''Beet, sugar, dried pulp''; ''Beet, sugar, molasses''; ''Beet, sugar, refined sugar''; ''Beet, sugar, roots''; and ''Beet, sugar, tops'' by revising the expiration/revocation date ''12/31/02'' to read ''12/31/04'' and amend the entry for ''Artichoke, globe'' by revising the expiration/revocation date ''6/30/03'' to read ''6/30/05.''

§ 180.448 [Amended]

8. In § 180.448, in the table to paragraph (b), amend the entry for ''Dates'' by revising the expiration/revocation date ''10/31/02'' to read ''12/31/04.''

§ 180.464 [Amended]

9. In § 180.464, in the table to paragraph (b), amend the entries for ''Beet, sugar''; ''Beet, sugar, dried pulp''; ''Beet, sugar, molasses''; ''Beet, sugar, tops''; and ''Onion, dry bulb'' by revising the expiration/revocation date ''12/31/02'' to read ''12/31/04.''

§ 180.472 [Amended]

10. In § 180.472, in the table to paragraph (b), amend the entry for ''Strawberry'' by revising the expiration/revocation date ''6/30/02'' to read ''12/31/04.''

§ 180.474 [Amended]

11. In § 180.474, in the table to paragraph (b), amend the entries for ''Sunflower, oil'' and ''Sunflower, seed'' by revising the expiration/revocation date ''12/31/03'' to read ''12/31/05.''

§ 180.480 [Amended]

12. In § 180.480, in the table to paragraph (b), amend the entry for ''Blueberry'' by revising the expiration/revocation date ''12/31/02'' to read ''12/31/04.''

§ 180.498 [Amended]

13. In § 180.498, in the table to paragraph (b), amend the entry for ''Bean, succulent seed without pod (lima bean, cowpea)'' by revising the expiration/revocation date ''12/31/02'' to read ''12/31/04.''

§ 180.505 [Amended]

14. In § 180.505, in the table to paragraph (b), amend the entries for ''Cattle, fat''; ''Cattle, meat''; ''Cattle, meat byproducts''; ''Cotton gin byproducts''; ''Cotton, hulls''; ''Cotton, meal''; ''Cottonseed''; ''Cotton, oil''; ''Goat, fat''; ''Goat, meat''; ''Goat, meat byproducts''; ''Hog, fat''; ''Hog, meat''; ''Hog, meat byproducts''; ''Milk''; ''Sheep, fat''; ''Sheep, meat''; and ''Sheep, meat byproducts'' by revising the expiration/revocation date ''12/31/02'' to read ''12/31/04.''

§ 180.535 [Amended]

15. In § 180.535, in the table to paragraph (b), amend the entries for ''Cattle, kidney''; ''Goat, kidney''; ''Grass, forage''; ''Grass, hay''; ''Hog, kidney''; ''Horse, kidney''; ''Milk''; and ''Sheep, kidney '' by revising the expiration/revocation date ''06/30/03'' to read ''12/31/04.''

§ 180.572 [Amended]

16. In § 180.572, in the table to paragraph (b), amend the entry for ''Tomato'' by revising the expiration/revocation date ''06/30/03'' to read ''06/30/05.''

[FR Doc. 02–17187 Filed 7–16–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0093; FRL–7185–4]

RIN 2070

Aspergillus flavus AF36; Amendment, Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends an existing temporary exemption from the requirement of a tolerance for residues of the atoxigenic microbial pesticide, *Aspergillus flavus* AF36 on cotton consistent with the Experimental Use Permit 69224–EUP–1, which will now allow for application to cotton in certain counties in Arizona and Texas. Interregional Research Project Number 4 (IR-4), on behalf of the USDA/ARS Southern Regional Research Center, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting the temporary tolerance exemption amendment. This regulation eliminates the need to establish a maximum permissible level for residues of *Aspergillus flavus* AF36. The temporary tolerance exemption will expire on December 30, 2004.

DATES: This regulation is effective July 17, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0093, must be received by EPA on or before September 16, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0093 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8097; e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this

document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register—**Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title _40/40cfr180 _00.html, a beta site currently under development.

2. *In person.* The Agency has established an official docket for this action under docket ID number OPP–2002–0093. The official docket consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). Interested parties should consult both the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official docket does not include any information claimed as CBI. The public version of the official docket, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Authority

A. Statutory Authority

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) 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) 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. . . .'' Additionally, section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

B. Factual Background

This extension of the temporary exemption from the requirement of a tolerance is associated with an extension of an Experimental Use Permit (69224–EUP–1), which was granted in May 1996 to the Southern Regional Research Center, United States Department of Agriculture, Agricultural Research Service (USDA ARS), 1100 Robert E. Lee Blvd., New Orleans, LA 70179–0687. Both the temporary exemption from tolerance and the Experimental Use Permit in Arizona expire December 30, 2003.

