

levels of government, as specified in Executive Order 13132, entitled *Federalism* (August 10 1999, 64 FR 43255). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000, 65 FR 67249). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Submission to Congress and the Comptroller General

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 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 this final rule in the **Federal Register**. This final rule 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: June 27, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention 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 374.

2. Section 180.1206 is revised to read as follows:

§ 180.1206 *Aspergillus flavus* AF36.

Aspergillus flavus AF36 is temporarily exempt from the requirement of a tolerance in or on cotton. The temporary exemption from a tolerance will expire on December 30, 2004, consistent with the Experimental Use Permit 69224-EUP-1.

[FR Doc. 02-17869 Filed 7-16-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0085; FRL-7182-5]

Atrazine, Bensulide, Diphenamid, Imazalil, 6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one, Phosphamidon S-Propyl dipropylthiocarbamate, and Trimethacarb; Tolerance Revocations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes specific tolerances for residues of the insecticides phosphamidon and trimethacarb; the herbicides atrazine, S-(O,O-diisopropyl phosphorodithioate) ester of N-(2-mercaptoethyl) benzenesulfonamide, known as

bensulide, S-propyl dipropylthiocarbamate, known as vernolate, and diphenamid; the fungicide imazalil; and the fungicide/insecticide 6-methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one (oxythioquinox) because these pesticides are no longer registered on certain food uses in the United States. The regulatory actions in this final rule contribute toward the Agency's tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions in this document pertain to the revocation of 75 tolerances which are counted among tolerance/exemption reassessments made toward the August 2002 review deadline.

DATES: This regulation is effective October 15, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0085, must be received by EPA on or before September 16, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0085 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8037; e-mail address: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be 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 codes	Examples of potentially affected entities
Industry	111 112	Crop production Animal production

Categories	NAICS codes	Examples of potentially affected entities
	311 32532	Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. 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 Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0085. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity

Branch (PIRIB), Rm. 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 PIRIB telephone number is (703) 305-5805.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of August 1, 2001 (66 FR 39709) (FRL-6787-3), EPA issued a proposed rule to revoke the tolerances listed in this final rule. Also, the August 1, 2001 proposal invited public comment for consideration and for support of tolerance retention under FFDCA standards.

This final rule revokes certain FFDCA tolerances for residues of the insecticides phosphamidon and trimethacarb; the herbicides atrazine, bensulide, diphenamid, and vernolate; the fungicide imazalil; and the fungicide/insecticide oxythioquinox in or on specified commodities listed in the regulatory text because these pesticides are not registered under FIFRA for uses on those commodities. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on certain 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. No one commented that there was a need for EPA to retain these 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 commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed above 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, or (3); the tolerance is not supported by

data that demonstrate that the tolerance meets the requirements under FQPA.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of August 1, 2001 (66 FR 39709), EPA did receive comment regarding the need to retain carbofuran tolerances and fumaric acid tolerance exemptions, as follows:

1. *Carbofuran.* EPA received a comment from FMC Corporation, who expressed opposition to the proposed revocation of the rice and rice, straw tolerances on the basis of a 1991 settlement agreement reached between FMC and EPA. Also, FMC cited use of carbofuran for control of rice pests in numerous countries and stated that the rice tolerances should be retained to allow importation of carbofuran-treated rice.

Agency response. In 1999, EPA notified FMC Corporation that the Agency would not authorize any further production of granular carbofuran for rice in the 1999 season and beyond. Distribution, sale, and use of existing stocks of granular carbofuran on rice after August 31, 1999, were prohibited except in California, where due to unique transition issues, rice growers in California were permitted to use existing stocks of carbofuran on rice until August 2000. On August 1, 2001 (66 FR 39709), EPA proposed to revoke the tolerances for residues of the insecticide carbofuran and its metabolites in or on rice and rice, straw with an expiration/revocation date of August 31, 2002 to allow treated commodities to pass through the channels of trade. Because in a comment to the proposed rule, FMC Corporation expressed a need for the retention of these tolerances for import purposes and because FMC agreed to support these tolerances according to EPA's guidance on pesticide import tolerances and residue data for imported food published in the **Federal Register** of June 1, 2000 (65 FR 35069) (FRL-6559-3), EPA will not revoke the tolerances in 40 CFR 180.254 for rice and rice, straw at this time. When the submitted data have been reviewed, EPA will re-evaluate these tolerances under FFDCA. If these data requirements are not met, EPA will finalize the revocation of the carbofuran rice tolerances.

