

2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by March 6, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Particulate matter, Volatile organic compounds.

Dated: December 15, 2016.

**Heather McTeer Toney**,  
*Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

**Subpart L—Georgia**

■ 2. In § 52.570, the table in paragraph (c) is amended by revising the entry “391–3–1–.01” to read as follows:

**§ 52.570 Identification of plan.**

*	*	*	*	*
(c) * * *				

**EPA APPROVED GEORGIA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	8/14/2016	1/5/2017, [insert <b>Federal Register</b> citation].	
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. 2016–31753 Filed 1–4–17; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2016–0682; FRL–9956–54]

**Propiconazole; Extension of Tolerance for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends a time-limited tolerance for combined residues of the fungicide propiconazole and its metabolites in or on avocado at 10 parts per million (ppm) for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2019. 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 avocado trees. In addition, the Federal Food, Drug, and Cosmetic

Act (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.

**DATES:** This regulation is effective January 5, 2017. Objections and requests for hearings must be received on or before March 6, 2017, 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–2016–0682, 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: [RDfRNNotices@epa.gov](mailto:RDfRNNotices@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](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 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-2016-0682 in the subject line on the first page of your submission. All requests must be in writing, and must be received by the Hearing Clerk on or before March 6, 2017. 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-2016-0682, 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 originally issued a final rule, published in the **Federal Register** of May 11, 2011 (76 FR 27261) (FRL-8873-2), which announced that on its own initiative under FFDCA section 408, 21 U.S.C. 346a, it established a time-limited tolerance for the combined residues of propiconazole and its metabolites in or on avocado at 10 ppm, with an expiration date of December 31, 2013. Subsequently, EPA published a final rule in the **Federal Register** of December 27, 2013 (78 FR 78746) (FRL-9904-15) to extend (revise) the expiration date for this tolerance to December 31, 2016. EPA established the tolerance because FFDCA section 408(l)(6) 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.

In 2014, EPA received a request to extend the use of propiconazole on avocado for an additional 3 years (under a quarantine exemption) due to the disease situation remaining an emergency condition, warranting authorization of use of propiconazole under a quarantine exemption. After having reviewed the submission, EPA concurred that emergency conditions exist. EPA authorized under FIFRA section 18 the use of propiconazole on avocado trees for control of laurel wilt disease in Florida.

EPA assessed the potential risks presented by residues of propiconazole in or on avocado. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of May 11, 2011. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of FFDCA section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 3-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2019, under FFDCA section 408(l)(5), residues of the

pesticide not in excess of the amounts specified in the tolerance remaining in or on avocado after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

## III. 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 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 propiconazole on avocado.

## IV. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

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).

**V. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This 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: December 20, 2016.

**Daniel J. Rosenblatt,**  
*Acting 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(g), 346a and 371.

■ 2. In § 180.434, revise the entry for “avocado” in the table under paragraph (b) to read as follows:

**§ 180.434 Propiconazole; tolerances for residues.**

Commodity	Parts per million	Expiration/revocation date
Avocado .....	10	12/31/19

\* \* \* \* \*

[FR Doc. 2016-31827 Filed 1-4-17; 8:45 am]  
**BILLING CODE 6560-50-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**42 CFR Part 10**

**RIN 0906-AA89**

**340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation**

**AGENCY:** Health Resources and Services Administration, Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** The Health Resources and Services Administration (HRSA) administers section 340B of the Public Health Service Act (PHSA), referred to as the “340B Drug Pricing Program” or the “340B Program.” This final rule will apply to all drug manufacturers that are required to make their drugs available to covered entities under the 340B Program. This final rule sets forth the calculation of the 340B ceiling price and application of civil monetary penalties (CMPs).

**DATES:** This rule is effective March 6, 2017.

**FOR FURTHER INFORMATION CONTACT:** CAPT Krista Pedley, Director, Office of Pharmacy Affairs (OPA), Healthcare Systems Bureau (HSB), HRSA, 5600 Fishers Lane, Mail Stop 08W05A,

Rockville, MD 20857, or by telephone at 301-594-4353.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 602 of Public Law 102-585, the “Veterans Health Care Act of 1992,” enacted section 340B of the PHSA, “Limitation on Prices of Drugs Purchased by Covered Entities,” codified at 42 U.S.C. 256b. The 340B Program permits covered entities “to stretch scarce Federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.” H.R. REP. No. 102-384(II), at 12 (1992). Eligible covered entity types are defined in section 340B(a)(4) of the PHSA. Section 340B of the PHSA instructs HHS to enter into a pharmaceutical pricing agreement (PPA) with certain drug manufacturers. When a drug manufacturer signs a PPA, it is opting into the 340B Program and it agrees to the statutory requirement that the prices charged for covered outpatient drugs to covered entities will not exceed defined 340B ceiling prices, which are based on quarterly pricing data obtained from the Centers for Medicare & Medicaid Services (CMS). Section 7102 of the Patient Protection and Affordable Care Act (Pub. L. 111-148) as amended by section 2302 of the Health Care and Education Reconciliation Act (Pub. L. 111-152) (HCERA) (hereinafter referred to as the “Affordable Care Act”), added section 340B(d)(1)(B)(vi) of the PHSA, which provides for the imposition of sanctions in the form of civil monetary penalties, which—

(I) shall be assessed according to standards established in regulations to be promulgated by the Secretary;

(II) shall not exceed \$5,000 for each instance of overcharging a covered entity that may have occurred; and

(III) shall apply to any manufacturer with an agreement under Section 340B of the PHSA that knowingly and intentionally charges a covered entity a price for purchase of a drug that exceeds the maximum applicable price under subsection 340B(a)(1).

The Affordable Care Act also added section 340B(d)(1)(B)(i)(I) of the PHSA, which requires “[d]eveloping and publishing through an appropriate policy or regulatory issuance, precisely defined standards and methodology for the calculation of ceiling prices . . .” CMPs provide a critical enforcement mechanism for HHS if manufacturers do not comply with statutory pricing obligations under the 340B Program. HHS is also finalizing this rule to provide increased clarity in the marketplace for all 340B Program