

(ii) A record of the total hydrocarbon concentration, in 3-hour block averages, for those periods when the total hydrocarbon concentration being monitored pursuant to § 63.548(j)(2) exceeds the relevant limits established in § 63.543 (c), (d), and (e).

(4) The reports shall contain a summary of the records maintained as part of the practices described in the standard operating procedures manual for baghouses required under § 63.548(a), including an explanation of the periods when the procedures were not followed and the corrective actions taken.

(5) The reports shall contain an identification of the periods when the pressure drop and water flow rate of wet scrubbers used to control process fugitive sources dropped below the levels established in § 63.548(i), and an explanation of the corrective actions taken.

(6) The reports shall contain a summary of the fugitive dust control measures performed during the required reporting period, including an explanation of the periods when the procedures outlined in the standard operating procedures manual pursuant to § 63.545(a) were not followed and the corrective actions taken. The reports shall not contain copies of the daily records required to demonstrate compliance with the requirements of the standard operating procedures manuals required under §§ 63.545(a) and 63.548(a).

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 157

[OPP-250123; FRL-5720-5]

#### Ant or Roach Insecticide Bait Stations; Exemption From Adult Portion of Child-Resistant Testing Specifications

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

**ACTION:** Rule related notice.

**SUMMARY:** This document grants a 5-year exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2) (Ease of adult opening), for prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. Products qualifying for this exemption must still fully comply

with all other child-resistant packaging (CRP) effectiveness, compatibility, and durability standards, as well as all other requirements of 40 CFR part 157. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per this exemption. This exemption was requested by S.C. Johnson & Son, Inc., which argued that a package that does not require opening or activation to put into use should not require adult ease of opening testing.

**DATES:** This exemption becomes effective on June 13, 1997 and expires on June 13, 2002.

**FOR FURTHER INFORMATION CONTACT:** Rosalind L. Gross, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone number: (703) 308-7368, e-mail: gross.rosalind@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** S.C. Johnson & Son, Inc. requested an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2) (Ease of adult opening), for prefilled, nonrefillable ant or roach insecticide bait stations that are not designed or intended to be opened or activated in a manner that exposes the contents to human contact.

#### I. Background

FIFRA 25(c)(3) requires EPA's CRP standards to be consistent with those of the Consumer Product Safety Commission (CPSC). EPA's CRP regulations at 40 CFR 157.32 require that CRP for pesticides meet the CPSC packaging standards (effectiveness specifications) and testing procedures set forth in 16 CFR 1700.15(b) and 17000.20. The CPSC Poison Prevention Packaging Standards in 16 CFR 1700.15(b) provide that CRP, when tested by the method described in 16 CFR 1700.20, shall meet certain child-resistant test, senior-adult test, and younger-adult test effectiveness specifications. In 16 CFR 1700.15(b)(2), the senior-adult test and younger-adult test effectiveness specifications are discussed with reference to the senior-adult panel test of 16 CFR 1700.20(a)(3) and the younger-adult panel test of 16 CFR 1700.20(a)(4), respectively.

The EPA CRP regulations provide that exemptions from compliance may be requested on a case-by-case basis for specific products based on technical factors (40 CFR 157.24(b)(3)). The regulations further provide that any such exemption decision will be published in the **Federal Register**, will

be for a specified length of time, and will be applicable to any product with substantially similar composition and intended uses.

#### II. Requested Grounds for Exemption

As support for its exemption request, S.C. Johnson & Son, Inc. advanced the following arguments:

The purpose of adult testing is to ensure that CRP is not difficult for adults to use properly. If CRP is difficult for adults to open, the concern arises that the package may be disabled or left unsecured to eliminate the difficulty of reopening it. Under such circumstances the contents would be accessible to children. In the case of prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened, this concern does not arise. There is no risk that an adult will disable or fail to resecure a difficult to open package, because the packages need not be opened or activated in order to function properly. As there is no concern that an adult will disable or fail to resecure such a package, there is also no concern that the contents of disabled or unsecured packages will be accessible to children. Instead, from a child safety standpoint, the only relevant question regarding such packages is whether they can prevent a child from gaining access to the bait.

#### III. Agency Determination

The Agency has considered the S.C. Johnson & Son, Inc. exemption request and the basis therefore and agrees that it is unnecessary to test the ability of a senior-adult or younger-adult to open and properly resecure a package not designed or intended to be opened or activated. No benefits in terms of improved child safety would be gained by such testing. Therefore, the Agency hereby grants a 5-year exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2) for prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. The Agency has authority under 40 CFR 157.24(b)(3) to grant an exemption from any CRP requirement, including the testing requirements, based on technical considerations.

#### IV. Exemption

A 5-year exemption is granted from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2), for prefilled, nonrefillable ant or roach insecticide bait stations not designed or

intended to be opened or activated in a manner that exposes the contents to human contact. Products that qualify for this exemption must fully comply with all other CRP effectiveness, compatibility, and durability standards as well as all other requirements of 40 CFR part 157. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per this exemption. This exemption becomes effective on June 13, 1997 and expires on June 13, 2002.

#### List of Subjects in 40 CFR Part 157

Administrative practice and procedure, Infants and children, Packaging and containers, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: June 4, 1997.

#### James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-300494; FRL-5718-8]

RIN 2070-AB78

#### Propiconazole; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of the pesticide propiconazole in on or the raw agricultural commodities dry beans, dry bean forage and dry bean hay in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of propiconazole on dry beans in Minnesota, North Dakota, Nebraska, Colorado and Kansas. These tolerances will expire and are revoked on December 31, 1998.

**DATES:** This regulation becomes effective June 13, 1997. Objections and requests for hearings must be received by EPA on or before August 12, 1997.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300494], 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 document control number, [OPP-300494], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), 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. 1132, 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. Such copies of 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 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300494]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Olga Odiott, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location, telephone number, and e-mail: Sixth Floor, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 308-9363, e-mail: odiott.olga@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for the combined residues of the pesticide propiconazole (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole) and its metabolites determined as 2,4-dichlorobenzoic acid (DCBA) and expressed as parent compound, in or on dry beans at 0.5 part per million (ppm), in or on dry bean forage at 8.0 ppm, and in or on dry bean hay at 8.0 ppm. These tolerances will expire and be revoked by

EPA on December 31, 1998. After December 31, 1998, EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

#### I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 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.* Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under section 408 with a new safety standard and new procedures. These activities are described below 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