Concerning fumaric acid, the following comment was received:

2. *Fumaric acid.* EPA received a comment from Keller and Heckman LLP, who on behalf of a client, requested the retention of the current

exemptions for fumaric acid in 40 CFR 180.2. The commenter stated that a client will, in the near future, submit an application for the registration of a pesticide containing fumaric acid. Also, the commenter claimed that since fumaric acid had been reassessed and determined to be safe by EPA and that additional data to support the exemptions need not be required. In addition, the commenter asked that his comments be considered a petition to establish an inert tolerance exemption in 40 CFR 180.1001(d) as a reinstatement for an exemption revoked in a final rule published in the **Federal Register** of October 26, 1998 (63 FR 57062) (FRL-6035-8).

Agency response. EPA is still evaluating the issues described in the comment. Therefore, at this time, EPA will not take final action on the tolerance exemptions in 40 CFR 180.2 for residues of the fungicide fumaric acid on raw agricultural commodities and on animal products or in 40 CFR 180.1001(d) on the tolerance exemption for the inert use of fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer in pesticide formulations applied to growing crops only.

No comments were received by the Agency concerning the following.

3. **Atrazine.** The Agency is revoking the tolerances in 40 CFR 180.220 for use of atrazine and its metabolites on orchardgrass and orchardgrass hay because atrazine is no longer registered for these uses. EPA proposed these tolerance revocations in the **Federal Register** of August 1, 2001 (66 FR 39709) and also previously on February 5, 1998 (63 FR 5907) (FRL-5743-9). In response to a comment in 1998 from the Washington State Department of Agriculture that active registrations for atrazine use on grass existed, EPA did not take final action on the tolerances in 40 CFR 180.220 for use of atrazine on grass, range; orchardgrass; and orchardgrass, hay as published in the **Federal Register** (63 FR 57067, October 26, 1998) (FRL-6035-6). However, the orchardgrass use for atrazine was canceled in 1989 due to non-payment of maintenance fees and therefore the tolerances should be revoked. EPA believes that sufficient time has passed for exhaustion of stocks for those labeled uses and for treated commodities to have cleared channels of trade. Also, in 40 CFR 180.220, EPA is removing the "(N)" designation from all entries to conform to current Agency administrative practice ("N" designation means negligible residues).

At this time, EPA will not take final action on the tolerance in 40 CFR

180.220 for use of atrazine and its metabolites on "grass, range" because there are existing 24(c) food-use registrations.

4. **Bensulide.** EPA is revoking the tolerance for residues of the herbicide *S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl) benzenesulfonamide, known as bensulide, and its oxygen analog in or on cottonseed in 40 CFR 180.241 because bensulide is not registered under FIFRA for use on cotton. On September 30, 1994, a 6(f)(1) notice of receipt of the voluntary use deletion request by the registrant was published in the **Federal Register** (59 FR 34065) (FRL-4912-1). EPA believes that existing stocks have been used and any treated commodity has passed through the channels of trade.

5. **Diphenamid.** Diphenamid has not had active registrations under FIFRA since 1991. EPA believes that existing stocks have been used and any treated commodity has passed through the channels of trade. EPA is revoking the tolerances in 40 CFR 180.230 for residues of the herbicide diphenamid and its metabolite in or on apples; cattle, fat; cattle, mby; cattle, meat; cotton forage; cottonseed; fruiting vegetables; goats, fat; goats, mby; goats, meat; hogs, fat; hogs, mby; hogs, meat; horses, fat; horses, mby; horses, meat; milk; okra; peaches; peanut forage; peanut hay; peanuts; potatoes; sheep, fat; sheep, mby; sheep, meat; raspberries; soybean forage; soybean hay; soybeans; strawberries; and sweet potatoes. Therefore, the Agency is removing 40 CFR 180.230 in its entirety.

6. **Imazalil.** On May 24, 2000 (65 FR 33703) (FRL-6041-9), the tolerance for cottonseed, formerly codified in 40 CFR 180.413(a) was recodified in 40 CFR 180.413(a)(1). EPA is revoking the tolerance in 40 CFR 180.413(a)(1) for the combined residues of the fungicide imazalil and its metabolite in or on cottonseed because imazalil is not registered under FIFRA for use on cotton. There have been no active registrations for imazalil use on cotton commodities since December 1991.

