

chromatography) previously developed for tolerance petitions 5H5087 and 6H5119 is available in JAOAC, Vol 54, p. 560, 1971.

Additional residue data on propylene oxide and propylene chlorohydrin (2-PCH) are required for a permanent tolerance. These data are required to precisely determine the off-gassing kinetics and to allow the Agency to accurately verify the time interval from fumigation to the point of consumer purchase. At the present time, however, the Agency believes there are adequate data to support a time-limited tolerance while these studies are being developed. Additional toxicological data may be required based on a review of the required residue data. Further, EPA has concerns about the adequacy of the current analytical method. Therefore, a revised analytical method must be developed to address the 2-PCH known to form during fumigation of foods with propylene oxide. Revised enforcement or confirmatory methods for propylene chlorohydrin, as well as for propylene oxide *per se* must also be developed. Any additional tolerance proposals for propylene oxide will be considered on a case-by case basis.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below. Since the Agency has no evidence that other varieties of nuts are treated with propylene oxide, tolerances are being established only for specific nuts.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the 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 issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied

upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under the docket number [PP 6E4647/R2220] (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 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA.

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 rule-making 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.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this rule is not "significant" and is not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that

regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: May 9, 1996.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.491 is added to read as follows:

§ 180.491 Propylene Oxide; tolerance for residues.

A time-limited tolerance to expire on May 20, 1998 is established for residues of the fumigant propylene oxide, in or on the following raw agricultural commodities.

Commodity	Parts per million
Almonds	150
Brazil Nuts	150
Filberts	150
Pecans	150
Pistachio Nuts	150
Walnuts	150

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40 CFR Part 185

[OPP-30035B; FRL-5372-2]

Pesticides; Partial Stay of Effective Date for Order Revoking Certain Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial stay of Effective Date.

SUMMARY: EPA is staying the effective date of a final rule revoking the food additive regulations (FARs) for certain uses of propargite, mancozeb, ethylene oxide and propylene oxide. The final

rule, subject to objections, was published in the Federal Register on March 22, 1996. EPA received petitions to stay the May 21, 1996 effective date for the final rule as it applied to the four pesticides noted above. EPA is staying the effective date until it can review the petitions and determine whether to grant the petitions for stays and if so, for what length of time.

DATES: This partial stay is effective May 20, 1996.

FOR FURTHER INFORMATION CONTACT: Niloufar Nazmi, Special Review Branch (7508W), Special Review and Reregistration Division, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 3rd floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, Telephone: (703) 308-8028, e-mail: nazmi.niloufar@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

In the Federal Register of March 22 1996 (61 FR 11993), EPA issued an order by final rule revoking the FARs for certain uses of seven pesticides. EPA revoked the above FARs based on the determination that these FARs are inconsistent with the Delaney clause, in section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA). In the final rule, EPA set an effective date of May 21, 1996 for the revocations.

Any person adversely affected by the March 22, 1996 Order was allowed 30 days to: (1) File written objections to the order, (2) file a written request for an evidentiary hearing on the objections, and (3) file a petition for a stay of the effective date.

EPA received requests from four Petitioners to stay the effective date of revocation for the following: propargite on tea and figs from the Uniroyal Chemical Company; mancozeb on oat bran from the Mancozeb Task Force; ethylene oxide on ground spices from the American Spice Trade Association; and propylene oxide on nutmeats, ground spices, cocoa and gums from Aberco Inc. The Petitioners contend to have satisfied the four criteria outlined in the final rule regarding the stay of an administrative action (21 CFR 10.35). All four Petitioners assert that: (1) They will suffer irreparable injury; (2) their case is not frivolous and is being pursued in good faith; (3) they have demonstrated sound public policy grounds supporting the stay; and (4) the delay resulting from the stay is not outweighed by public health or other public interests.

Full copies of the stay requests may be viewed in the OPP Docket under the document control number. The OPP

docket is located in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

By this document, EPA is staying the effective date of the March 22, 1996 final rule until such time as EPA issues its responses to the stay petitions.

List of Subjects in 40 CFR Part 185

Environmental protection, Food additives, Pesticides and pest.

Dated: May 16, 1996.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

1. The authority citation continues to read as follows:

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

§ 185.2850 [Amended]

1. The amendment removing § 185.2850, published at 61 FR 12009, March 22, 1996 is stayed.

§ 185.5000 [Amended]

2. On page 12009, in the issue for March 22, 1996, the removal from the table in § 185.5000 of "figs, dried," and "tea, dried," is stayed. The removal of the entry for raisins is not affected by this stay.

3. On page 12009, in the issue for March 22, 1996, the removal of § 185.5150 is stayed with respect to the removal of the introductory text, paragraphs (a), (b), (c), (d) and (e), and in the table, with respect to the entries for "cocoa," "gums," "processed nutmeats (except peanuts)," and "spices, processed." The removal of the entries for "glace fruit," "prunes, dried," and "starch" is not affected by this stay. For clarity and ease of use by the reader the text that remains pursuant to the stay is set forth below.

§ 185.5150 Propylene oxide.

The food additive propylene oxide may be safely used in or on foods in accordance with the following prescribed conditions:

(a) It is intended as a fumigant in or on bulk quantities of cocoa, gums, processed spices, and processed nutmeats (except peanuts) when such bulk foods are to be further processed into a final food form.

(b) It is applied in fumigation chambers not more than one time at a temperature not in excess of 125° F. The

maximum period of fumigation shall not exceed 4 hours for cocoa, processed nutmeats (except peanuts), and processed spices. For edible gums, the maximum duration shall be 24 hours.

(c) When used as described in paragraphs (a) and (b) of this section, residues shall not exceed the following limitations:

Food	Limitations ¹
Cocoa	300
Gums	300
Processed nutmeats (except peanuts)	300
Spices, processed	300

¹ Expressed as parts per million of propylene oxide.

(d) When used as a mixture with carbon dioxide (92 parts of carbon dioxide to 8 parts of propylene oxide on a weight/weight basis), all commodities listed in paragraph (c) of this section may be processed not more than one time for a period not to exceed 48 hours and at a temperature not to exceed 125° F.

(e) To assure safe use of the additive, the label and labeling of the pesticide formulation containing the food additive shall conform to the label and labeling registered by the U. S. Environmental Protection Agency.

9. On page 12009, in the issue for March 22, 1996, the removal of § 185.6300 with respect to the introductory text and bran of oats is stayed. For clarity and ease of use by the reader the text that remains pursuant to the stay is set forth below.

§ 185.6300 Zinc ion and maneb coordination product.

Tolerances are established for residues of a fungicide which is a coordination product of zinc ion and maneb (manganous ethylenebisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylenebisdithiocarbamate (the whole product calculated as zinc ethylenebisdithiocarbamate) in or on the following processed foods, when present therein as a result of the application of this fungicide to growing crops:

20 parts per million in the bran of oats.

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