

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2007-0261; FRL-8130-8]

**Methamidophos, Oxydemeton-methyl, Profenofos, and Trichlorfon; Proposed Tolerance Actions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revoke certain tolerances for the insecticides methamidophos and oxydemeton-methyl. Also, EPA is proposing to modify certain tolerances for the insecticides methamidophos, oxydemeton-methyl, profenofos, and trichlorfon. In addition, EPA is proposing to establish new tolerances for the insecticides methamidophos and profenofos. The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

**DATES:** Comments must be received on or before July 23, 2007.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2007-0261, by one of the following methods:

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

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

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

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2007-0261. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless

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

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

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****I. General Information***A. 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 entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

### *C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?*

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## **II. Background**

### *A. What Action is the Agency Taking?*

EPA is proposing to revoke, remove, modify, and establish specific tolerances for residues of the insecticides

methamidophos, oxydemeton-methyl, profenofos, and trichlorfon in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of the FFDCA. The safety finding determination of "reasonable certainty of no harm" is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone: 1 (800) 490-9198; fax: 1 (513) 489-8695; internet at <http://www.epa.gov/ncepihom/> and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone: 1 (800) 553-6847 or (703) 605-6000; internet at <http://www.ntis.gov/>. Electronic copies of REDs and TREDs are available on the internet. The methamidophos, oxydemeton-methyl, and profenofos REDs and trichlorfon TRED are found at <http://www.epa.gov/pesticides/reregistration/status.htm>.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

(1) Lawful use (sometimes through a label change) may result in a higher residue level on the commodity.

(2) The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance. In REDs, Chapter IV on "Risk management, Reregistration, and Tolerance

reassessment" typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and paper copies for methamidophos, oxydemeton-methyl, profenofos, and trichlorfon are available in the public docket for this rule. Electronic copies are available through EPA's electronic public docket and comment system, [regulations.gov](http://www.regulations.gov) at <http://www.regulations.gov/>. You may search for docket number EPA-HQ-OPP-2007-0261, then click on that docket number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION**.

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where

registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person, in comments on the proposal, indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *Methamidophos*. Because methamidophos is a metabolite of acephate, EPA determined that residues of methamidophos resulting from the application of acephate should be included under the tolerance regulations for methamidophos as a pesticide. Therefore, EPA is proposing to recodify the tolerances for methamidophos from 40 CFR 180.315(a) into (a)(1) for permanent tolerances for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on food commodities as a result of the application of the insecticide methamidophos and (a)(2) for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on food commodities as a result of the application of the insecticide acephate.

Currently, 40 CFR 180.3, the section on tolerances for related pesticide chemicals, contains a paragraph (d)(8) stating that where tolerances are established for residues of O,S-dimethyl phosphoramidothioate, resulting from the use of acephate (O,S-dimethyl acetylphosphoramidothioate) and/or O,S-dimethylphosphoramidothioate on the same agricultural commodity, the total amount of O,S-dimethylphosphoramidothioate shall not yield more residue than that permitted by the higher of the two tolerances. However, with the proposed change to include tolerances for methamidophos that result from the application of acephate under the methamidophos tolerance regulations in 40 CFR 180.315(a)(2), there is no longer a need for the related pesticide chemical regulation under 40 CFR 180.3(d)(8); and therefore, EPA is proposing to remove existing paragraph (d)(8).

With the exception of uses on cotton and potatoes, EPA canceled all methamidophos FIFRA section 3 registrations and, with the exception of uses on tomatoes, all section 24(c) regional registrations (62 FR 67071, December 23, 1997) (FRL-5764-2). Because there are no active registrations for uses of either methamidophos or acephate on broccoli, cabbage,

cucumber, eggplant, and melon, the associated tolerances in 40 CFR 180.315 are no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.315 on broccoli, cabbage, cucumber, eggplant, and melon. Also, on July 31, 2002 (67 FR 49606)(FRL-7191-4), EPA published a final rule in the **Federal Register** in which it responded to the Canadian Horticultural Council's comment asking that certain tolerances in 40 CFR 180.315, including those on broccoli and cabbage, not be revoked. At that time, the Agency responded that it would not revoke the tolerances on broccoli and cabbage in 40 CFR 180.315, but would follow-up to see that data requirements were met should an interested party support those tolerances for import purposes. However, in the interim period, no interested party has declared an interest and committed in writing to do the required data to support the broccoli and cabbage tolerances for import purposes.

