

Dated: July 20, 1999.

James Jones,

*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), 346(a) and
371.

§ 180.434 [Amended]

2. In § 180.434, by amending the table
in paragraph (b) by revising the date for
“Sorghum, aspirated grain fractions,”
“Sorghum, grain, grain,” and “Sorghum,
grain, stover” from “7/31/98” to read
“7/31/00” and the date for “Dry bean
forage,” “Dry bean hay” and “Dry
beans” from “12/31/98” to read “12/31/
00”.

[FR Doc. 99-19598 Filed 7-30-99; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300868A; FRL-6097-1]

RIN 2070-AB78

Formaldehyde; Revocation of Exemptions from the Requirement of Tolerances

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule announces the
revocation of exemptions from the
requirement of tolerances for residues
found in 40 CFR 180.1032 for
formaldehyde or a mixture of methylene
bispropionate and oxy(bismethylene)
bispropionate in or on the grains of
barley, corn, oats, sorghum, and wheat
and the forages of alfalfa, Bermuda
grass, bluegrass, brome grass, clover,
cowpea hay, fescue, lespedeza, lupines,
orchard grass, peanut hay, peavine hay,
rye grass, soybean hay, sudan grass,
timothy, and vetch from postharvest
application use as a fungicide to treat
animal feeds. This action is being taken
because there are no registered uses for
formaldehyde on these commodities.
The regulatory actions in this notice are
part of 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). By law,

EPA is required to reassess 33% of the
tolerances and exemptions in existence
on August 2, 1996, by August 1999, or
about 3,200 tolerances and exemptions.
This document revokes 22 exemptions,
which will be counted among
reassessments made toward the August
1999 review deadline of FFDCA section
408(q), as amended by the Food Quality
Protection Act (FQPA) of 1996.

DATES: This final rule becomes effective
November 1, 1999. Objections and
requests for hearings, identified by
docket control number [OPP-300868A]
must be received by EPA on or before
October 1, 1999.

ADDRESSES: Objections and hearing
requests can be submitted by mail or in
person. Please follow the detailed
instructions provided in Unit V of the
SUPPLEMENTARY INFORMATION section of
this document. To ensure proper
identification of your objection or
hearing request, you must identify the
docket control number [OPP-300868A]
in the subject line on the first page of
your request.

FOR FURTHER INFORMATION CONTACT: For
technical information, contact Phil
Budig, Special Review Branch, (7508C),
Special Review and Reregistration
Division, Office of Pesticide Programs,
U.S. Environmental Protection Agency,
401 M St., SW., Washington, DC 20460.
Office location: Special Review Branch,
CM #2, 6th floor, 1921 Jefferson Davis
Hwy., Arlington, VA. Telephone: (703)
308-8029; e-mail: budig.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. 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. Potentially
affected categories and entities may
include but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not exhaustive, but is
a guide to entities likely to be regulated
by this action. The North American
Industrial Classification System
(NAICS) codes will assist you in
determining whether this action applies
to you. If you have questions regarding
the applicability of this action to a
particular entity, consult the person
listed in the “FOR FURTHER
INFORMATION CONTACT” section.

II. How Can I Get Additional Information or Copies of this or other Support Documents?

A. Electronically

You may obtain electronic copies of
this document and various support
documents from the EPA Internet Home
Page at www.epa.gov. On the Home
Page, select “Laws and Regulations,”
and then look up the entry for this
document under “**Federal Register** -
Environmental Documents.” You can
also go directly to the “**Federal
Register**” listings at [www.epa.gov/
fedrgrstr](http://www.epa.gov/fedrgrstr).

B. In Person or by Phone

If you have any questions or need
additional information about this action,
please contact the technical person
identified in the “FOR FURTHER
INFORMATION CONTACT” section. In
addition, the official record for this
notice, including the public version, has
been established under docket control
number [OPP-300868A] (including
comments and data submitted
electronically as described below). A
public version of this record, including
printed, paper versions of any electronic
comments, which does not include any
information claimed as Confidential
Business Information (CBI), is available
for inspection in Room 119, Crystal Mall
#2, 1921 Jefferson Davis Hwy.,
Arlington VA, from 8:30 a.m. to 4 p.m.,
Monday through Friday, excluding legal
holidays. The Public Information and
Records Integrity Branch telephone
number is (703) 305-5805.

III. What Action is being Taken?

This final rule revokes FFDCA
exemptions from the requirement of
tolerances for residues of formaldehyde
in or on certain specified commodities.
EPA is revoking these exemptions from
the requirement of tolerances because
they are not necessary to cover residues
of the relevant pesticides in or on
domestically treated commodities or
commodities treated outside but
imported into the United States. This
pesticide is no longer used on these
commodities within the United States
and no person has provided comment
identifying a need for EPA to retain the
exemptions to cover residues in or on
imported foods. EPA has historically
expressed a concern that retention of
tolerances or exemptions that are not
necessary to cover residues in or on
legally treated foods has the potential to
encourage misuse of pesticides within
the United States. Thus, it is EPA's
policy to issue a final rule revoking
those tolerances for residues of pesticide
chemicals for which there are no active

registrations under FIFRA, unless any person, in comments on the proposal, demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

In the **Federal Register** of May 24, 1999 (64 FR 27943) (FRL-6083-3), EPA issued a proposed rule announcing the proposed revocation of exemptions from the requirement of tolerances, in 40 CFR 180.1032, for residues found for formaldehyde. No comments were received by the Agency in response to the document published in the **Federal Register** of May 24, 1999.

Therefore, EPA is revoking the exemptions from the requirement of tolerances found in 40 CFR 180.1032 for residues of formaldehyde or a mixture of methylene bispropionate and oxy(bismethylene) bispropionate in or on the grains of barley, corn, oats, sorghum, and wheat and the forages of alfalfa, Bermuda grass, bluegrass, brome grass, clover, cowpea hay, fescue, lespedeza, lupines, orchard grass, peanut hay, peavine hay, rye grass, soybean hay, sudan grass, timothy, and vetch from postharvest application use as a fungicide to treat animal feeds.

IV. When Do these Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days to ensure that all affected parties receive notice of EPA's action. Consequently, the effective date is November 1, 1999. For this particular final rule, the actions will affect uses which have been canceled for more than a year. Therefore, commodities should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this notice, and that are in the channels of trade following the revocation of exemptions from the requirement of tolerances, shall be subject to FFDCA section 408(1)(5), as established by the Food Quality Protection Act (FQPA). Under this section, any residue of these pesticides in or on such food shall not render the food adulterated, so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include

records that verify the dates that the pesticide was applied to such food.

V. Can I Submit Objections or Hearing Requests?

Yes. Any person can file written objections to any aspect of this regulation and can also request a hearing on those objections. Objections and hearing requests are currently governed by the procedures in 40 CFR part 178, modified as needed to reflect the requirements of FFDCA section 408(g).

A. When and Where to Submit

Objections and hearing requests must be mailed or delivered to the Hearing Clerk no later than October 1, 1999. The address of the Hearing Clerk is: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW, Washington, DC 20460.

B. Fees for Submission

1. Each objection must be accompanied by a fee of \$3,275 or a request for waiver of fees. Fees accompanying objections and hearing requests must be labeled "Tolerance Petition Fees" and forwarded to EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

2. EPA may waive any fee when a waiver or refund is equitable and not contrary to the purposes of the Act. A request for a waiver of objection fees should be submitted to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460. The request for a waiver must be accompanied by a fee of \$1,650, unless the objector has no financial interest in the matter. The fee, if required, must be submitted to the address in Unit V.B.1. of this document. For additional information on tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), at the same mailing address, or by phone at (703) 305-5697 or e-mail at tompkins.jim@epa.gov.

C. Information to be Submitted

Objections must specify the provisions of the regulation considered objectionable and the grounds for the objections. 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. You may claim information that you submit in response to this document as confidential by marking any part or all

of that information as CBI. Information so marked will not be disclosed, except in accordance with procedures set forth in 40 CFR, part 2.

