

system would parallel the approach in postconviction proceedings in Federal capital cases and in Federal habeas corpus review of State capital cases under 18 U.S.C. 3599(a)(2), (f), (g)(2), which sets a presumptive cap of \$7,500 but provides a procedure for judicial authorization of greater amounts. Such a system would meet the requirement of establishing a mechanism for payment of reasonable litigation expenses as required for certification under chapter 154.

*Example 3.* State law authorizes reimbursement of counsel for litigation expenses in capital postconviction proceedings up to \$1000. There is no authorization for payment of litigation expenses above that set cap, even if the expenses are determined by the court to be reasonably necessary and reasonably incurred. This mechanism would not satisfy the chapter 154 requirement regarding payment of reasonable litigation expenses.

(d) The State provides competency standards for the appointment of counsel representing indigent prisoners in capital cases in State postconviction proceedings.

*Example 1.* A State requires that postconviction counsel must have been a member of the State bar for at least five years and have at least three years of felony litigation experience. This standard is similar to that set by Federal law for appointed counsel for indigent defendants in postconviction proceedings in Federal capital cases, and in Federal habeas corpus review of State capital cases, under 18 U.S.C. 3599(a)(2), (c). Because this State has adopted standards of competency, it meets this requirement.

*Example 2.* A State appoints counsel for indigent capital defendants in postconviction proceedings from a public defender's office. The appointed defender must be an attorney admitted to practice law in the State and must possess demonstrated experience in the litigation of capital cases. This State would meet the requirement of having established standards of competency for postconviction capital counsel.

*Example 3.* A State law requires some combination of training and litigation experience. For example, State law might provide that in order to represent an indigent defendant in State postconviction proceedings in a capital case an attorney must—(1) Have attended at least twelve hours of training or educational programs on postconviction criminal litigation and the defense of capital cases; (2) have substantial felony trial experience; and (3) have participated as counsel or co-counsel in at least five appeals or postconviction review proceedings relating to violent felony convictions. This State would meet the requirement of having established standards of competency for postconviction capital counsel.

*Example 4.* State law allows any attorney licensed by the State bar to practice law to represent indigent capital defendants in postconviction proceedings. No effort is made to set further standards or guidelines for such representation. Such a mechanism would not meet the requirement of having

established standards of competency for postconviction capital counsel.

#### **§ 26.23 Certification process.**

(a) An appropriate State official may request that the Attorney General determine whether the State meets the requirements for certification under § 26.22.

(b) The request shall include:

(1) An attestation by the submitting State official that he or she is the "appropriate State official" as defined in § 26.21; and

(2) An affirmation by the State that it has provided notice of its request for certification to the chief justice of the State's highest court.

(c) Upon receipt of a State's request for certification, the Attorney General will publish a notice in the **Federal Register**—

(1) Indicating that the State has requested certification;

(2) Listing any statutes, regulations, rules, policies, and other authorities identified by the State in support of the request; and

(3) Soliciting public comment on the request.

(d) The State's request will be reviewed by the Attorney General, who may, at any time, request supplementary information from the State or advise the State of any deficiencies that would need to be remedied in order to obtain certification. The review will include consideration of timely public comments received in response to the **Federal Register** notice under paragraph (c) of this section, and the certification will be published in the **Federal Register**, if certification is granted.

(e) Upon certification by the Attorney General that a State meets the requirements of § 26.22, such certification is final and will not be reopened. Subsequent changes in a State's mechanism for providing legal representation to indigent prisoners in State postconviction proceedings in capital cases do not affect the validity of a prior certification or the applicability of chapter 154 in any case in which a mechanism certified by the Attorney General existed during State postconviction proceedings in the case. If a State with a certified mechanism amends governing State law to change its mechanism in a manner that may affect satisfaction of the requirements of § 26.22, the certification of the State's mechanism prior to the change does not apply to the changed mechanism, but the State may request a new certification by the Attorney General that the changed mechanism satisfies the requirements of § 26.22.

Dated: May 29, 2007.