In the **Federal Register** of (March 25 2002, 57 FR 13628) (FRL–6827–8), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170), announcing the filing of an amended pesticide tolerance petition (PP 5E4575) by Interregional Research Project Number 4 (IR–4), New Jersey Agricultural Experiment Station, Technology Center of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390 on behalf of the USDA/ARS Southern Regional Research Center, 1100 Robert E. Lee Blvd., P.O. Box 19687, New Orleans, LA 70179. This notice included a summary of the petition prepared by the petitioner, Dr. Michael Braverman. It referred to data previously evaluated and summarized by the Agency as published in the **Federal Register** of May 26 1999 (64 FR 28371) (FRL–6081–2), and the extension of the temporary tolerance exemption as published in the **Federal Register** of May 23 2001 (66 FR 28383) (FRL–6781–7). The petition requested that 40 CFR part 180.1206 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Aspergillus flavus* AF36 on cotton in certain counties in Texas in addition to the current exemption from temporary tolerance on cotton in Arizona. This petition also, requested that this temporary exemption from a tolerance be extended to December 30, 2005.

Several comments were received in favor of the amendment to allow use of the microbial pesticide in Texas. The growers were of the opinion that the use of this active ingredient is likely to reduce the high levels of naturally occurring aflatoxin-producing strain. *Aspergillus flavus* AF36 has been found at a range of less than 1 to approximately 5% in certain regions of Texas.

One comment was received requesting the Agency to re-evaluate the science of the proposed program and that the risks associated with the use of the active ingredient be considered before a permanent exemption from a tolerance is issued. The main concerns in this comment were the requirement for uniform standards in the expression of aflatoxin levels found in the crop; the practical significance of the proposed treatment method in reducing aflatoxin contamination; and the significance of the host stress in the expression of pathogenicity by *Aspergillus flavus.*

Considering each of these points, first, the commenter referred to the mixing of units used to measure aflatoxin contamination. This comment specifically referred to the experimental researcher's reports, which include measurement of aflatoxin levels as micrograms per gram of cottonseed rather than the typical expression of micrograms per kilogram of cottonseed. In data submitted to the Agency, there is no indication that the company was in error or misrepresenting the aflatoxin values. In all cases, EPA is careful to pay close scrutiny to the units of measure in data they review and the implications made from the stated values.

Secondly, the efficacy of the pesticidal product to reduce the level of aflatoxin in commercial crops was questioned in the comments. The Agency requires that the company present data to confirm their claim to control a public health hazard. The submitted data are available in the public docket and have been reviewed. These data indicate that when *Aspergillus flavus* AF36 is used, a higher percentage of the treated commodity meets, or is less than, the standards of aflatoxin required by the Food and Drug Administration (FDA), and the aflatoxin contamination in the experimental region is lowered. The growers ultimately decide if the reduced aflatoxin contamination is worth the treatment cost, but all cotton and its by-products sold for food/feed must meet the FDA aflatoxin standard.

Regarding testing of the atoxigenic fungus, *Aspergillus flavus* AF36, on stressed or immunosuppressed species to detect any pathogenic potential in plants, insects, or mammals, EPA's guideline requirements are designed to address the normal immune response to microbial exposure. These tests include non-self/foreign recognition and response or clearance by the immune system over time. EPA is examining new methods that may address the potential of a microbe to infect stressed or immunocompromised hosts. In the interim, special measures have been included in the experimental treatments to reduce exposure to *Aspergillus flavus* AF36 outside of the designated treatment areas. The experimental plan also requires extensive data collection to examine the fate and persistence of *Aspergillus flavus* AF36 as a component of the local fungal population.

Exposure to *Aspergillus flavus* is inevitable, because the fungus normally occurs in the environment. Given the ubiquitous nature of various strains of *Aspergillus flavus,* the precautions associated with this experimental program, data indicating no undue adverse health effects to test rodent species by oral ingestion of *Aspergillus flavus* AF36, as well as the current FDA monitoring of aflatoxin levels, there is a reasonable certainty of no harm resulting from the use of the non-aflatoxin-producing fungus, *Aspergillus flavus* AF36.