However, because there are registered acephate uses on Brussels sprouts, cauliflower, celery, and head lettuce, EPA is proposing to recodify the tolerances for Brussels sprouts, cauliflower, and lettuce from 40 CFR 180.315(a) into (a)(2) and celery from (b) into (a)(2). Also, in order to reflect active registered use of acephate on head lettuce, EPA is proposing in 40 CFR 180.315(a)(2) to revise "lettuce" to "lettuce, head." In addition, because there is an existing tolerance for acephate use on cauliflower, which has been reassessed in the acephate RED at the same level, such that residues from metabolism to methamidophos are expected to be no greater than 0.5 parts per million (ppm), EPA is proposing to decrease the tolerance on cauliflower in 40 CFR 180.315(a)(2) from 1.0 to 0.5 ppm. Also, this proposed level will harmonize with the Codex MRL of 0.5 mg/kg on cauliflower.

At the time of the completion of the methamidophos IRED, a registrant submitted an import tolerance petition for peppers, strawberries, and squash. This petition has not been reviewed. Because there is an existing tolerance for acephate use on peppers, which in the acephate RED has been reassessed at the same level, such that residues from metabolism to methamidophos are expected to be no greater than 1.0 ppm, EPA is proposing to recodify the tolerance on pepper from 40 CFR 180.315(a) to (a)(2) at 1.0 ppm. Also, this proposed level will harmonize with the Codex MRL of 1.0 mg/kg on sweet peppers.

Because there are registered methamidophos uses on potato, EPA is proposing to recodify the tolerance at 0.1 ppm on potato from 40 CFR 180.315(a) into (a)(1). There is a Codex MRL of 0.05 ppm on potato, but harmonization is not possible because of differences in agricultural practices.

Based on available data that showed methamidophos residues as high as 0.191 ppm on cottonseed, EPA determined that the tolerance on cottonseed should be increased from 0.1 to 0.2 ppm. Therefore, the Agency is proposing to recodify the tolerance on cotton, undelinted seed from 40 CFR 180.315(a) to (a)(1) and increase the tolerance to 0.2 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, this proposed level will harmonize with the Codex MRL of 0.2 mg/kg on cottonseed.

Based on available data that showed methamidophos residues as high as 8.03 ppm on cotton gin byproducts, EPA determined that a tolerance on cotton gin byproducts should be established at 10.0 ppm. Therefore, the Agency is proposing to establish a tolerance on cotton, gin byproducts in 40 CFR 180.315(a)(1) at 10.0 ppm.

Based on available data that showed methamidophos residues as high as 1.4 ppm on tomatoes, EPA determined that the tolerance on tomato should be increased from 1.0 to 2.0 ppm. Because there are only active FIFRA section 24(c) registrations for use of methamidophos on tomatoes and no active registrations for use of acephate on tomatoes, the Agency has determined that the tolerance should be recodified as a regional tolerance. Therefore, the Agency is proposing to recodify 40 CFR 180.315(b) as (c) and the tolerance on tomato from 40 CFR 180.315(a) to (c), and increase the tolerance to 2.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, EPA is proposing to revise the tolerance expression in newly recodified 40 CFR 180.315(c), as follows:

Tolerances with regional registration, as defined in 40 CFR 180.1(m), are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide methamidophos.

In addition, EPA is proposing to revise 40 CFR 180.315 by adding separate paragraphs (b) and (d), and

reserving those sections for tolerances with section 18 emergency exemptions, and indirect or inadvertent residues, respectively.

Because there are existing tolerances for use of acephate on dry and succulent beans and cranberries, which in the acephate RED have been reassessed at the same level, such that residues from metabolism to methamidophos are expected to be no greater than 1.0 ppm and 0.1 ppm, respectively, EPA is proposing to establish tolerances in 40 CFR 180.315(a)(2) for residues of methamidophos as a result from the application of acephate on bean, dry, seed at 1.0 ppm, bean, succulent at 1.0 ppm, and cranberry at 0.1 ppm.

Because there is an existing tolerance for use of acephate on mint hay, which in the acephate RED has been reassessed to be increased from 15.0 to 27.0 ppm, such that residues from metabolism to methamidophos are expected to be increased from no greater than 1.0 to 2.0 ppm, EPA is proposing to establish a tolerance in 40 CFR 180.315(a)(2) for residues of methamidophos as a result from the application of acephate on mint, hay at 2.0 ppm and revise it to "peppermint, tops" and "spearmint, tops."

