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40 CFR Parts 180, 185 and 186

[OPP-300408; FRL-4992-5]

RIN 2070-AC18

Pesticide Chemicals; Various Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to revoke tolerances established for residues of 13 pesticide chemicals in or on certain raw agricultural commodities (RACs) and processed foods. EPA is initiating this action because there are no current registrations associated with these food uses. The applicable registrations for these pesticide uses have been canceled because of nonpayment of maintenance fees, or by company request.

DATES: Written comments, identified by the document control number [OPP-300408], must be received on or before July 29, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment 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. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp_docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1

file format or ASCII file format. All comments and data in electronic form must be identified by the docket number. [OPP-300408]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Owen F. Beeder, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703)-308-8351; e-mail: beeder.owen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This document proposes the revocation of tolerances and food and feed additive regulations (tolerances) established under sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a and 348) for residues of the herbicides dalapon, diphenamid, sesone, fluchloralin and metobromuron; the fungicides basic zinc sulfate, glyodin, hexachlorophene and manam; the insecticide hydrogen cyanide; the plant regulators DNOC and metachlorophenprop; and the food additive ethyl formate, in or on raw agricultural commodities (RACs), processed foods, and feeds. EPA is initiating this action because all registered uses of these pesticide chemicals in or on RACs and processed foods have been canceled. The registrations for these pesticide chemicals were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled all registered uses of the pesticide. Because there are no current food use registrations for any of these 13 pesticide chemicals, EPA proposes to revoke the tolerance and food additive and feed additive regulations for these pesticide chemicals. A tolerance, food additive, or feed additive regulation is not generally necessary for a pesticide chemical that is not registered for a particular food use. The Agency is not recommending the establishment of action levels in place of these regulations. Since there are no food use registrations associated with these tolerances-hence, no legal use in the United States-and since these pesticides are either not persistent, or sufficient time has elapsed since their prior use for residues to dissipate, residues should not appear in any domestically produced commodities.

Because there no current food use registrations for any of these 13 pesticide chemicals EPA proposes to immediately revoke the tolerances for all of the pesticides listed above with the exception of dalapon, diphenamid, glyodin, and DNOC and its sodium salt.

Although no usages in 1992 have been found for the herbicides dalapon and diphenamid, the fungicide glyodin, and the plant regulator DNOC and its sodium salt, and their registered products were canceled over three years ago (except for DNOC, for which the last product was canceled in February 1993), each of these chemicals still had small domestic usages on certain crops as late as 1994 and 1995. EPA has therefore decided to delay the revocation of dalapon, diphenamid, glyodin and DNOC until May 1, 1999, instead of immediately to allow domestic growers who may still have stocks on hand to use up their supplies and permit any treated raw commodities and products processed from such commodities to move through marketing channels, and, therefore, result in little or no domestic impacts. EPA is effecting this delayed revocation by including an expiration date in the tolerance.

The tolerances, food additive and feed additive regulations listed in 40 CFR part 180 being proposed for revocation are as follows: § 180.102 (sesone), § 180.124 (glyodin), § 180.130 (hydrogen cyanide), § 180.150 (dalapon), § 180.161 (manganous dimethyldithiocarbamate (manam)), § 180.230 (diphenamid), § 180.244 (basic zinc sulfate), § 180.250 (metobromuron), § 180.302 (hexachlorophene), § 180.325 2-(*m*-Chlorophenoxy) propionic acid (metachlorophenprop), § 180.344 (4,6-dinitro-*o*-cresol) (DNOC), and its sodium salt, § 180.363 (fluchloralin), § 185.2900 (ethyl formate), § 185.1500 (dalapon), and § 186.1500 (dalapon).

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA).