**Alberto R. Gonzales,**  
*Attorney General.*

[FR Doc. E7-10892 Filed 6-5-07; 8:45 am]

**BILLING CODE 4410-18-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 180**

[EPA-HQ-OPP-2006-0175; FRL-8129-2]

#### **Pesticides; Food Packaging treated with a Pesticide; Reopening of Comment Period**

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

**ACTION:** Proposed Rulemaking; reopening of the public comment period.

**SUMMARY:** EPA is reopening the public comment period for a proposed rule concerning pesticide-treated food packaging published in the **Federal Register** of April 6, 2007. Written comments were required to be submitted by April 21, 2007. EPA is reopening the comment period because the Agency received, considered and accepted a petition to extend the public comment period. This document reopens the comment period for an additional 30 days.

**DATES:** Comments must be received on or before July 6, 2007.

**ADDRESSES:** Follow the detailed instructions provided under **ADDRESSES** in the proposed rule published in the **Federal Register** of April 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mari L. Duggard, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0028; fax number: (703) 308-7026; e-mail address: [duggard.mari@epa.gov](mailto:duggard.mari@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this Action Apply to Me?*

The Agency identified in the proposed rule those who may be potentially affected by that action. 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 and to Whom Do I Submit Comments?*

To submit comments, or access the public docket, follow the detailed

instructions provided in Unit I.B. of the **SUPPLEMENTARY INFORMATION** of the April 6, 2007 proposed rule.

## II. What Action is EPA Taking?

This document reopens the comment period established in a proposed rule published in the **Federal Register** of April 6, 2007 (72 FR 17068) (FRL-8119-8). In that document, pursuant to FFDCA section 201(q)(3), EPA proposed to amend the current exception at 40 CFR §180.4 such that inert ingredients of food packaging (paper and paperboard, coatings, adhesives and polymers) are excepted from the definition of “pesticide chemical” or “pesticide chemical residue”, when the food packaging has been treated with a pesticide. EPA is reopening the comment period for 30 days. The new comment period ends on July 6, 2007.

## III. What is the Agency’s Authority for Taking this Action?

Section 201(q)(3) of FFDCA, as amended by the Food Quality Protection Act (FQPA), allows the Administrator, under specified conditions, to except by regulation certain substances from the definition of “pesticide chemical” or “pesticide chemical residue” if-

(A) Its occurrence as a residue on or in a raw agricultural commodity or processed food is attributable primarily to natural causes or human activities not involving the use of any substance for a pesticidal purpose in the production, storage, processing, or transportation of any raw agricultural commodity or processed food; and

(B) The Administrator, after consultation with the Secretary, determines that the substance more appropriately should be regulated under one or more provisions of this Act other than sections 402(a)(2)(B) and 408.

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record-keeping requirements.

Dated: May 21, 2007.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs*

[FR Doc. E7-10693 Filed 6-5-07; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0097; FRL-8122-7]

#### **Captan, 2,4-D, Dodine, DCPA, Endothall, Fomesafen, Propyzamide, Ethofumesate, Permethrin, Dimethipin, and Fenarimol; Proposed Tolerance Actions**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revoke certain tolerances for captan, 2,4-D, dodine, endothall, propyzamide, permethrin, ethofumesate and dimethipin. Also, EPA is proposing to modify certain tolerances for captan, 2,4-D, dodine, DCPA, endothall, propyzamide, permethrin, ethofumesate, and fomesafen. In addition, EPA is proposing to establish new tolerances for captan, 2,4-D, dodine, propyzamide, permethrin, and ethofumesate. The regulatory actions proposed in this document are in follow-up to 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).

**DATES:** Comments must be received on or before August 6, 2007.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2007-0097, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket’s normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2007-0097. EPA’s policy is that all comments received will be included in the docket

without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The Federal [regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the docket index available in [regulations.gov](http://www.regulations.gov). To access the electronic docket, go to <http://www.regulations.gov>, select “Advanced Search,” then “Docket Search.” Insert the docket ID number where indicated and select the “Submit” button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.