2. *Oxydemeton-methyl*. Currently, the tolerances in 40 CFR 180.330 are expressed for residues of oxydemeton-methyl and its cholinesterase-inhibiting metabolites. Based on the Agency's determination that only residues of oxydemeton-methyl and its metabolite oxydemeton-methyl sulfone are of concern in plants, the tolerances in 40 CFR 180.330 should be recodified for plant commodities from 40 CFR 180.330(a) to (a)(1) and animal commodities from 40 CFR 180.330(a) to (a)(2). Therefore, EPA is proposing to recodify plant tolerances in 40 CFR 180.330(a)(1) and animal tolerances in 40 CFR 180.330(a)(2) and revise the tolerance expression in 40 CFR 180.330 as follows:

(a) *General*. (1) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfanyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities.

(2) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfanyl)-ethyl) O,O-dimethyl phosphorothioate) and its cholinesterase-inhibiting metabolites in or on the following food commodities.

Because certain registered uses have product labels which prohibit harvest within one year of application, so that there is no reasonable expectation of residues on food commodities, the Agency considers them to be nonfood uses of oxydemeton-methyl. As a result,

the tolerances in 40 CFR 180.330 for these nonfood uses are no longer needed and should be revoked for apple, apricot, grape, and plum, prune, fresh. Therefore, the Agency is proposing to revoke the tolerances in 40 CFR 180.330(a) on apple, grape, and plum, prune, fresh and in 40 CFR 180.330(c) on apricot.

Because bean, lima, forage; clover, seed screenings; and sorghum milled fractions (except flour) are no longer considered by the Agency to be significant animal feed items, their tolerances in 40 CFR 180.330 are no longer needed and should be revoked. Therefore, the Agency is proposing to revoke the tolerances in 40 CFR 180.330 on bean, lima, forage; clover, seed screenings; and sorghum, milled fractions (except flour).

In 1994, the technical registrant for oxydemeton-methyl (ODM) agreed not to market ODM on snap beans, field corn, popcorn, pears, and turnips but retained them on registrations with the possibility of requesting to reinstate them on marketing labels after EPA's review of needed ODM data and completion of dietary and worker risk assessments. In a letter to the Agency dated February 4, 2004, the technical registrant requested to amend the registrations for both a technical and end-use registration and delete those uses. In the **Federal Register** of November 4, 2005 (70 FR 67167) (FRL-7744-7), EPA published a notice announcing the receipt of requests for amendments to delete uses in certain pesticide registrations, including deletion for ODM use on snap beans, field corn, popcorn, pears, and turnips concerning registrations for one technical and one end use product. That notice had an effective date of December 5, 2005 and allowed the registrant to sell or distribute product under the previously approved labelling for a period of 18 months after approval of the revision. There have been no end use marketing labels for ODM use on these commodities since September 18, 1995. However, there has been one active technical registration with these uses from 1995 through the December 5, 2005 effective date that amended its label. Nevertheless, despite the allowance by EPA that existing stocks for the technical and end use registrations could be sold or distributed by the registrant for 18 months, the Agency believes that no end users have used ODM on snap beans, field corn, popcorn, pears, and turnip commodities since 1995. Therefore, EPA believes that existing stocks of end use product was exhausted years ago and that such ODM treated-snap beans, field corn, popcorn,

pears, and turnip commodities passed through channels of trade long ago and that sufficient time has passed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.330 on bean, snap, succulent; bean, snap, forage; corn, grain; pear; turnip; and turnip, greens; all on the date of publication of the final rule.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 0.9 ppm in or on corn forage, EPA determined that the tolerance on corn forage should be decreased from 3.0 to 1.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.330 to decrease the tolerance on corn, forage to 1.0 ppm and revise it to corn, sweet, forage. No tolerance on field corn forage is needed.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 9.84 ppm in or on clover hay grown for seed, EPA determined that the tolerance on clover hay grown for seed should be decreased from 11.0 to 10.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.330 to decrease the tolerance on clover, hay, grown for seed to 10.0 ppm and revise it to clover, hay.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 0.15 ppm in or on lima beans, 0.2 ppm in or on melons, less than 0.1 ppm in or on pumpkins, and less than 0.05 ppm in or on walnuts, EPA determined that the tolerances on lima beans, cottonseed, melons, pumpkins, and walnuts should be decreased from 0.5 to 0.2 ppm, 0.1 to 0.02 ppm, 0.3 to 0.2 ppm, 0.3 to 0.2 ppm, and 0.3 to 0.05 ppm, respectively. Therefore, the Agency is proposing in 40 CFR 180.330 to decrease the tolerances on bean, lima to 0.2 ppm, cotton, undelinted seed to 0.02 ppm, melon to 0.2 ppm, pumpkin to 0.2 ppm, and walnut to 0.05 ppm.

