage the exchange of ideas between the Commission and the industry.

Authority: 15 U.S.C. 41-58.

List of Subjects in 16 CFR Part 432

Amplifiers, Home entertainment products, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02-920 Filed 1-14-02; 8:45 am]

BILLING CODE 6750-01-M

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 542

RIN 3141-AA24

Public Hearing To Receive Testimony on Proposed Minimum Internal Control Standards

AGENCY: National Indian Gaming Commission.

ACTION: Notice of public hearing.

SUMMARY: On Wednesday, December 26, 2001, the National Indian Gaming Commission published a Proposed Rule in the **Federal Register** updating its existing Minimum Internal Control Standards (MICS). This Proposed Rule is the product of a consultative process that began more than one year ago, including an initial comment period and the extensive participation of a ten-member Tribal Advisory Committee. Comments on the Proposed Rule are due on or before February 25, 2002.

In further keeping with the Commission's policy of consultation with tribal governments, we will host a public hearing on the proposed rule Tuesday, February 5, 2002. This hearing provides an excellent opportunity for individuals to provide comment about the regulation to both the Commission and members of the Tribal Advisory Committee.

DATES: The hearing will be held on Tuesday, February 5, 2002, 9 a.m. to 5 p.m., Arlington, VA.

ADDRESSES: Crystal City Courtyard by Marriott (Club Room), 2899 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Denise Desiderio, 202-632-7003.

Dated: January 10, 2002.

Montie R. Deer,

Chairman.

[FR Doc. 02-930 Filed 1-14-02; 8:45 am]

BILLING CODE 7565-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-301201; FRL-6816-6]

RIN 2070-AB78

Benomyl; Proposed Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke all tolerances for residues of the fungicide benomyl because this pesticide is no longer registered for use in the United States. EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of all tolerances for benomyl of which 100 would be counted among tolerance/exemption reassessments made toward the August, 2002 review deadline.

DATES: Comments, identified by docket control number OPP-301201, must be received on or before March 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301201 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 308-8037; e-mail address: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml/180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301201. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in

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

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301201 in the subject line on the first page of your response.

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

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

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-301201. Electronic comments may also be filed online at many Federal Depository Libraries.

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

Do not submit any information electronically that you consider to be CBI. You may claim information that

you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record.

Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

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

F. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and

would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke all tolerances in 40 CFR 180.294 because benomyl is no longer registered under FIFRA for use on those commodities. The registration for benomyl was canceled because the registrant requested voluntary cancellation of the pesticide. It is EPA's general practice to propose revocation of those tolerances

for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless the Agency receives comments on this proposal which indicate a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated. One hundred of these tolerances were in existence when FQPA was enacted and therefore count toward the FQPA tolerance reassessment goals.

On April 18, 2001 the registrant, E. I. du Pont de Nemours and Company (DuPont), requested voluntary cancellation of all of their benomyl technical, end use, and special local need product registrations. On May 1, 2001 DuPont announced that it had already ceased the production of technical benomyl for use in products sold and distributed in the United States. DuPont also requested that EPA waive the 180-day waiting period contained in FIFRA section 6(f)(1)(C)(ii). On May 23, 2001 a FIFRA 6(f)(1) notice of receipt of the request by the registrant was published in the **Federal Register** (66 FR 28466) (FRL-6784-3). A cancellation order was published on August 8, 2001 (66 FR 41589) (FRL-6794-9). Receipt of other requests for cancellation of registrations were

published on September 26, 2001 (66 FR 49184) (FRL-6802-1) and on October 12, 2001 (66 FR 52132) (FRL-6805-3). EPA allowed DuPont to sell and distribute benomyl stocks until June 30, 2001 and is allowing those other than the registrant to sell and distribute benomyl stocks until December 31, 2002. The Agency expects existing stocks to be exhausted by December 31, 2003.