Interested persons are invited to submit written comments on the proposed regulation. Further, EPA is soliciting comments from anyone adversely affected by revocation of these tolerances, exemption from tolerance, food additive and feed additive regulations. EPA requests that anyone

adversely affected by these revocations submit information pertaining to why and provide specific information as follows: 1. Are there any existing stocks of the chemical? 2. If so, how much? 3. When will the stocks be depleted? 4. How long would the commodities treated with these chemicals be in the channels of trade? 5. Would residues on any of these pesticide chemicals be present in or on commodities grown in foreign countries and imported into the United States? Comments must bear a notation indicating the document control number, [OPP-300408]. All written comments filed in response to this document will be available for public inspection in the Public Response Section, at the Virginia address given above, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP-300408] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to

all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, it has been determined that this rule is not a "significant regulatory action" because it does not meet any of the regulatory-significance criteria listed above.

B. Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.) and it has been determined that it will not have an economic impact on any small businesses, governments, or organizations. Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

D. Unfunded Mandates

This 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 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects

40 CFR Part 180

Environmental protection,
Administrative practice and procedure,

Agricultural commodities, Pesticides and Pests Reporting and recordkeeping requirements.

40 CFR Part 185

Environmental protection, Food Additives, Pesticides and Pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and Pests.

Dated: May 15, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be 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. 346a and 371.

§ 180.102 [Removed]

b. By removing § 180.102 *Sesone; tolerances for residues*.

c. By revising § 180.124 *Glyodin; tolerances for residues* to read as follows.

§ 180.124 Glyodin; tolerance for residues.

A time-limited tolerance of 5 parts per million, with an expiration date of May 1, 1999, is established for the residues of the fungicide glyodin (2-heptadecyl-2-imidazoline acetate or 2-heptadecyl-2-imidazoline (base) in or on the following raw agricultural commodities: apples, cherries, peaches, and pears.

§ 180.130 [Removed]

d. By removing § 180.130 *Hydrogen cyanide; tolerances for residues*.

e. By revising § 180.150 *Dalapon; tolerances for residues* to read as follows.

§ 180.150 Dalapon; tolerances for residues.

(a) A time-limited tolerance, with an expiration date of May 1, 1999, is established for residues of the herbicide dalapon (2,2-dichloropropionic acid) resulting from application of dalapon sodium salt or sodium-magnesium salt mixtures in or on the following raw agricultural commodities:

Commodity	Parts per million
Almonds	10
Almonds, hulls	50
Apples	3
Apricots	1
Asparagus	30

Commodity	Parts per million	Commodity	Parts per million
Bananas	5	Cucurbits	0.5
Beans	1	Flaxseed	2.0
Beans, straw	1	Fruits, pome	0.2
Beets, sugar (roots)	5	Fruits, small	0.2
Beets, sugar (tops)	5	Fruits, stone	0.2
Cattle, mbyp	0.2	Grain crops (exc wheat)	0.5
Cattle, meat	0.2	Grasses, forage	2
Coffee beans	2	Hops	0.2
Corn, ear, dried (K+C)	10	Legumes, forage	2
Corn, fodder	5	Nuts	0.2
Corn, forage	5	Vegetables, fruiting	0.2
Corn, fresh (including sweet K+CWHR)	5	Vegetables, leafy	0.5
Corn, grain	10	Vegetables, root crop	0.2
Cottonseed	35	Vegetables, seed and pod	0.5
Cranberries	5	Wheat	2
Eggs	0.3		
Flaxseed	75		
Goats, mbyp	0.2		
Goats, meat	0.2		
Grapefruit	5		
Grapes	3		
Grasses, pasture	10		
Grasses, range	10		
Hogs, mbyp	0.2		
Hogs, meat	0.2		
Lemons	5		
Limes	5		
Macadamia nuts	1		
Milk	0.1		
Oranges	5		
Peaches	15		
Pears	3		
Peas, shelled	15		
Peas, unshelled	15		
Peas, vine, with pod	15		
Peas, vine, without pod	15		
Pecans	0.1		
Pineapples	3		
Plums	1		
Potatoes	10		
Poultry, (excluding kidney)	3		
Poultry, kidney	9		
Sheep, mbyp	0.2		
Sheep, meat	0.2		
Sorghum	1		
Sorghum, forage	5		
Soybeans	1		
Soybeans, straw	1		
Sugarcane	0.1		
Tangerines	5		
Walnuts	5		

