

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]

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### **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

comments on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

EPA is not issuing today a final rule to revoke those tolerances for which EPA received comments demonstrating a need for the tolerance to be retained. Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed above only if, (1) prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained, (2) EPA independently verifies that the tolerance is no longer needed, (3) the tolerance is not supported by data, or (4) the tolerance does not meet the requirements under FQPA.

Except for mevinphos, EPA had issued a Registration Eligibility Decision (RED) for the pesticide active ingredients listed in this document before the passage of FQPA. The RED contains the Agency's evaluation of the data base of a chemical, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and the Agency's decisions and conditions under which these uses and products will be eligible for reregistration. In the **Federal Register**, EPA issued several documents based on those REDs which proposed the establishment, modification, and revocation of specific tolerances and invited public comment for consideration and for support of tolerance retention under FFDCA standards (see below). Actions which were included in the original proposals, such as establishing or modifying tolerances, require assessment under the FQPA standard of "reasonable certainty of no harm", and will be re-proposed after that is completed. However, the tolerance revocations in this document may be taken without such assessment, because the tolerances are no longer necessary.

Hexakis (2-methyl-2-phenylpropyl)distannoxane, also known as fenbutatin oxide, is a miticide/acaricide first registered in 1974. EPA issued a Registration Standard for fenbutatin oxide in 1987 and a RED in November 1994. In the **Federal Register** of March 20, 1996 (61 FR 11359) (FRL-5347-6), EPA proposed to revoke the tolerances for marigolds, fresh in 40 CFR 180.362; and for marigolds (dried and extract) in § 186.3550. Fresh and

dried marigolds are not considered to be significant food or feed commodities in Table II, updated in August, 1996 as Table I "Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops". In addition, the Agency proposed tolerance revocations for dried grape pomace and raisin waste, which were revoked in the **Federal Register** of December 17, 1997 (62 FR 66020) (FRL-5753-1). A comment to the March 20, 1996 document was received.

EPA completed its RED for glyphosate in September 1993. In the **Federal Register** of June 27, 1996 (61 FR 33469) (FRL-5380-9), EPA proposed to revoke the tolerances in 40 CFR 180.364 for cotton, forage and cotton, hay; and for citrus molasses in § 186.3500, which was later transferred to the table in paragraph (a) of § 180.364 (62 FR 17723, April 11, 1997) (FRL-5598-6). Cotton, forage; cotton, hay; and citrus molasses are not considered to be significant food or feed commodities. In addition, the Agency proposed tolerance revocation for peanut, hulls (shells), which was revoked in the **Federal Register** of December 17, 1997 (62 FR 66020) (FRL-5753-1). No significant comments were received concerning glyphosate (61 FR 33469). Therefore, EPA is revoking those three tolerances in 40 CFR 180.364 for glyphosate residues in or on cotton, forage; cotton, hay; and citrus molasses.

The linuron RED was completed in March, 1995. In the **Federal Register** on June 26, 1996 (61 FR 33054) (FRL-5368-7), EPA proposed to revoke the tolerances in 40 CFR 180.184 for barley, grain; barley, hay; barley, straw; corn, pop, fodder; corn, pop, forage; oats, forage; oats, grain; oats, hay; oats, straw; rye, forage; rye, grain; rye, hay; and rye, straw. These uses are no longer registered, and, as discussed above, it is the Agency's policy to revoke tolerances in such cases. The tolerance for parsnips, tops, was also proposed for revocation, since it is not considered to be a significant food or feed commodity. No significant comments were received concerning linuron (61 FR 33054). Therefore, EPA is revoking those 14 tolerances in 40 CFR 180.184.