7. **6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one.** Because the fungicide/insecticide 6-methyl-1,3-dithiolo[4,5-b] quinoxalin-2-one (oxythioquinox) has no registered uses under FIFRA, EPA is revoking the tolerances in 40 CFR 180.338 for residues of oxythioquinox in or on apples; apricots; cattle, fat; cattle, mby; cattle, meat; citrus fruits; goats, fat; goats, mby; goats, meat; hogs, fat; hogs, mby; hogs, meat; horses, fat; horses, mby; horses, meat; macadamia nuts; milk; pears; sheep, fat; sheep, mby;

sheep, meat; and walnuts. In the **Federal Register** of March 17, 1999 (64 FR 13191) (FRL-6067-8), EPA announced receipt of a request for voluntary cancellation of oxythioquinox, also known as chinomethionate. The Agency permitted distribution and sale for 18 months after the effective date of cancellation on October 27, 1999, and end users were permitted an additional year for use of existing stocks.

On August 1, 2001 (66 FR 39709), EPA proposed an expiration/revocation date of August 1, 2002, for the 22 tolerances for oxythioquinox in 40 CFR 180.338, to allow any treated commodities to pass through the channels of trade. No comment was received on oxythioquinox. The Agency is revoking these oxythioquinox tolerances effective 90 days following publication of this final rule in the **Federal Register**, which is October 15, 2002.

8. **Phosphamidon.** EPA is revoking the tolerance in 40 CFR 180.239 for residues of the insecticide phosphamidon including all of its related cholinesterase-inhibiting compounds in or on apples with an expiration/revocation date of December 31, 2002, to allow any treated commodities to pass through the channels of trade.

EPA proposed this tolerance revocation for phosphamidon in the **Federal Register** of August 1, 2001 (66 FR 39709) and also, previously on January 21, 1998 (63 FR 3057) (FRL-5743-8). In 1998, comments were received from the Washington State Department of Agriculture and Northwest Wholesale, Inc. which requested that EPA not revoke the tolerance for phosphamidon on apples due to concerns about existing stocks. The Agency did not revoke the tolerance for phosphamidon on apples at that time (63 FR 57062, October 26, 1998) (FRL-6035-8). Subsequently, the Agency was informed by the Washington State Department of Agriculture that based on review of the pests controlled by phosphamidon, efficacy of registered alternatives, estimates of remaining stocks of phosphamidon, and use/disposal of remaining unused stocks, retention of the tolerance for phosphamidon on apples until December 31, 2002, would allow growers to use up existing stocks and allow treated apples to pass through the channels of trade.

Therefore, EPA is revoking the tolerance in 40 CFR 180.239 for residues of phosphamidon including all of its related cholinesterase-inhibiting compounds in or on apples with an

expiration/revocation date of December 31, 2002. Because the tolerance with its revocation date will remain in 40 CFR 180.239, EPA is also revising the commodity name from "apples" to "apple" in order to conform to current Agency administrative practice.

9. *S-Propyl dipropylthiocarbamate*. Because there are no registered uses for S-Propyl dipropylthiocarbamate (vernolate), EPA is revoking the tolerances in 40 CFR 180.240 for vernolate residues in or on corn, fodder; corn, forage; corn, fresh (inc. sweet)(K+CWHR); corn, grain; peanuts; peanut, forage; peanut, hay; potatoes; soybeans; soybean, forage; soybean, hay; and sweet potatoes. In the notice of receipt of the request for voluntary cancellation of vernolate, EPA agreed that registrants were permitted to sell and distribute existing stocks of vernolate until February 1, 2000; that distributors were permitted to sell and distribute existing stocks of vernolate until February 1, 2001; and that end users are permitted to use existing stocks until February 1, 2002 (March 3, 1999, 64 FR 10296) (FRL-6061-9).

On August 1, 2001 (66 FR 39709), EPA proposed an expiration/revocation date of May 1, 2002 for all vernolate tolerances in 40 CFR 180.240. No comment was received on vernolate. Because that date has passed, the Agency is revoking these vernolate tolerances effective 90 days following publication of this final rule in the **Federal Register**, which is October 15, 2002, to ensure that all affected parties receive notice of EPA's actions.

10. *Trimethacarb*. EPA is revoking the tolerance for residues of the insecticide 3,4,5-trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate, known as trimethacarb, in or on corn, field, grain; corn, fodder; corn, forage; and corn, pop, grain in 40 CFR 180.305 because trimethacarb is no longer registered under FIFRA for use on corn. Therefore, the Agency is removing 40 CFR 180.305 in its entirety.

EPA proposed these tolerance revocations for trimethacarb in the **Federal Register** of August 1, 2001 (66 FR 39709) and also previously on January 21, 1998 (63 FR 3057). In 1998, a comment was received from Drexel Chemical Company which requested that EPA not revoke the tolerances for trimethacarb until Drexel determined the state of existing stocks. As a result of that comment, the Agency did not take action on trimethacarb at that time (October 26, 1998, 63 FR 57062). Subsequently, the Agency was informed by Drexel that end-users would exhaust existing stocks of trimethacarb by mid-

May 1999. Therefore, the Agency is making the revocations as given in the regulatory text.

B. What is the Agency's Authority for Taking this Action?

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

C. When Do These Actions Become Effective?

The tolerance for phosphamidon on apples expires on December 31, 2002. With the exception of the aforementioned pesticide tolerance revocation, the remaining tolerance revocations for atrazine, bensulide, diphenamid, imazalil, 6-methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one (oxythioquinox), S-propyl dipropylthiocarbamate (vernolate), and trimethacarb are effective 90 days following publication of this final rule in the **Federal Register**, which is October 15, 2002, to ensure that all affected parties receive notice of EPA's actions. For this final rule, tolerances that were revoked because registered uses did not exist concerned uses which have been canceled for more than a year. Therefore, commodities containing these pesticide residues 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.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2002 to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996. EPA is also required to assess the remaining tolerances by August 2006. As of July 1, 2002, EPA has reassessed over 5,400 tolerances. In this final rule, EPA is revoking a total of 75 tolerances which count as reassessments toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. 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 Reregistration Eligibility Decisions. EPA has developed guidance concerning submissions for import tolerance support (June 1, 2000, 65 FR 35069) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the internet at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations," then select Regulations and Proposed Rules," 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/fedrgstr/>.

IV. Objections and Hearing Requests

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2002-0085 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 16, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(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 (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed 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. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260-4865.

2. *Objection/hearing fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the

waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IV.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP-2002-0085, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; 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; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

V. Regulatory Assessment Requirements

This final rule will revoke tolerances established under FFDCA section 408.

The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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 of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled

pesticides. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop

an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Submission to Congress and the Comptroller General

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 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 this final rule in the **Federal Register**. This final rule 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: June 26, 2002.

James Jones,

Acting Director, 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), 346(a) and 371.

§ 180.220 [Amended]

2. Section 180.220 is amended by removing the "(N)" designation wherever it appears in the "Parts per million" column in the table under paragraph (a)(1), and by removing the entries for "Orchardgrass" and "Orchardgrass, hay" from the table in paragraph (a)(2).

§ 180.230 [Removed]

3. Section 180.230 is removed.

4. Section 180.239 is revised to read as follows:

§ 180.239 Phosphamidon; tolerances for residues.

(a) *General.* Tolerances (expressed as phosphamidon) for residues of the insecticide phosphamidon (2-chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate) including all of its related cholinesterase-inhibiting compounds in or on raw agricultural commodities are established as follows:

Commodity	Parts per million	Expiration/Revocation Date
Apple	1.0	12/31/02

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

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

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

§ 180.240 [Removed]

5. Section 180.240 is removed.

§ 180.241 [Amended]

6. Section 180.241 is amended by removing the word "cottonseed."

§ 180.305 [Removed]

7. Section 180.305 is removed.

§ 180.338 [Removed]

8. Section 180.338 is removed.

§ 180.413 [Amended]

9. Section 180.413 is amended by removing the entry for "cottonseed" from the table in paragraph (a)(1).

[FR Doc. 02-17870 Filed 7-16-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0129; FRL-7185-7]

RIN 2070-XXXX

Clethodim; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the residues of clethodim in or on alfalfa forage; alfalfa hay; dry bean; Brassica, leafy greens, subgroup