III. Toxicological Profile and Risk Assessment

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Based on the data and analyses outlined in the **Federal Register** of May 26 1999 (66 FR 28371), and summarized below, EPA has concluded that there is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of *Aspergillus flavus* AF36 arising from the limited use pattern of the experimental use permit. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

1. *Food.* The cultural practice allows application of the microbial pesticide prebloom to cotton. This precludes the potential for direct residues of *Aspergillus flavus* AF36 *per se* to remain on the treated cotton. Only the seed of the treated commodity, cotton, is likely to be processed as food for cottonseed oil. Residues of *Aspergillus flavus* AF36 or its metabolites are likely to be removed from cotton seed oil during this processing.

In addition, the data submitted demonstrate that the proposed strain of *Aspergillus flavus* AF36, has a low toxicity potential, and, therefore, is likely to pose a minimal to non-existent hazard if used as labeled. The acute oral LD_{50} of rats treated by gavage for 14 days is greater than 5,000 mg/kg. Further, the proposed strain of *Aspergillus flavus,* AF36, does not produce aflatoxin. Aflatoxin is regulated on the by-products of cotton by the Food and Drug Administration. The May 23 2001 **Federal Register** Notice also, discusses that no adverse effects were reported in the annual reports of the Experimental Use Permit 69224–EUP–1, and, in some instances, aflatoxin levels of cotton seed were reduced in treated cotton (May 23, 2001, 66 FR 28383).

2. *Dermal exposure.* Non-occupational dermal exposure and risk to adults, infants and children are not likely if the pesticide is used as labeled. If the microbe exhibits dermal sensitizing properties which is associated with this genus of fungi, the boundaries are likely to maintain distribution near treated areas thus protecting nearby at-risk populations. To further minimize exposure to immunocompromised or sensitive populations, infants and children, the Agency continues to require that the pesticide must not be applied within a boundary of 400 feet of schools, daycare and health care facilities and hospitals.

3. *Inhalation exposure.* Based on the method of application to the soil of cultivated cotton fields, prebloom with set boundaries, non-occupational inhalation exposure and risk to human adults, children and infants are likely to be minimal.

4. *Determination of safety for U.S. population, infants and children.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. In this instance, based on the above findings, EPA believes there are reliable data to support the conclusion that there are no threshold effects of concern to infants, children, and adults when *Aspergillus flavus* AF36 is used as labeled, and that no additional margin of exposure is necessary.

5. *Cumulative effects.* This is the only microbe in the genus *Aspergillus* which is in an experimental use program at this time. *Aspergillus* species are naturally occurring ubiquitous fungi, such that exposure to various species is normal. The data submitted to the Agency support the claim that *Aspergillus flavus* AF36 is non-aflatoxin producing. When applied prior to flowering, *Aspergillus flavus* has been shown to exclude aflatoxin-producing fungi competitively from the developing crop and to reduce aflatoxin contamination of cottonseed. Data show that the proposed use will not result in appreciable increases in the long-term populaton of *Aspergillus flavus* on the crop beyond naturally occurring levels. Furthermore, there is no expectation of cumulative effects with other pesticides.

IV. Other considerations

1. *Endocrine disruptors.* EPA does not have any information regarding endocrine effects of this microbial pesticide at this time.

2. *Analytical methods.* Starter cultures are screened on the basis of vegetative incompatibility with the toxigenic strain. *Aspergillus flavus* AF 36 does not demonstrate vegetative compatibility with the aflatoxin-producing S strain. Aflatoxin production is monitored by standard thin layer chromatography (tlc) procedures and visualization via scanning fluorescence densitometry and there is a zero tolerance for aflatoxin. Human pathogens are reported to be within regulatory levels (May 26 1999, 64 FR 28371). Treated cotton and its by-products are screened for aflatoxin prior to introduction into the channels of commerce. FDA does not allow cotton seed products containing aflatoxin above 20 parts per billion (ppb) to be used in dairy rations or above 300 ppb to be used for feeding beef cattle.

3. *Codex maximum residue level.* There is no codex maximum residue level for *Aspergillus flavus* AF36.

V. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the

FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0093 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 16, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

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

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

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

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0093, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VI. Regulatory Assessment Requirements

This final rule establishes an amended exemption from the temporary tolerance requirement under FFDCA section 408(d) 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* (October 4 1993, 58 FR 51735). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (May 22 2001, 66 FR 28355). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 16 1994, 59 FR 7629); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (April 23 1997, 62 FR 19885). 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). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the amended temporary tolerance exemption 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. 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* (August 10 1999, 64 FR 43255). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000, 65 FR 67249). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule ''as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: June 27, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.1206 is revised to read as follows:

§ 180.1206 Aspergillus flavus AF36.

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

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

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0085; FRL–7182–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

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

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112	Crop production Animal production