In the case of mevinphos, on June 30, 1994, Amvac Chemical Corporation submitted a request for voluntary cancellation when EPA was prepared to issue a Notice of Intent to Suspend all mevinphos registrations because of acute poisoning incidents involving agricultural workers. EPA accepted this request. All U.S. registrations for the insecticide mevinphos were canceled on July 1, 1994. The Agency subsequently published a Notice of Receipt of Request for Cancellation, Announcement of

Cancellation Order, and FIFRA section 6(g) Notification for Mevinphos in the **Federal Register** on August 1, 1994 (59 FR 38973). The Cancellation Order was subsequently modified on January 13, 1995 to extend the sale and distribution from December 30, 1994 to November 30, 1995, and to extend use from February 28, 1995 to November 30, 1995 (60 FR 17357, April 5, 1995) (FRL-4943-4). EPA proposed to revoke all tolerances for the insecticide mevinphos on August 2, 1995 (60 FR 39302) (FRL-4967-1), proposing the effective date of revocation as May 31, 1996.

The following comments were received by the Agency in response to the documents published in the **Federal Register** of March 20, 1996 (61 FR 11359) for fenbutatin oxide and of August 2, 1995 (60 FR 39302) for mevinphos.

#### A. Fenbutatin oxide

*Comment from DuPont Agricultural Products.* A comment was received from DuPont requesting that EPA consider a revision to the hexakis (fenbutatin oxide) tolerance on citrus, dried citrus pulp, and citrus oil. DuPont claimed that new data supports a tolerance of 4 ppm on citrus, 20 ppm on citrus pulp, and 28 ppm on citrus oil.

*Agency response.* Since an FQPA reassessment will need to be made, the Agency will not revise tolerances for fenbutatin oxide in this document. EPA will address the issue of tolerance revision for citrus, citrus pulp, and citrus oil through the tolerance petition process. The Agency is revoking the tolerances for "marigolds, fresh" in 40 CFR 180.362 and for "marigolds (dried and extract)" in § 186.3550.

#### B. Mevinphos

1. *Comments from the Farmworker Justice Fund, Inc. and from the United Farmworkers of America.* These groups supported revocation of mevinphos tolerances, and supported an earlier effective date of the tolerance revocations.

2. *Comments from Rogers Foods Chili Products, from Cal-Compac Foods, and from Basic Vegetable Products.* EPA received comments which requested a delay in the revocation of the mevinphos tolerance for dehydrated parsley to May 31, 1997.

3. *Comment from the Association of Fruit and Vegetable Processors and Exporters in General, A.C.* EPA received a request that the tolerances for mevinphos use on broccoli and cauliflower not be revoked.

4. *Comments from Amvac Chemical Corporation.* Comments were received from Weinberg, Bergeson, and Neuman

on behalf of the manufacturer of mevinphos, Amvac Chemical Corporation. Weinberg, Bergeson, and Neuman in comments dated September 28, 1995 and October 16, 1995, outlined issues that concerned Amvac Chemical Corporation regarding the revocation of the mevinphos tolerances. EPA also received several follow-up comments from Amvac Chemical Corporation requesting the retention of certain tolerances to allow importation of mevinphos treated food. In a meeting with EPA on September 26, 1995, and in the letter of September 28, 1995, Amvac Chemical Corporation committed to support tolerances with data for 13 commodities imported into the United States. This was detailed in follow-up letters of October 16, 1995 and March 20, 1996, and revised on June 7, 1996 to include support for an import tolerance concerning cauliflower. In a follow-up communication of July 6, 1999, Amvac Chemical Corporation clarified its position and expressed agreement with EPA that, with the exception of broccoli, cabbage, cauliflower, celery, cucumbers, grapes, lettuce, melons, peppers, peas (succulent), spinach, summer squash, strawberries, tomatoes, and watermelon, the other mevinphos tolerances should be revoked. Amvac suggested that current residue data supports the combination of the two existing watermelon and melons tolerances into a single tolerance for the entire melon group as the raw agricultural commodity of 0.5 ppm.

*Agency response.* On September 26, 1995, Amvac made a commitment to generate data for 13 tolerances and any additional uses that they intend to support. In fact, Amvac revised its commitment on June 7, 1996, to include cauliflower as an import tolerance. On July 6, 1999, Amvac clarified its position to maintain the watermelon tolerance in combination with melons, but not to maintain the peavines tolerance. Therefore, EPA will not revoke the tolerances in 40 CFR 180.157 for mevinphos use on broccoli; cabbage; cauliflower; celery; cucumbers; grapes; lettuce; melons (incl. cantaloupes, honeydew melon, and muskmelon, determined on the edible portion with rind removed); peas; peppers; spinach; squash, summer; strawberries; tomatoes, and watermelon at this time. EPA will follow-up to see that data requirements are met. When the submitted data has been reviewed, EPA will re-evaluate these tolerances under FQPA. The suggestion to combine the two watermelon and melons tolerances into a single tolerance will be considered,

but not addressed at this time. In general, the Agency's goal is to harmonize U.S. tolerances with Codex Maximum Residue Limits (MRLs) and would consider the data used for establishing MRLs. However, the Agency needs representative data covering all major growing areas that mevinphos treated commodities are likely to be imported from into the United States. EPA has developed guidance on import tolerances that is available to interested persons.

EPA is revoking the tolerances in § 180.157 for alfalfa; apples; artichokes; beans; beets, garden (incl. tops); birdsfoot trefoil, forage; birdsfoot trefoil, hay; Brussel sprouts; carrots; cherries; chicory, red (tops) (also known as radicchio); citrus; clover; collards; corn, field, forage; corn, grain, field; corn, pop, forage; corn, pop, grain; corn, sweet (K+CWHR); corn, sweet, forage; eggplant; kale; mustard greens; okra; onions (green); parsley; peaches; pears; peavines; plums; potatoes; raspberries; sorghum, forage; sorghum, grain; turnips; turnips, tops; walnuts (determined on the nut meats with shell removed); and watercress; and the tolerance in § 180.524 for dehydrated parsley. In the case of dehydrated parsley, 2 years have passed since the requested delay date. Therefore, the requested delay is no longer an issue.

#### **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 actions. 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 final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the 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 a 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, DC 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](mailto: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 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 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 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 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 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 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 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 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 Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?*

No. The Agency has certified that tolerance actions, including the tolerance 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 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 Action?*

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex 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 Action Subject to Review under the Congressional Review Act?*

Yes. The Congressional Review Act, 5 U.S.C. 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 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, 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**

##### *40 CFR Part 180*

Environmental protection,  
Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

##### *40 CFR Part 186*

Environmental protection, Animal feeds, Pesticides and pests.

Dated: July 28, 1999.

**Jack E. Housenger,**

*Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

Therefore, 40 CFR parts 180 and 186 are amended as follows:

#### **PART 180—[Amended]**

##### **1. In part 180:**

a. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

b. Section 180.157 is revised to read as follows:

#### **§ 180.157 Methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers, in or on the following raw agricultural commodities:

| Commodity   | Parts per million |
|---|-------------------|
| Broccoli .....  | 1.0               |
| Cabbage .....   | 1.0               |
| Cauliflower .....   | 1.0               |
| Celery .....  | 1.0               |
| Cucumbers .....   | 0.2               |
| Grapes .....  | 0.5               |
| Lettuce .....   | 0.5               |
| Melons (incl. cantaloupes, honeydew melon, and muskmelon, determined on the edible portion with rind removed) ..... | 0.5               |
| Peas .....  | 0.25              |
| Peppers .....   | 0.25              |
| Spinach .....   | 1.0               |
| Squash, summer .....  | 0.25              |
| Strawberries .....  | 1.0               |
| Tomatoes .....  | 0.2               |
| Watermelon .....  | 0.5               |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

#### **§ 180.184 [Amended]**

c. Section 180.184 is revised to read as follows:

#### **§ 180.184 Linuron; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide

linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the following food commodities:

| Commodity                             | Parts per million |
|---------------------------------------|-------------------|
| Asparagus .....                       | 7.0               |
| Carrots .....                         | 1                 |
| Cattle, fat .....                     | 1                 |
| Cattle, mbyp .....                    | 1                 |
| Cattle, meat .....                    | 1                 |
| Celery .....                          | 0.5               |
| Corn, field, fodder .....             | 1                 |
| Corn, field, forage .....             | 1                 |
| Corn, fresh (inc. sweet K+CWHR) ..... | 0.25              |
| Corn, grain (inc. pop) .....          | 0.25              |
| Corn, sweet, fodder .....             | 1                 |
| Corn, sweet, forage .....             | 1                 |
| Cottonseed .....                      | 0.25              |
| Goats, fat .....                      | 1                 |
| Goats, mbyp .....                     | 1                 |
| Goats, meat .....                     | 1                 |
| Hogs, fat .....                       | 1                 |
| Hogs, mbyp .....                      | 1                 |
| Hogs, meat .....                      | 1                 |
| Horses, fat .....                     | 1                 |
| Horses, mbyp .....                    | 1                 |
| Horses, meat .....                    | 1                 |
| Parsnips (with or without tops) ..... | 0.5               |
| Potatoes .....                        | 1                 |
| Sheep, fat .....                      | 1                 |
| Sheep, mbyp .....                     | 1                 |
| Sheep, meat .....                     | 1                 |
| Sorghum, fodder .....                 | 1                 |
| Sorghum, forage .....                 | 1                 |
| Sorghum, grain (milo) .....           | 0.25              |
| Soybeans, (dry or succulent) ...      | 1                 |
| Soybeans, forage .....                | 1                 |
| Soybeans, hay .....                   | 1                 |
| Wheat, forage .....                   | 0.5               |
| Wheat, grain .....                    | 0.25              |
| Wheat, hay .....                      | 0.5               |
| Wheat, straw .....                    | 0.5               |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the herbicide linuron 3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] in or on the following food commodity:

| Commodity     | Parts per million |
|---------------|-------------------|
| Parsley ..... | 0.25              |

(d) *Indirect or inadvertent residues.* [Reserved]

#### **§ 180.362 [Amended]**

d. By adding a paragraph heading to paragraph (a).

e. By redesignating paragraph (b) as paragraph (c), adding a paragraph heading to newly designated paragraph (c), and by removing from the table in newly designated paragraph (c) the entry for "marigolds, fresh".

f. By adding and reserving with paragraph headings new paragraphs (b) and (d).

The additions to § 180.362 read as follows:

**§ 180.362 Hexakis (2-methyl-2-phenylpropyl)distannoxane; tolerances for residues.**

(a) *General.* \* \* \*

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* \* \* \*

(d) *Indirect or inadvertent residues.* [Reserved]

**§ 180.364 [Amended]**

g. In § 180.364, in the table to paragraph (a)(1) remove the entries for "citrus molasses"; "cotton, forage"; and "cotton, hay".

**§ 180.524 [Removed]**

h. By removing § 180.524.

**PART 186—[AMENDED]**

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

**Authority:** 21 U.S.C. 342, 348, and 371.

**§ 186.3550 [Amended]**

b. In § 186.3550, by removing paragraph (b).

[FR Doc. 99-19785 Filed 7-30-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-6411-2]

**New Jersey: Authorization of State Hazardous Waste Program**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* ("RCRA"), and the regulations thereunder, the State of New Jersey (the "State") applied for final authorization of its hazardous waste program adopted in October 1996. On May 11, 1999, the Environmental Protection Agency, Region 2 ("EPA") published a proposed rule (64 FR 25258), proposing to approve and authorize the State's hazardous waste program, subject to public comment. Today's action authorizes the State's hazardous waste

program as proposed, since there were no public comments submitted.

**EFFECTIVE DATE:** This rule is effective August 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Butler, Division of Environmental Planning and Protection, USEPA, Region 2, 290 Broadway (22nd Floor) New York, NY 10007-1866; telephone (212) 637-4163; E mail—[butler.elizabeth@epamail.epa.gov](mailto:butler.elizabeth@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. State Authorization Under RCRA**

Pursuant to section 3006 of RCRA, 42 U.S.C. 6926, EPA may, upon application by a state, authorize the applicant state's hazardous waste program to operate in the state in lieu of the federal hazardous waste program. The federal hazardous waste program (the "Federal Program") is comprised of the regulations published in Title 40 of the Code of Federal Regulations under the authority of RCRA. To qualify for final authorization, a state's hazardous waste program must: (1) Be equivalent with the Federal Program; (2) be consistent with the Federal Program; and (3) provide for adequate enforcement. RCRA section 3006(b), 42 U.S.C. 6926(b).

**II. Background—History of RCRA Authorization Within the State**

In 1985, the State was granted final authorization by EPA for the RCRA base program, effective February 21, 1985 (50 FR 5260, 2/7/85). At that time the base program covered the essential core of the Federal Program as reflected in the initial enactment of RCRA prior to its amendment by the Hazardous and Solid Waste Amendments of 1984. In 1988 and 1993 EPA authorized the State for a small number of additional regulations (53 FR 30054, 8/10/88, and 58 FR 59370, 11/9/93).

On October 21, 1996, the State repealed its then existing hazardous waste program, including the authorized provisions, and adopted a new program (N.J.A.C. 7:26G-1.1 *et seq.*, 28 New Jersey Register 4606, 10/21/96). As part of this October 21, 1996 adoption, the State adopted, with certain exceptions and modifications, 40 CFR parts 124, 260-266, 268 and 270 as set forth in the July 1, 1993 CFR, by incorporation by reference, and designated these provisions N.J.A.C. 7:26G-4 through N.J.A.C. 7:26G-13, inclusive. (28 New Jersey Register 4652-4668, 10/21/96. N.J.A.C. 7:26G-4 through N.J.A.C. 7:26G-13 are referred to below as the "State Program"). Under cover of a letter dated January 13, 1999, the State submitted an application meeting the

requirements of 40 CFR part 271, requesting authorization of the State Program.<sup>1</sup>

**III. Decision**

**A. Authorization of the State Program**

EPA has reviewed the State's application and has determined that the State Program, with limited exceptions, possesses the requisite equivalence and consistency with the Federal Program. Furthermore, the State's application indicates that the State possesses the necessary enforcement resources and is prepared to utilize those resources to provide adequate enforcement of the State Program. Accordingly, EPA has determined that the State Program qualifies for authorization and hereby approves and authorizes the State Program, with the exceptions noted below.

In several instances the State has not incorporated a federal regulation by reference and has not adopted a substitute regulation. These instances are all clearly indicated in the State's October 21, 1996 adoption. None of these omitted federal regulations, however, are required to be adopted for authorization, for various reasons including, for example, that they are not applicable or delegable to states. Thus, the State's failure to either adopt these particular federal regulations, or to adopt substitute regulations, in no way impairs the equivalence or consistency of the State Program.

EPA notes that its determination to authorize the State Program is based on the information submitted to EPA by the State. If the criteria upon which EPA bases its approval subsequently change for any reason, including without limitation changes in State laws, regulations or administrative procedures which negate the equivalency or consistency of one or more provisions of the State Program, or in any way limit the State's ability to enforce or properly administer the State Program, EPA may revisit its approval. In such event, EPA may exercise its authority, provided in 40 CFR 271.22, to afford the State an opportunity to correct any program deficiencies, or EPA may withdraw authorization of the State Program, in whole or in part. Furthermore,

<sup>1</sup> The State's redesignation of the Parts of the Federal Program adopted by incorporation by reference on October 21, 1996, and comprising the State Program, is as follows: N.J.A.C. 7:26G-4 (40 CFR part 260); N.J.A.C. 7:26G-5 (40 CFR part 261); N.J.A.C. 7:26G-6 (40 CFR part 262); N.J.A.C. 7:26G-7 (40 CFR part 263); N.J.A.C. 7:26G-8 (40 CFR part 264); N.J.A.C. 7:26G-9 (40 CFR part 265); N.J.A.C. 7:26G-10 (40 CFR part 266); N.J.A.C. 7:26G-11 (40 CFR part 268); N.J.A.C. 7:26G-12 (40 CFR part 270); and N.J.A.C. 7:26G-13 (40 CFR part 124).