The time frame for passage of raw agricultural commodities through trade channels, including storage, processing, post-processing, storage/distribution, and retail, varies and depends on the food commodity. The longest time periods are generally associated with food commodities that are stored for extended periods before processing or are in the form of a processed ingredient such as fruit or vegetable concentrates or pastes. Therefore, for all other benomyl tolerances, EPA is proposing expiration/revocation dates from 2 to 5 years beyond the date of exhaustion of benomyl product through passage of benomyl-treated food in channels of trade using available Agency data, U.S. Food and Drug Administration (FDA) data, and food industry data on a basis as follows:

Commodity Crop Group	Tolerances	Maximum Years in Trade Channels	Proposed expiration/revocation date
Bulb Vegetables	Garlic	2	1/1/06
Brassica (Cole) Leafy Vegetables	Broccoli; Brussels sprouts; Cabbage; Cabbage, Chinese, bok choy; Cabbage, Chinese, napa; Cauliflower; Collards; Kale; Kohlrabi; Mustard greens	2	1/1/06
Root and Tuber Vegetables	Beet, sugar, roots; Beet, sugar, tops; Carrot; Rutabaga; Sweet potato; Turnip, roots; Turnip greens	3	1/1/07
Leafy Vegetables (exc. Brassica)	Celery; Spinach; Dandelion, leaves; Watercress	3	1/1/07
Legume Vegetables	Bean, dry; Bean, succulent; Soybean, seed	3	1/1/07
Cucurbit Vegetables	Cucumber; Melon; Pumpkin; Squash, summer; Squash, winter	3	1/1/07
Tree Nuts	Almond, hulls; Nut, tree, group; Pistachio (in § 180.294(a) and (c)) ^a	3	1/1/07
Citrus Fruits	Citrus, dried pulp; Fruit, citrus (PRE- and POST-H)	4	1/1/08
Pome Fruits	Apple (PRE- and POST-H); Pear (PRE- and POST-H)	4	1/1/08
Stone Fruits	Apricot; Cherry, sweet; Cherry, tart; Nectarine (PRE- and POST-H); Peach (PRE- and POST-H); Plum, prune, dried; Plum, prune, fresh;	4	1/1/08

Commodity Crop Group	Tolerances	Maximum Years in Trade Channels	Proposed expiration/revocation date
Berries	Blackberry; Blueberry; Boysenberry; Currant; Dewberry; Loganberry; Raspberry	4	1/1/08
Cereal Grains and Forage, Fodder and Straw of Cereal Grains.	Barley, grain; Barley, straw; Corn, sweet, kernel plus cob with husks removed; Corn, sweet, forage; Corn, sweet, stover; Oat, grain; Oat, straw; Rice, grain; Rice, hulls; Rice, straw; Rye, grain; Rye, straw; Wheat, grain; Wheat, straw	4	1/1/08
No group association- Plant commodities.	Avocado; Banana (PRE- and POST- H) (not more than 0.2 ppm shall be present in the pulp after peel is removed and discarded); Grape;. Grape, raisin; Mango; Mushroom (PRE- and POST-H); Papaya; Peanut; Peanut forage; Peanut, hay; Pineapple (POST-H); Strawberry	4	1/1/08
No group association- Animal commodities.	Cattle, fat; Cattle, meat; Cattle, meat byproducts; Egg; Goat, fat; Goat, meat; Goat, meat byproducts; Hog, fat; Hog, meat; Hog, meat byproducts; Horse, fat; Horse, meat; Horse, meat byproducts; Milk; Poultry, fat; Poultry, liver; Poultry, meat; Poultry, meat byproducts, except liver; Sheep, fat; Sheep, meat; Sheep, meat byproducts	4	1/1/08
Fruiting Vegetables	Eggplant; Pepper; Tomato; Tomato, concentrated products	5	1/1/09

^aPlease note that for FQPA reassessment purposes, EPA is counting the pistachio tolerance once; therefore, a total of 100 tolerances would be counted as reassessed for benomyl in a final rule.