(b) A time-limited tolerance, with an expiration date of May 1, 1999, is established for residues of dalapon (2,2-dichloropropionic acid) resulting from application of dalapon sodium-magnesium salt mixtures to irrigation ditch banks in the western United States in or on the following raw agricultural commodities. Where tolerances are established at higher levels from other uses of dalapon on the subject crops, the higher tolerance applies also to residues from the irrigation ditch bank use.

Commodity	Parts per million
Avocados	0.2
Citrus fruits	0.2
Cottonseed	0.2

§ 180.161 [Removed]

f. By removing § 180.161 *Manganous dimethyldithio-carbamate; tolerances for residues.*

g. By revising § 180.230 *Diphenamid; tolerances for residues* to read as follows.

§ 180.230 Diphenamid; tolerances for residues.

A time-limited tolerance with an expiration date of May 1, 1999, is established for the residues of the herbicide dipenamid (*N,N*-dimethyl-2,2-diphenylacetamide) including its desmethyl metabolite *N*-methyl-2,2-diphenylacetamide in or on the raw agricultural commodities as follows:

- 2 parts per million in or on peanut hay and forage.
- 1 parts per million in or on potatoes and strawberries.
- 0.5 parts per million in or on peanut hulls and soybean hay and forage.
- 0.2 parts per million in or on cotton forage.
- 0.1 parts per million (negligible residue) in or on apples, cottonseed, fruiting vegetables, okra, peaches, peanuts, soybeans, and sweet potatoes.
- 0.05 parts per million in or on (negligible residue) in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.
- 0.01 parts per million (negligible residue) in milk.
- 1.0 parts per million in or on raspberries.

§ 180.244 [Removed]

h. By removing § 180.244 *Basic zinc sulfate; tolerances for residues.*

§ 180.250 [Removed]

i. By removing § 180.250 *Metobromuron; tolerances for residues.*

§ 180.325 [Removed]

j. By removing § 180.325 *2-(m-Chlorophenoxy) propionic acid; tolerances for residues.*

k. By revising § 180.344 *4,6-Dinitro-o-cresol and its sodium salt; tolerance for residues* to read as follows.

§ 180.344 4,6-dinitro-o-cresol and its sodium salt; tolerance for residues.

A time-limited tolerance of 0.2 part per million, with an expiration date of May 1, 1999, is established for residues of the plant regulators 4,6-dinitro-o-cresol (DNOC) and its sodium salt in or on the raw agricultural commodity apples from application to apple trees at the blossom stage as a fruit-thinning agent.

§ 180.363 [Removed]

l. By removing § 180.363 *Fluchloralin; tolerances for residues.*

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. By revising § 185.1500 *Dalapon; tolerances for residues* to read as follows.

§ 185.1500 Dalapon; tolerances for residues.

A time-limited tolerance of 0.2 part per million, with an expiration date of May 1, 1999, is established for the residues of the herbicide dalapon (2,2-dichloropropionic acid) in potable water when present therein as a result of the application of dalapon sodium-magnesium salt mixtures to irrigation ditch banks in the western United States.

§ 185.2900 [Removed]

c. By removing § 185.2900 *Ethyl formate; tolerances for residues.*

PART 186—[AMENDED]

3. In part 186:

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

Authority: 21 U.S.C. 348.

b. By revising § 186.1500 *Dalapon; tolerances for residues* to read as follows:

§ 186.1500 Dalapon; tolerances for residues.

A time-limited tolerance of 20 parts per million, with an expiration date of May 1, 1999, is established for residues of the herbicide dalapon (2,2-dichloropropionic acid) in dehydrated citrus pulp for cattle feed, when present therein as a result of the application of dalapon sodium salt or dalapon sodium-magnesium salt mixtures during the growing of citrus fruit.

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