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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2017-0036; FRL-9961-29]

Triclopyr; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of triclopyr in or on sugarcane. This action is in response to EPA's granting of an emergency exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sugarcane. This regulation establishes a maximum permissible level for residues of triclopyr in or on this commodity. The time-limited tolerance will expire on December 31, 2020.

DATES: This regulation is effective [*insert date of publication in the* **Federal Register**]. Objections and requests for hearings must be received on or before [*insert date 60 days after date of publication in the* **Federal Register**], and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0036 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines."

C. How Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2017-0036 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before [*insert date 60 days after date of publication in the* **Federal Register**]. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2017-0036, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail*: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l*)*(6) of, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing a time-limited tolerance for residues of triclopyr (2-[(3,5,6-trichloro-2-pyridinyl)oxy]acetic acid), including its metabolites and degradates in or on sugarcane, cane at 40 parts per million (ppm). This time-limited tolerance will expire on December 31, 2020.

Section 408(l)(6) of 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 does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of 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) of FFDCA 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) of FFDCA 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." EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Triclopyr on Sugarcane and FFDCA Tolerances

The Louisiana Department of Agriculture and Forestry (LDAF) requested a quarantine emergency exemption for the use of triclopyr on sugarcane to control Merrill's nightshade (*Solanum merrillianum* Liou*).* Merrill's nightshade is a non-native plant that was introduced into the United States sometime before its discovery in 1976, where it has become a pest of importance in sugarcane in Louisiana. According to LDAF, Merrill's nightshade has been confirmed in 17 of the 24 sugarcane producing parishes. Substantial economic damage is occurring and has been documented at 39% reduction of tonnage and 49% reduction of recoverable sugar losses per acre.

After having reviewed the submission, EPA determined that an emergency condition exists for this State, and that the criteria for approval of an emergency exemption are met. EPA has authorized a quarantine exemption under FIFRA section 18 for the use of triclopyr on sugarcane for control of Merrill's nightshade in Louisiana.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of triclopyr in or on sugarcane. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA

section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent, non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in FFDCA section 408(l)(6). Although these time-limited tolerances expire on December 31, 2020, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on sugarcane after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this time-limited tolerance is being approved under emergency conditions, EPA has not made any decisions about whether triclopyr meets FIFRA's registration requirements for use on sugarcane or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of triclopyr by a State for special local needs under FIFRA section 24(c), nor does this tolerance by itself serve as the authority for persons in any State other than Louisiana to use this pesticide on the applicable crop under FIFRA section 18, absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for triclopyr, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of 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) of FFDCA 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) of FFDCA 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....”

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of, and to make a determination on, aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for residues of triclopyr, including its metabolites and degradates on sugarcane, cane at 40 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Points of Departure/Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level - generally referred to as a

population-adjusted dose (PAD) or a reference dose (RfD) - and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for triclopyr used for human risk assessment is discussed in Table 1 of the final rule published in the **Federal Register** of February 25, 2016, (81 FR 9353, 9355-56) (FRL-9941-87).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to triclopyr, EPA considered exposure under the time-limited tolerances established by this action as well as all existing triclopyr tolerances in 40 CFR 180.417. EPA assessed dietary exposures from triclopyr in food as follows:

i. *Acute exposure*. Acute effects were identified for triclopyr. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003-2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA) and the Dietary Exposure Evaluation Model-Food Commodity Intake Database (DEEM-FCID), version 3.16. As to residue levels in food, EPA performed the acute analysis using DEEM-FCID to estimate the dietary exposure of the general U.S. population and various population subgroups. The acute assessment was unrefined, assuming that triclopyr residues are present in all commodities at tolerance levels and that 100% of all crops are treated (100% CT). DEEM version 7.81 default processing factors were used to estimate

residues in all processed commodities. Drinking water was incorporated directly into the dietary assessment.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003-2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA) and the Dietary Exposure Evaluation Model-Food Commodity Intake Database (DEEM-FCID), version 3.16. As to residue levels in food, EPA performed the chronic analysis using DEEM-FCID to estimate the dietary exposure of the general U.S. population and various population subgroups. The chronic assessment was slightly refined, assuming that triclopyr residues are present in all commodities at tolerance levels (100% CT) except milk. An anticipated residue calculated from a recently submitted livestock feeding study was used for milk.

iii. *Cancer.* For the reasons discussed in a previous triclopyr tolerance rule February 25, 2016 (81 FR 9353, 9356) (FRL-9941-87), EPA has concluded that quantification of risk using a non-linear approach will adequately account for all chronic toxicity, including potential carcinogenicity that could result from exposure to triclopyr. Therefore, a separate dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and

authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

For this time-limited tolerance rule, the Agency assumed 100% crop treated for all crops.

2. *Dietary exposure from drinking water*. EPA calculated and required setback distances from the application site to the functional potable water intake in order to maintain average drinking water concentration levels below 400 parts per billion (ppb). Since potable water intakes are required to be turned off until triclopyr concentration levels are below 400 ppb, EPA has determined that for acute and chronic dietary risk assessments, the water concentration value of 400 ppb is appropriate to use to assess the contribution to drinking water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 400 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration value of 400 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Triclopyr is currently registered for the following uses that could result in residential exposures: aquatic and turf areas. EPA assessed residential exposure using the following assumptions: Residential exposure is not anticipated from the proposed Section 18 emergency use for sugarcane. However, residential exposures are anticipated from currently registered uses of triclopyr. Exposures are expected for adults who apply triclopyr-containing products and for adults and children from post-application exposure in residential areas previously treated

with triclopyr. These uses have all been previously assessed and have resulted in no risk estimates of concern for both handler and post-application exposures (L. Venkateshwara; 04-AUG-2015; D426070). Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at: *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to triclopyr and any other substances.

3,5,6-trichloro-2-pyridinol, commonly known as TCP, is a metabolite of triclopyr, chlorpyrifos, and chlorpyrifos-methyl. Risk assessment of TCP was conducted in 2002, and the previous conclusions that the acute and chronic dietary aggregate exposure estimates are below EPA's LOC are still valid since the tolerances changes will not have a noticeable effect on dietary exposures to TCP. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides*.

C. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account

for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There is evidence of increased qualitative susceptibility to offspring from triclopyr exposure in the rat two-generation reproduction study based on increased incidence of rare pup malformations observed in the presence of parental toxicity. There is also potential qualitative susceptibility in the rat developmental toxicity study; however, the evidence was not as conclusive as the reproduction toxicity study. Concern is low since effects are well-characterized with clearly established no-observed adverse-effect level/lowest-observed adverse-effect level (NOAEL/LOAEL) values, effects were seen in the presence of parental toxicity, and selected endpoints are protective of the observed effects.

3. *Conclusion*. EPA has determined that reliable data show that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X, with the exception for inhalation exposures where the FQPA SF is retained at 10X. These decisions are based on the following findings:

i. The toxicity database for triclopyr is adequate for FQPA SF consideration. For assessing risks associated with inhalation exposures, the FQPA SF is retained at 10X to incorporate the database uncertainty factor (UF_{DB}) to account for the lack of a subchronic inhalation toxicity study.

ii. There is no evidence of neurotoxicity from triclopyr exposure.

iii. Selected endpoints are protective of any observed pre- or post- natal offspring susceptibility.

iv. The exposure databases are sufficient and unlikely to underestimate exposure. These assessments will not underestimate the exposure and risks posed by triclopyr.

D. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to triclopyr will occupy 54% of the aPAD for females 13 - 49 years old and 8% of the aPAD for all infants less than one year old (<1 year old), the population subgroups receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to triclopyr from food and water will utilize 47% of the cPAD for all infants less than one year old (<1 year old), the population group receiving the greatest exposure. Based on the explanation in the unit regarding residential use patterns, chronic residential exposure to residues of triclopyr is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Triclopyr is currently registered for uses that could result in short-term

residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to triclopyr.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 120 for children one year old to less than two years old (1 to < 2 years old) (dietary exposures with potential post-application incidental oral exposure resulting from the registered turf use). Because EPA's level of concern for triclopyr is a MOE of 100 or below, these MOEs are not of concern. For adults and children 3 to <6 years old, an aggregate risk index (ARI) is used since the POD for the oral and inhalation routes of exposure are the same, but the LOC values for oral (MOE<100) and inhalation (MOE<1000) exposures are different. The ARIs are 3.6 for children 3 to <6 years old (dietary exposure with post-application inhalation and ingestion from aquatic use), and 1.4 for adults (dietary exposure with handler inhalation exposure from turf use). Since EPA's level of concern is an ARI below 1, these ARIs are not of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Although triclopyr is currently registered for uses that could result in intermediate-term residential exposure, the Agency has determined that a quantified intermediate-term aggregate assessment is unnecessary since the short-and intermediate-term PODs are the same and the short-term aggregate provides a worst-case estimate of residential exposures. For these reasons, the short-term aggregate is protective of the longer-term exposures.

5. *Aggregate cancer risk for U.S. population*. A cancer aggregate risk assessment was not performed because a separate cancer assessment was not warranted (see Section B.1.iii).

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to triclopyr residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies (Methods ACR 77.2 and ACR 77.4 using gas chromatography with electron-capture detection (GC/ECD); Method GRM 97.02 using gas chromatography with mass-spectrometry detection (GC/MS)) are available to enforce the tolerance expression. The Food and Drug Administration (FDA) PESTDATA database dated 1/94 (Pesticide Analytical Manual (PAM) Vol. 1, Appendix 1) indicates triclopyr is completely recovered greater than 80% (>80%) using multi-residue method PAM Vol. 1 Section 402. Data pertaining to multi-residue methods testing of triclopyr and its metabolites through Protocols B, C, D and E have been submitted and forwarded to FDA.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; email address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the

United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for residues of triclopyr.

VI. Conclusion

Therefore, a time-limited tolerance is established for residues of triclopyr, (2-[(3,5,6-trichloro-2-pyridinyl)oxy]acetic acid), including its metabolites and degradates in or on sugarcane, cane at 40 ppm. This tolerance will expire on December 31, 2020.

VII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA sections 408(e) and 408(l)(6). 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). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances 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.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq*.).

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 (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action 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: May 10, 2017.

Michael Goodis,
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.

2. In § 180.417, revise paragraph (b) to read as follows:

§ 180.417 Triclopyr; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions*. Time-limited tolerances specified in the following table are established for residues of the triclopyr (2-[(3,5,6-trichloro-2-pyridinyl)oxy]acetic acid), including its metabolites and degradates in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration date
Sugarcane, cane	40	12/31/2020

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[FR Doc. 2017-11928 Filed: 6/7/2017 8:45 am; Publication Date: 6/8/2017]