D. Granting a Hearing Request

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following:

1. There is a genuine and substantial issue of fact.
2. 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.
3. Resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

VI. How Do the Regulatory Assessment Requirements Apply to this Final Action?

A. Is this a "Significant Regulatory Action"?

No. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action." The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not "significant," unless the action involves the revocation of a tolerance that may result in a substantial adverse and material effect on the economy. In addition, this final action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this final action is not an economically significant regulatory action, as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10-fold safety factor to risk assessments, in order to ensure the protection of infants and children, unless reliable data supports a different safety factor.

B. Does this Final Action Contain Any Reporting or Recordkeeping Requirements?

No. This final action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

C. Does this Final Action Involve Any "Unfunded Mandates"?

No. This final 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 (Public Law 104-4).

D. Do Executive Orders 12875 and 13084 Require EPA to Consult with States and Indian Tribal Governments Prior to Taking the Final Action in this Document?

No. Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's final rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation

with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's final rule does not significantly or uniquely affect the communities of Indian tribal governments. This final action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Does this Final Action Involve Any Environmental Justice Issues?

No. This action does not involve special considerations of environmental-justice related issues pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

F. Does this Final Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?

No. The Agency has certified that tolerance actions, including the tolerance final actions in this document, are not likely to result in a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination, along with its generic certification under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), appears at 63 FR 55565, October 16, 1998 (FRL-6035-7). This generic certification has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

G. Does this Final Action Involve Technical Standards?

No. This tolerance final 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 of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable

law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

H. Are There Any International Trade Issues Raised by this Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support. This guidance will be made available to interested persons.

I. Is this Final Action Subject to Review under the Congressional Review Act?

Yes. The Congressional Review Act, 5 U.S.C. Sec. 801 *et seq.*, as amended 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 rule and other required information to the U.S. Senate, U.S. House of Representatives, and 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: July 28, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration 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. 321(q), 346a, and 371.

§ 180.1032 [Removed]

2. By removing § 180.1032.

[FR Doc. 99-19783 Filed 7-30-99; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP-300906; FRL-6096-2]

RIN 2070-AB78

Fenbutatin oxide, Glyphosate, Linuron, and Mevinphos; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revokes specific tolerances for the herbicides glyphosate and linuron, and the insecticides fenbutatin oxide (hexakis (2-methyl-2-phenylpropyl)distannoxane) and mevinphos (methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers). EPA is revoking these tolerances because the Agency has canceled the food uses associated with them. All registrations for mevinphos were canceled in 1994. These revocations were proposed in the **Federal Register**, as given in the regulatory text. The regulatory actions in this document are part of 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). By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. This document revokes 58 tolerances and/or exemptions. Since 3 tolerances were previously reassessed, 55 of the 58 revocations are counted here as

reassessments made toward the August, 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This final rule becomes effective November 1, 1999. Objections and requests for hearings, identified by docket control number [OPP-300906], must be received by EPA on or before October 1, 1999.

ADDRESSES: Objections and hearing requests can be submitted by mail or in person. Please follow the detailed instructions provided in Unit V of the "SUPPLEMENTARY INFORMATION" section of this document. To ensure proper identification of your objection or hearing request, you must identify the docket control number [OPP-300906] in the subject line on the first page of your request.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Joseph Nevola, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, CM#2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308-8037; e-mail: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. 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. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not exhaustive, but is a guide to entities likely to be regulated by this action. The North American Industrial Classification System (NAICS) codes will assist you in determining whether this action applies to you. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

II. How Can I Get Additional Information or Copies of this or other Support Documents?

A. Electronically

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations", and then look up the entry for this document under "**Federal Register** - Environmental Documents." You can also go directly to the "**Federal Register**" listings at <http://www.epa.gov/fedrgrstr/>.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP-300906] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305-5805.

III. What Action is being Taken?

This final rule revokes the FFDCA tolerances for residues of certain specified pesticides in or on certain specified commodities. EPA is revoking these tolerances because they are not necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. These pesticides are no longer used on those specified commodities within the United States and no person has provided comment identifying a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person in