Based on available data that showed combined oxydemeton-methyl residues of concern as high as 1.22 ppm in or on cabbage, EPA determined that the tolerance on cabbage should be increased from 1.0 to 2.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.330 to increase the tolerance on cabbage to 2.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, because there is one active FIFRA section 24(c) registration for foliar use of oxydemeton-methyl on broccoli raab, EPA determined that data could be translated from cabbage and broccoli to broccoli raab, and therefore a tolerance

should be established on broccoli raab at 2.0 ppm. Therefore, EPA is proposing to establish a regional tolerance on broccoli raab in 40 CFR 180.330(c) at 2.0 ppm and revise the tolerance expression in 40 CFR 180.330(c) as follows:

(c) Tolerances with regional registrations, as defined in 40 CFR 180.1(m), are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfanyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities.

Based on a poultry metabolism study at the 6x feeding level that showed no residues of toxicological concern in poultry commodities and an earlier poultry metabolism study that showed residues were present in eggs and tissues, EPA determined that egg and poultry tolerances should be established at the limit of quantitation (LOQ) of 0.01 ppm. Therefore, the Agency is proposing to establish tolerances in 40 CFR 180.330(a)(2) on egg; poultry, fat; poultry, meat; and poultry, meat byproducts at 0.01 ppm.

Also, EPA is proposing to revise commodity terminology in 40 CFR 180.330 to conform to current Agency practice as follows: "alfalfa, green" to "alfalfa, forage;" "alfalfa, hay, grown for seed" to "alfalfa, hay;" "beet, sugar" to "beet, sugar, roots;" "corn, stover" to "corn, sweet, stover" (no tolerances are needed on field corn stover or popcorn stover) "mint, hay" to "peppermint, tops" and "spearmint, tops;" "onion, dry bulb" to "onion, bulb;" "orange, sweet" to "orange;" "sorghum, forage" to "sorghum, forage, forage" and "sorghum, grain, forage;" "sorghum, grain" to "sorghum, grain, grain."

There are no Codex MRLs for oxydemeton-methyl.

3. *Profenofos*. Currently, the tolerances in 40 CFR 180.404(a) are expressed for residues of profenofos and its metabolites converted to 4-bromo-2-chlorophenyl and calculated as profenofos. Based on the Agency's determination that only residues of profenofos *per se* are of toxicological concern, the tolerance expression in 40 CFR 180.404 should be revised to reflect that profenofos *per se* is the only regulated residue. Therefore, EPA is proposing to revise the tolerance expression in 40 CFR 180.404(a) as follows:

(a) *General*. Tolerances are established for residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate) in or on the following food commodities.

Based on available data that showed profenofos residues were as high as 1.1 ppm on cottonseed, EPA determined that the tolerance should be decreased

from 3.0 to 2.0 ppm. Therefore, the Agency is proposing to decrease the tolerance in 40 CFR 180.404 on cotton, undelinted seed to 2.0 ppm. Also, this proposed level will harmonize with the Codex MRL of 2 mg/kg on cottonseed.

Based on available data that showed profenofos residues as high as 53 ppm, EPA determined that a tolerance of 55.0 ppm should be established for cotton gin byproducts. Therefore, the Agency is proposing to establish a tolerance in 40 CFR 180.404 for the residues of profenofos on cotton, gin byproducts at 55.0 ppm.

