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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180****[EPA-HQ-OPP-2008-0937; FRL-8800-7]****Quinclorac; Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of quinclorac in or on grass, forage at 150 ppm and grass, hay at 130 ppm. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 18, 2009. Objections and requests for hearings must be received on or before February 16, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0937. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 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 Docket Facility is open 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:** Hope Johnson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5410; e-mail address: [johnson.hope@epa.gov](mailto:johnson.hope@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, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- 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 to provide 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. How Can I Get Electronic Access to Other Related Information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at <http://www.gpoaccess.gov/ecfr>.

*C. Can I File an Objection or Hearing Request?*

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2008-0937 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 as required by 40 CFR part 178 on or before February 16, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy,

identified by docket ID number EPA-HQ-OPP-2008-0937, 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 Facility'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.

**II. Petition for Tolerance**

In the **Federal Register** of April 8, 2009 (74 FR 15974) (FRL-8407-4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7442) by BASF Corporation, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709-3528. The petition requested that 40 CFR 180.463 be amended by establishing tolerances for residues of the herbicide quinclorac, 3,7-dichloro-8-quinolinecarboxylic acid, in or on grass, forage at 105 and grass, hay at 70 parts per million (ppm). That notice referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available to the public in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has concluded that 40 CFR 180.463 can be amended by establishing tolerances for residues of the herbicide quinclorac in or on grass, forage at 150 ppm and grass, hay at 130 ppm instead of the petitioned for 105 ppm on grass, forage and 70 ppm on grass, hay. The reason for these changes are explained in Unit IV.C.

**III. Aggregate Risk Assessment and Determination of Safety**

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will

result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of quinclorac on grass, forage at 150 ppm and grass, hay at 130 ppm. EPA’s assessment of exposures and risks associated with establishing tolerances follows.

In the **Federal Register** of October 7, 2009 (74 FR 51485) (FRL–8434–3) the Agency published a final rule establishing tolerances for residues of quinclorac in or on cranberry at 15.0 ppm. The Agency conducted risk assessments to support that tolerance action.

The risk assessment associated with this 8F7442 petition request on grass, forage and grass, hay assessed the possibility that grass, forage and hay can be used as livestock feed stuffs and found that the current tolerances established for quinclorac for livestock commodities are adequate to cover the proposed new use on pasture and rangeland. In addition, the drinking water assessment conducted concluded that Estimated Drinking Water Concentrations (EDWCs) of quinclorac in surface water and ground water resulting from the new use are less than the previously assessed EDWCs from the use on cranberry. No new residential uses are requested in the 8F7442 petition. Therefore, no change in the dietary exposure (from food and water) is expected, and establishing tolerances on grass, forage and grass, hay will not change the most recent estimated aggregate risks resulting from use of quinclorac, as discussed in the October 7, 2009 **Federal Register**. Refer to the October 7, 2009 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon

those risk assessments and the findings made in the **Federal Register** document, along with the risk assessment completed on this petition request in support of this action. The risk assessment completed for this petition request can be found at <http://www.regulations.gov> in document “Human Health Risk Assessment for Quinclorac New Use on Pasture/Rangeland” in docket ID number EPA–HQ–OPP–2008–0937.

Therefore, based on the risk assessment discussed in the final rule published in the **Federal Register** of October 7, 2009, and the risk assessment completed in support of this petition request, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to quinclorac residues.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate analytical methods utilizing gas chromatography with electron capture detection (GC/ECD), are available to enforce the tolerance expression on plant (BASF Method A8902, Master Record Identification Number (MRID) 41063537) and livestock commodities (BASF Method 268/1, MRID 41063536), and the limit of quantitation (LOQ) for quinclorac is 0.05 ppm by these methods. Both methods have undergone successful agency method validation trials and have been submitted to the Food and Drug Administration (FDA) for publication in PAM II as the tolerance enforcement methods. Furthermore, the available FDA multi-residue method (MRM) testing data indicate that quinclorac is completely recovered using Method 402 in PAM, Vol. 1.

##### B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits (MRLs) established for quinclorac on grass, forage and grass, hay.

##### C. Revisions to Petitioned-For Tolerances

Review of available field trial data indicate that the proposed tolerances for grass, forage at 105 ppm and grass, hay at 70 ppm are too low; tolerances of 150 ppm and 130 ppm, respectively, are appropriate based on the results of analysis of the field trial data using the Agency’s Tolerance Spreadsheet in accordance with the Agency’s Guidance for Setting Pesticide Tolerances Based on Field Trial Data.

#### V. Conclusion

Therefore, tolerances are established for residues of quinclorac, 3,7-dichloro-8-quinolinecarboxylic acid, in or on grass, forage at 150 ppm and grass, hay at 130 ppm.

#### VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions 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, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175,

entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not 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).

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).

## VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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: December 8, 2009.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

### PART 180—[AMENDED]

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

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

■ 2. Section 180.463 is amended by alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

#### § 180.463 Quinclorac; tolerances for residues.

(a) \* \* \*

Commodity	Parts per million
* * *	* *
Grass, forage .....	150
Grass, hay .....	130

Commodity	Parts per million
* * *	* *

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2008-0730; FRL-8804-8]

### Endothall; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for indirect or inadvertent combined residues of endothall in or on multiple commodities identified and discussed elsewhere in this document. The Interregional Research Project Number 4 (IR-4) in cooperation with the registrant, United Phosphorus, Inc., requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 18, 2009. Objections and requests for hearings must be received on or before February 16, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**.)

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0730. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 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 Docket Facility is open 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:

Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7610; e-mail address: [jackson.sidney@epa.gov](mailto:jackson.sidney@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, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

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

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#### B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at <http://www.gpoaccess.gov/ecfr>. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/oppts> and select "Test Methods & Guidelines" on the left-side navigation menu.

#### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-