Because “bean vine forage” is no longer a significant livestock feed item and the tolerance is no longer needed, EPA is proposing to revoke the tolerance for “bean vine forage” 90 days following publication of a final rule to ensure that all affected parties receive notice of EPA’s actions.

In the interim period of time before the tolerance expires and to conform to current Agency practice, EPA is proposing to revise tolerance commodity terminology names in 180.294(a) as follows:

Old terminology	New terminology
almond hulls	almond, hulls;
apples (PRE- and POST-H).	apple (PRE- and POST-H)
apricots (PRE- and POST-H).	apricot (PRE- and POST-H)

Old terminology	New terminology
bananas (PRE- and POST-H) (NMT 0.2 ppm shall be present in the pulp after peel is removed and discarded).	banana (PRE- and POST-H) (not more than 0.2 ppm shall be present in the pulp after peel is removed and discarded)
beans	bean, succulent and bean, dry
beets, sugar, roots ..	beet, sugar, roots
beets, sugar, tops ...	beet, sugar, tops
blackberries	blackberry
blueberries	blueberry
boysenberries	boysenberry
carrots	carrot
cattle, mbyp	cattle, meat byproducts
cherries (PRE- and POST-H).	cherry, sweet and cherry, tart

Old terminology	New terminology
Chinese cabbage	cabbage, Chinese, napa and cabbage, Chinese, bok choy
citrus fruit (PRE- and POST-H).	fruit, citrus (PRE- and POST-H)
corn, fresh (inc. sweet K +CWHR).	corn, sweet, kernel plus cob with husks removed
corn, sweet, fodder and forage.	corn, sweet, forage and corn, sweet, stover
cucumbers	cucumber
currants	currant
dewberries	dewberry
eggplants	eggplant
eggs	egg;
goats, fat	goat, fat
goats, meat	goat, meat
goats, mbyp	goat, meat byproducts

Old terminology	New terminology
grapes	grape
hogs, fat	hog, fat
hogs, meat	hog, meat
hogs, mbyp	hog, meat byproducts
horses, fat	horse, fat
horses, meat	horse, meat
horses, mbyp	horse, meat byproducts
loganberries	loganberry
mangoes	mango
melons	melon
mushrooms (PRE- and POST-H).	mushroom (PRE- and POST-H)
nectarines (PRE- and POST-H).	nectarine (PRE- and POST-H)
nuts	nut, tree, group
oats, grain	oat, grain
oats, straw	oat, straw
peaches (PRE- and POST-H).	peach (PRE- and POST-H)
peanuts	peanut
peanut hay	peanut, hay
pears (PRE- and POST-H).	pear (PRE- and POST-H)
peppers	pepper
pineapples (POST-H).	pineapple (POST-H)
pistachios	pistachio
plums (including fresh prunes) (PRE- and POST-H).	plum, prune, dried and plum, prune, fresh
poultry, mbyp	poultry, meat byproducts, except liver
pumpkins	pumpkin
raisins	grape, raisin
raspberries	raspberry
rice	rice, grain
rice straw	rice, straw
rutabagas	rutabaga
sheep, mbyp	sheep, meat byproducts

Old terminology	New terminology
soybeans	soybean, seed
strawberries	strawberry
sweet potatoes	sweet potato
tomatoes	tomato
tomato products, concentrated.	tomato, concentrated products
turnips, roots	turnip, roots
In 40 CFR 180.294(c). avocados	avocado
dandelions	dandelion, leaves
papayas	papaya
pistachios	pistachio.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq.*, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods (21 U.S.C. 346(a)). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be "adulterated," you may not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. *et seq.*). Food-use pesticides not registered in the United States have tolerances for residues of pesticides in or on commodities imported into the United States.

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA

will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

C. When do These Actions Become Effective?

EPA is delaying the effective date of the revocation for "bean vine forage" for 90 days following publication of a final rule in the **Federal Register** to ensure that all affected parties receive notice of EPA's actions. With the exception of "bean vine forage," EPA is proposing that all tolerances for benomyl expire and are revoked on dates which range from January 1, 2006 to January 1, 2009 as previously detailed. For most tolerances, EPA is proposing an effective revocation/expiration date because EPA believes that by December 31, 2003 all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation will have been exhausted, giving ample time, from 2 to 5 years, for any treated fresh and processed food to clear trade channels. Therefore, EPA believes the effective dates proposed in this document are reasonable. However, if EPA is presented with information that existing stocks would still be available for use after the expiration date and that information is verified, EPA will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as described under

SUPPLEMENTARY INFORMATION.

Any commodity listed in this proposal treated with the pesticide subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of this pesticide in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August, 2006. As of January 4, 2002, EPA has reassessed over 3,830 tolerances. This

document proposes to revoke all tolerances in 40 CFR 180.294. Therefore, 100 tolerance reassessments would be counted when the final rule is published toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are The Proposed Actions Consistent with International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the internet at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations," then select "Regulations and Proposed Rules" and then look up the entry for this document under **Federal Register**—Environmental Documents. You can also go directly to the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

IV. Regulatory Assessment Requirements

In this proposed rule, EPA is proposing to revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory*

Planning and Review (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed 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 OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposed revocations that would change EPA's previous analysis.

Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not

alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this proposed rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as

specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: December 20, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.294 is amended by revising the tables to paragraphs (a) and (c) to read as follows:

§ 180.294 Benomyl; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
Almond, hulls	1.0	1/1/07
Apple (PRE- and POST-H)	7.0	1/1/08
Apricot	15.0	1/1/08
Banana (PRE- and POST-H)(not more than 0.2 ppm shall be present in the pulp after peel is removed and discarded)	1.0	1/1/08
Barley, grain	0.2	1/1/08
Barley, straw	0.2	1/1/08
Bean, dry	2.0	1/1/07
Bean, succulent	2.0	1/1/07
Beet, sugar, roots	0.2	1/1/07
Beet, sugar, tops	15.0	1/1/07
Blackberry	7.0	1/1/08
Blueberry	7.0	1/1/08
Boysenberry	7.0	1/1/08
Broccoli	0.2	1/1/06
Brussels sprouts	15.0	1/1/06
Cabbage	0.2	1/1/06
Cabbage, Chinese, bok choy	10.0	1/1/06
Cabbage, Chinese, napa	10.0	1/1/06
Carrot	0.2	1/1/07
Cattle, fat	0.1	1/1/08
Cattle, meat	0.1	1/1/08
Cattle, meat byproducts	0.1	1/1/08
Cauliflower	0.2	1/1/06
Celery	3.0	1/1/07
Cherry, sweet	15.0	1/1/08
Cherry, tart	15.0	1/1/08
Citrus, dried pulp	50.0	1/1/08
Collards	0.2	1/1/06
Corn, sweet, kernel plus cob with husks removed	0.2	1/1/08
Corn, sweet, forage	0.2	1/1/08
Corn, sweet, stover	0.2	1/1/08
Cucumber	1.0	1/1/07
Currant	7.0	1/1/08
Dewberry	7.0	1/1/08
Egg	0.1	1/1/08

Commodity	Parts per million	Expiration/Revocation Date
Eggplant	0.2	1/1/09
Fruit, citrus (PRE- and POST-H)	10.0	1/1/08
Garlic	0.2	1/1/06
Goat, fat	0.1	1/1/08
Goat, meat	0.1	1/1/08
Goat, meat byproducts	0.1	1/1/08
Grape	10.0	1/1/08
Grape, raisin	50.0	1/1/08
Hog, fat	0.1	1/1/08
Hog, meat	0.1	1/1/08
Hog, meat byproducts	0.1	1/1/08
Horse, fat	0.1	1/1/08
Horse, meat	0.1	1/1/08
Horse, meat byproducts	0.1	1/1/08
Kale	0.2	1/1/06
Kohlrabi	0.2	1/1/06
Loganberry	7.0	1/1/08
Mango	3.0	1/1/08
Melon	1.0	1/1/07
Milk	0.1	1/1/08
Mushroom (PRE- and POST-H)	10.0	1/1/08
Mustard greens	0.2	1/1/06
Nectarine (PRE- and POST-H)	15.0	1/1/08
Nut, tree, group	0.2	1/1/07
Oat, grain	0.2	1/1/08
Oat, straw	0.2	1/1/08
Peach (PRE- and POST-H)	15.0	1/1/08
Peanut	0.2	1/1/08
Peanut forage	15.0	1/1/08
Peanut, hay	15.0	1/1/08
Pear (PRE- and POST-H)	7.0	1/1/08
Pepper	0.2	1/1/09
Pineapple (POST-H)	35.0	1/1/08
Pistachio	0.2	1/1/07
Plum, prune, dried	15.0	1/1/08
Plum, prune, fresh	15.0	1/1/08
Poultry, fat	0.1	1/1/08
Poultry, liver	0.2	1/1/08
Poultry, meat	0.1	1/1/08
Poultry, meat byproducts, except liver	0.1	1/1/08
Pumpkin	1.0	1/1/07
Raspberry	7.0	1/1/08
Rice, grain	5.0	1/1/08
Rice, hulls	20.0	1/1/08
Rice, straw	15.0	1/1/08
Rutabaga	0.2	1/1/07
Rye, grain	0.2	1/1/08
Rye, straw	0.2	1/1/08
Sheep, fat	0.1	1/1/08
Sheep, meat	0.1	1/1/08
Sheep, meat byproducts	0.1	1/1/08
Soybean, seed	0.2	1/1/07
Spinach	0.2	1/1/07
Squash, summer	1.0	1/1/07
Squash, winter	1.0	1/1/07
Strawberry	5.0	1/1/08
Sweet potato	0.2	1/1/07
Tomato	5.0	1/1/09
Tomato, concentrated products	50.0	1/1/09
Turnip, roots	0.2	1/1/07
Wheat, grain	0.2	1/1/08
Wheat, straw	15.0	1/1/08

* * * * *

(c) * * *

Commodity	Parts per million	Expiration/Revocation Date
Avocado	3.0	1/1/08
Dandelion, leaves	10.0	1/1/07
Papaya	3.0	1/1/08
Pistachio	0.2	1/1/07
Turnip greens	6.0	1/1/07
Watercress	10.0	1/1/07

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[FR Doc. 02-964 Filed 1-14-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[OPP-301189; FRL-6807-8]

RIN 2070-AC18

Pesticides; Tolerance Exemptions for Minimal Risk Active and Inert Ingredients**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to list in 40 CFR part 180 the pesticide chemicals that are exempted from the requirement of a tolerance based on the Agency's determination that these chemicals are of "minimal risk." The pesticide chemicals to be listed in 40 CFR 180.1001(g) include both active and inert ingredients and will be accomplished in several steps. As a first step, the existing tolerance exemptions for commonly consumed food commodities, animal feed items, and edible fats and oils will be recodified in the newly created paragraph (g) in a different format. Restructuring to this new format will provide greater clarification in defining a minimal risk pesticide chemical as well as increasing the number of substances that are currently considered to be minimal risk. In the future, EPA will propose other minimal risk pesticide chemicals for inclusion in paragraph (g). These regulatory actions are part of the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions proposed in this document, the proposed revocation of 39 tolerance exemptions, would be counted toward the August 2002 deadline.

DATES: Comments, identified by docket control number OPP-301189, must be received on or before March 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301189 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-305-6304; fax number: 703-305-0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you formulate or market pesticide products. Potentially affected categories and entities may include, but are not limited to:

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

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml/180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301189. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is