4. *Trichlorfon*. There are no active registrations for the use of the insecticide trichlorfon for cattle commodities in the United States. However, trichlorfon is used as a dermal pour-on application for cattle for import purposes. Based on cattle metabolism data from dermal application of trichlorfon which showed residues of trichlorfon as high as 0.2 ppm in muscle and less than 0.5 ppm in fat, EPA determined that the tolerances on cattle meat and cattle fat should be increased from 0.1 ppm to 0.2 ppm and 0.1 to 0.5 ppm, respectively. Therefore, EPA is proposing in 40 CFR 180.198 to increase the tolerances on cattle, meat to 0.2 ppm and cattle, fat to 0.5 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Dichlorvos is a degradate of trichlorfon. However, as stated in the 2006 Dichlorvos RED, non-detectable dichlorvos residues in livestock commodities are expected as a result of trichlorfon use, and dichlorvos was not a significant metabolite in the trichlorfon dermal metabolism data. Therefore, dietary (food) exposure to dichlorvos residues resulting from use of trichlorfon is considered by the Agency to be negligible.

Also, in 40 CFR 180.198, EPA is proposing to remove the "(N)" designation from all entries to conform to current Agency administrative practice, where the "(N)" designation means negligible residues. In addition, in order to conform to current Agency practice, EPA is proposing to revise 40 CFR 180.198 and establish subparts (a) through (d), recodify general tolerances under 40 CFR 180.198(a) and reserve sections (b) for tolerances with section 18 emergency exemptions, (c) for regional registrations, and (d) for indirect or inadvertent residues.

There are no Codex MRLs for trichlorfon.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions in follow-up to the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). The safety finding determination under section 408 of the FFDCA standard is discussed in detail in each Post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued post-FQPA REDs for methamidophos, oxydemeton-methyl, and profenofos, and a TRED for trichlorfon, whose RED was completed prior to FQPA. REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, 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 in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment,

modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. 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.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no

longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (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, Regulations, and Dockets," 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/>.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.

2. There is a reasonable expectation that finite residues will exist.

3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this rule and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

### *C. When do These Actions Become Effective?*

EPA is proposing that the actions herein become effective on the date of publication of the final rule in the **Federal Register**, because their associated uses have been canceled for several years. The Agency believes that existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

### **III. Are the Proposed Actions Consistent with International Obligations?**

The tolerance actions in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the

international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of the FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, section 408(b)(4) of FFDCA requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A.

#### IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed 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 establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations 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. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were 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 proposed rule, the Agency hereby certifies that this proposed action will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. 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 proposed 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 section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed 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 proposed 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 proposed rule.

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2007.

**Debra Edwards,**  
Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be 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.

**§180.3 [Amended]**

2. Section 180.3 is amended by removing paragraph (d)(8) and redesignating paragraphs (d)(9) through (d)(14) as paragraphs (d)(8) through (d)(13).

3. Section 180.198 is revised to read as follows:

**§180.198 Trichlorfon; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the insecticide trichlorfon (dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate) in or on the following food commodities:

Commodity	Parts per million
Cattle, fat <sup>1</sup> .....	0.5
Cattle, meat <sup>1</sup> .....	0.2
Cattle, meat byproducts <sup>1</sup> .....	0.1

<sup>1</sup>There are no U.S. registrations for cattle commodities as of June 24, 1999.

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

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

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

4. Section 180.315 is revised to read as follows:

**§180.315 Methamidophos; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide methamidophos.

Commodity	Parts per million
Cotton, gin byproducts ...	10.0
Cotton, undelinted seed	0.2
Potato .....	0.1

(2) Tolerances are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide acephate.

Commodity	Parts per million
Bean, dry, seed .....	1.0
Bean, succulent .....	1.0
Brussels sprouts .....	1.0
Cauliflower .....	0.5
Celery .....	1.0
Cranberry .....	0.1

Commodity	Parts per million
Lettuce, head .....	1.0
Pepper .....	1.0
Peppermint, tops .....	2.0
Spearmint, tops .....	2.0

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

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in 180.1(m), are established for residues of methamidophos (O,S-dimethyl phosphoramidothioate) in or on the following food commodities as a result of the application of the insecticide methamidophos.

Commodity	Parts per million
Tomato .....	2.0

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

5. Section 180.330 is revised to read as follows:

**§180.330 S-(2-(Ethylsulfinyl)ethyl) O,O-dimethyl phosphorothioate; tolerances for residues.**

(a) *General.* (1) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities:

Commodity	Parts per million
Alfalfa, forage .....	5.0
Alfalfa, hay .....	11.0
Bean, lima .....	0.2
Beet, sugar, roots .....	0.3
Beet, sugar, tops .....	0.5
Broccoli .....	1.0
Brussels sprouts .....	1.0
Cabbage .....	2.0
Cauliflower .....	1.0
Clover, forage .....	5.0
Clover, hay .....	10.0
Corn, sweet, forage .....	1.0
Corn, sweet, kernel plus cob with husks removed .....	0.5
Corn, sweet, stover .....	3.0
Cotton, undelinted seed	0.02
Cucumber .....	1.0
Eggplant .....	1.0
Filbert .....	0.05
Grapefruit .....	1.0
Lemon .....	1.0
Lettuce, head .....	2.0
Melon .....	0.2
Onion, bulb .....	0.05
Orange .....	1.0
Pepper .....	0.75
Peppermint, tops .....	12.5
Pumpkin .....	0.2
Safflower, seed .....	1.0
Sorghum, forage, forage	2.0
Sorghum, grain, forage ...	2.0

Commodity	Parts per million
Sorghum, grain, grain ....	0.75
Spearmint, tops .....	12.5
Squash, summer .....	1.0
Squash, winter .....	0.3
Strawberry .....	2.0
Walnut .....	0.05

(2) Tolerances are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its cholinesterase-inhibiting metabolites in or on the following food commodities.

Commodity	Parts per million
Cattle, fat .....	0.01
Cattle, meat .....	0.01
Cattle, meat byproducts	0.01
Egg .....	0.01
Goat, fat .....	0.01
Goat, meat .....	0.01
Goat, meat byproducts ...	0.01
Hog, fat .....	0.01
Hog, meat .....	0.01
Hog, meat byproducts ....	0.01
Horse, fat .....	0.01
Horse, meat .....	0.01
Horse, meat byproducts	0.01
Milk .....	0.01
Poultry, fat .....	0.01
Poultry, meat .....	0.01
Poultry, meat byproducts	0.01
Sheep, fat .....	0.01
Sheep, meat .....	0.01
Sheep, meat byproducts	0.01

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

(c) *Tolerances with regional registrations.* Tolerances with regional registrations, as defined in 180.1(m), are established for the combined residues of the insecticide oxydemeton-methyl (S-(2-(ethylsulfinyl)-ethyl) O,O-dimethyl phosphorothioate) and its metabolite oxydemeton-methyl sulfone in or on the following food commodities:

Commodity	Parts per million
Broccoli raab .....	2.0

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

6. Section 180.404, paragraph (a) is revised to read as follows:

**§180.404 Profenofos; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate) in or on the following food commodities:

Commodity	Parts per million
Cattle, fat .....	0.05



Commodity	Parts per million
Cattle, meat .....	0.05
Cattle, meat byproducts .....	0.05
Cotton, gin byproducts ...	55.0
Cotton, undelinted seed .....	2.0
Goat, fat .....	0.05
Goat, meat .....	0.05
Goat, meat byproducts ...	0.05
Horse, fat .....	0.05
Horse, meat .....	0.05
Horse, meat byproducts .....	0.05
Milk .....	0.01
Sheep, fat .....	0.05
Sheep, meat .....	0.05
Sheep, meat byproducts .....	0.05

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2006-0766; FRL-8126-1]

[RIN 2070-AJ28]

### Pesticide Tolerance Crop Grouping Program; Proposed Expansion

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing revisions to its pesticide tolerance crop grouping regulations, which allow establishment of tolerances for multiple related crops, based on data from a representative set of crops. The present revision would create a new crop group for edible fungi (mushrooms), expand existing crop groups by adding new commodities, establish new crop subgroups, and revise the representative crops in some groups. Additionally, EPA is revising the generic crop group regulation to add a subsection explaining how the Agency will implement revisions to crop groups. EPA expects these revisions to promote greater use of crop groupings for tolerance-setting purposes and, in particular, will assist in retaining or making available pesticides for minor crop uses. This is the first in a series of planned crop group updates expected to be proposed over the next several years.

**DATES:** Comments must be received on or before July 23, 2007.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2006-0766, by one of the following methods:

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

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

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

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPP-2006-0766. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The Federal [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the

electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Ramè Cromwell, Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9068; fax number: (703) 305-5884; e-mail address: [cromwell.rame@epa.gov](mailto:cromwell.rame@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

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

You may be potentially affected by this action if you are an agricultural producer, food manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.

• Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.

• Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.

• Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI