

1. *By mail.* Submit your comments to the following address: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The PIRIB telephone number is: (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any electronic information that you consider to be CBI. Avoid the use of special characters and any form of encryption. EPA will accept electronic submissions submitted in WordPerfect versions 6.1/8.0/9.0 or ASCII file format. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any electronic information that you consider to be CBI. You may claim written information that you submit to EPA in response to this document as CBI 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. You must submit one complete version of the comment that includes any information claimed as CBI, as well as a copy of the comment that does not contain the CBI information for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for making CBI claims, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

III. What Action is the Agency Taking?

A. General Information

For the OP pesticide disulfoton, the Agency is announcing the availability of the IRED document and supporting technical documents. EPA has assessed the risks associated with the use of

disulfoton and reached an interim reregistration eligibility decision for disulfoton. The disulfoton IRED and supporting technical documents were developed using the OP public participation process, which was designed to increase transparency and maximize stakeholder involvement and to provide numerous opportunities for public comment. You can read more about the OP public participation process at <http://www.epa.gov/pesticides/op/process.htm>. Below is a brief summary of EPA's interim decision, which is fully described in disulfoton's IRED document.

B. Disulfoton Decision

EPA has determined that disulfoton is eligible for reregistration, pending a full reassessment of the cumulative risk from all OP pesticides, and provided that all the conditions identified in the IRED document are satisfied, including implementation of risk mitigation measures. Without implementation of the risk mitigation measures, the Agency has determined that disulfoton products may pose unreasonable adverse effects on human health and the environment. Therefore, EPA expects that registrant will implement the risk mitigation measures as soon as possible. The IRED document describes, in detail, what is necessary for implementing the risk mitigation measures, such as submission of label amendments for end-use products and submission of any required data. Mitigation measures for disulfoton include a phase out of disulfoton use on wheat, barley, potatoes, and commercially grown ornamentals by June 2005. Should a registrant fail to implement any of the risk mitigation identified in the IRED document, the Agency may take regulatory action to address risk concerns from the use of disulfoton.

EPA is taking comment on benefits associated with disulfoton use in response to grower concerns about the benefits assessment used to support the interim RED for disulfoton. There will be a 30-day public comment period to allow growers and other stakeholders an opportunity to submit any new use and usage information relevant to the risk management decision for disulfoton. Comments concerning uses being phased out must include specific information on current disulfoton use, timing of applications, target pests, available alternatives, and the cost and efficacy of alternatives, to be considered by the Agency.

C. Next Steps

EPA's next step under FQPA is to consider a cumulative risk assessment

and risk management decision encompassing all the OP pesticides, which share a common mechanism of toxicity. Because the Agency has not yet finished its consideration of the cumulative risks for the OPs, the Agency's interim decisions do not fully satisfy the reassessment of the existing food residue tolerances as required by FQPA for disulfoton. When the Agency has considered the cumulative risks for the OPs, tolerances for disulfoton will be reassessed along with the other OP pesticides. At that time, the Agency will complete the FQPA requirements for the OPs and make a final reregistration eligibility decision, which may include further risk mitigation measures.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: July 5, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0111; FRL-7186-8]

Organophosphate Pesticides; Reassessment of Certain Non-Contributing Commodity Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As part of its ongoing review of existing organophosphate (OP) tolerances under the Food Quality Protection Act (FQPA), EPA has determined that 47 OP tolerances can be reassessed at this time. EPA has concluded that these tolerances make, at most, a negligible contribution to the cumulative risk from OP pesticides. These "non-contributor" tolerances have no reported pesticide residue detections in the monitoring data being used in the OP cumulative risk assessment (CRA)(U.S. Department of Agriculture's (USDA) Pesticide Data Program (PDP). These non-contributor tolerances meet the FQPA safety standard in section 408(b)(2) of the Federal Food, Drug and Cosmetic Act (FFDCA) and can be reassessed for the purposes of FFDCA section 408 (q). This Notice discusses the concept and basis for this approach to reassessing selected OP tolerances based on available information relating to the OP CRA. Nothing in this Notice is intended to

modify in any way any determination or requirement set forth in individual pesticide Interim Reregistration Eligibility Decisions (IREDs), or affect regulatory agreements or use cancellation actions required for some other purpose (e.g., due to worker or ecological risk concerns). This Notice closely relates to a previous **Federal Register** Notice of (May 22 2002, 66 FR 35991), (FRL-7178-9) in which EPA announced the reassessment of non-contributing tolerances for certain meats, animal feeds, and refined sugars, and requested suggestions on other approaches for identifying tolerances that do not contribute risk to the OP cumulative risk assessment.

DATES: The reassessment of these tolerances is effective as of July 17, 2002.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7805C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general who are interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. 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 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/>. 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/>. In addition, copies of this Notice may also be accessed at <http://www.epa.gov/oppsrd1/op>.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0111. The official record consists

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

II. Background

The FQPA of 1996 significantly amended the FFDCFA, creating a new safety standard for judging the acceptability of tolerances for pesticide residues in food. The new statutory standard allows EPA to approve a new tolerance or leave an existing tolerance in place only if the tolerance is "safe." The statute 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 data" FFDCFA section 408(b)(2)(A)(ii). In making the safety determination, EPA "shall consider, among other relevant factors . . . available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity" FFDCFA section 408(b)(2)(D)(v). The FQPA amendments not only made the new safety standard applicable to new tolerances, but also to tolerances in existence when FQPA became law. FQPA set a 10 year schedule for EPA to reassess all existing tolerances, with interim deadlines for completion of 33% and 66% of tolerance reassessments three and 6 years, respectively, after the date of enactment. Pesticide tolerances subject to reassessment under the FQPA section 408(q) may only remain in effect without modification if they meet the section 408(b)(2) safety standard. Finally, FQPA instructed EPA to give priority to the review of tolerances which appear to pose the greatest risk to public health.

Consistent with the FQPA mandate, EPA identified organophosphate

pesticides as high priority for tolerance reassessment. EPA has determined that the OPs share a "common mechanism of toxicity," and therefore, that the Agency will consider the cumulative risks of OPs in making the safety determination for any tolerance for a pesticide in this group. The Agency has reviewed individual OP pesticides to determine whether they meet the current health and safety standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the FFDCFA safety standard, and has presented its determinations in documents called "Interim Reregistration Eligibility Decisions (IREDs)." When the pesticide covered by an IRED shares a common mechanism of toxicity with other pesticides, the IRED addresses the aggregate risk of the chemical but does not take a position on the FFDCFA standard until the Agency has also considered the potential cumulative risks of the group of pesticides.

In addition to its consideration of individual OP pesticides, EPA has also conducted a preliminary CRA for all of the OPs and sought public comment on the assessment. The Agency recently released the revised OP CRA for public comments. The preliminary and revised OP cumulative risk assessment documents are available at www.epa.gov/pesticides/cumulative. In addition, EPA presented the assessment to its FIFRA Scientific Advisory Panel (SAP) for expert, independent scientific peer review. The SAP provided a generally favorable review of the preliminary assessment. See www.epa.gov/scipoly/sap/index.htm.

EPA has raised with stakeholders during a number of public meetings the concept of reassessing selected OP tolerances because, based on available data and assessments, EPA could determine that they make, at most, no more than a negligible contribution to risk. Most recently, the concept of reassessing such "non-contributors" was an agenda topic for the February, 2002, meeting of the Committee to Advise on Reassessment And Transition (CARAT). In the **Federal Register** of (May 22 2002, 66 FR 35991), EPA announced the reassessment of non-contributing tolerances for certain meats, animal feeds, and refined sugars, and requested suggestions on other approaches for identifying tolerances that do not contribute risk to the OP cumulative risk assessment.

III What Action is the Agency Taking?

A. Reassessment of Non-Contributor Tolerances

In this Notice, EPA identifies non-contributor tolerances and considers these tolerances reassessed for the purposes of FQPA section 408 (q) as of today's date. Pesticide tolerances subject to reassessment under the FQPA section 408(q) may only remain in effect without modification if it meets the section 408(b) safety standard. This standard is met if EPA finds that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue." In evaluating tolerances under the standard, the FQPA also instructs the Agency to consider the cumulative effects of the pesticide and other substances that have a common mechanism of toxicity. For each of the tolerances being reassessed, the Agency has issued an IRED, which found that, apart from consideration of the potential cumulative risks from all of the OPs, each of the tolerances would meet the FFDCA safety standard. EPA has now considered the impact of these cumulative risks in the reassessment of these tolerance and has determined that these tolerances make, at most, only a negligible contribution to the overall risks from OPs. Therefore, these tolerances can be maintained regardless of the outcome of the OP cumulative assessment and any potential regulatory action taken as a result of that assessment. Accordingly, EPA believes it is appropriate to consider these tolerances reassessed for the purposes of FQPA section 408(q) as of today's date.

In making the determination that these tolerances contribute negligible (if any) residues and/or risk, EPA considered, among other things, the nature of the use of the pesticide, the data used in conducting aggregate risk assessments for each individual OP, the potential for drinking water contamination, and other data and analyses available to the Agency (such as food residue monitoring and other information that the Agency is using for the CRA). The Agency concludes that these pesticide uses result in minimal or no detectable residues in food, and have no or negligible effects through drinking water. Because a tolerance may apply to more than one raw agricultural commodity (RAC), no tolerance is herein reassessed as a non-contributor unless all of the RAC (food forms) that are part of that tolerance are also considered to be non-contributors. EPA also considered the potential impacts of future OP risk management decisions and determined that such decisions

would be very unlikely to increase the use of the pesticide on these use sites in a manner or to a degree that the potential exposure under the tolerance would no longer be negligible. As part of its preliminary cumulative risk assessment, the Agency developed an estimate of the potential contribution that OP pesticides used in different parts of the country could make to overall risk as a result of the presence of residues of such pesticides in drinking water. Because of the nature of the available data, EPA's estimate employs assumptions that are designed not to understate potential drinking water exposure. The OP preliminary and revised CRA concluded that drinking water was not a significant source of potential exposure. In reaching the determination to reassess these tolerances, EPA has considered this analysis, the public comment and the SAP's advice, as well as the information developed to assess the aggregate exposure from drinking water for each of the individual pesticides being reassessed.

The Agency's assessment of these tolerances is effectively complete and the tolerances are considered reassessed. Nothing in this Notice is intended to modify in any way any determination or requirement set forth in individual pesticide IREDs, or affect existing or future regulatory agreements or use cancellation actions required for some other purpose (e.g., due to worker or ecological risk concerns). For any of the uses that may be cancelled pursuant to any such decision, EPA expects that the associated tolerance would be revoked at the appropriate time unless it is properly supported for an import tolerance. In addition, all of these pesticide/use pattern combinations are included in the preliminary CRA and will remain in the CRA even though they involve exposures that pose negligible/minimal risk.

No conclusions about reassessment should be drawn about tolerances that are not identified as non-contributors in this Notice. EPA expects that additional tolerances will be appropriate for reassessment based on the kind of approach described here and in a previous the **Federal Register** Notice of May 22 2002, 66 FR 35991 in which EPA announced the reassessment of non-contributing tolerances for certain meats, animal feeds, and refined sugars. Additional tolerances may be reassessed without the need for regulation upon completion of the CRA. In other words, the failure of a tolerance to be identified as a non-contributor in this or any other announcement does not imply that the pesticide/use combination will

ultimately be subject to regulatory action. For tolerances reassessed as announced in this Notice or using the approach described herein, EPA has concluded that the decision to reassess these tolerances will have no impact on any subsequent determination or decisions that may be necessary if the CRA were to conclude that cumulative exposure to the OPs poses risks of concern.

B. Tolerances With No Residue Detections in PDP

EPA has determined that certain OP tolerances, listed later in the Notice, are reassessed at this time because they make, at most, a negligible contribution to OP risk. The Agency examined the monitoring data being used in the OP cumulative risk assessment and found that no residues were detected for these food commodity/OP combinations, including the parent chemical and the degradates that were tested. The monitoring data being used in the OP cumulative assessment, USDA's PDP data, are the Agency's preferred data for risk assessment. The number of samples analyzed in the PDP for these food commodity/OP combinations ranged from almost 200 to 2,600 samples.

USDA's PDP program has been collecting data on pesticide residues found on foods since 1991, primarily for purposes of estimating dietary exposure to pesticides. For several years, EPA has routinely used the PDP data base in developing assessments of dietary risk. The PDP's sampling procedures were designed to capture actual residues of the pesticide and selected metabolites in the food supply as close as possible to the time of consumption. Data collected close to actual consumption, such as PDP data, depicts a more realistic estimate of exposure, i.e., residues that could be encountered by consumers. The real-world nature of PDP data makes it preferable for the purposes of this assessment than pesticide field trials, which are another data source available to the Agency. Field trial data are designed to test for residues under exaggerated application scenarios, and are primarily used in establishing tolerances.

The PDP is designed to focus on foods highly consumed by children and to reflect foods typically available throughout the year. PDP's commodity testing profile includes not only fresh fruits and vegetables, but also canned and frozen fruits/vegetables, fruit juices, whole milk, wheat, soybeans, oats, corn syrup, peanut butter, rice, poultry, beef, and drinking water. The PDP generally collects foods at wholesale distribution centers and stores them frozen until

analysis. Foods are washed and inedible portions are removed before analysis but these foods are not further cooked or processed. A complete description of the PDP and all data through 1999 are available on the internet at www.ams.usda.gov/science/pdp.

PDP data are not available for all food commodities with current OP registrations, including a limited number of food commodity tolerances that are listed in this Notice. When PDP data are not available for a commodity, EPA uses data when it is appropriate to do so from commodities that are measured by PDP to serve as surrogate data sources. This well established practice of using surrogate, or "translated," data is based upon the concept that families of commodities with similar cultural practices and insect pests are likely to have similar pesticide use patterns. For example, data on peaches can be used as surrogate data for apricots. The practice of translating data from tested sources to similar situations that have not been directly tested has been used for some time by EPA in the development of pesticide-specific dietary exposure assessments when monitoring data are unavailable. The methods of translation, specifically, what commodities may be used to represent other commodities, have been made public. EPA is using translated data where appropriate for the purposes of the OP cumulative risk assessment and tolerance reassessment as discussed in this Notice.

EPA has examined the PDP data that is being used for the OP cumulative risk assessment and found that no residues for the parent pesticide or any tested metabolite were reported for the 47 OP tolerances listed below. As a result, EPA has concluded that these tolerances make, at most, a negligible contribution to the cumulative risk from OP pesticides, and, therefore, these tolerances are considered reassessed. EPA expects to announce as reassessed other tolerances that have no detections in PDP in future Notices as appropriate in light of their individual OP assessments.

The following 47 tolerances are considered reassessed at this time:

- Azinphos methyl* (40 CFR 180.154)
 - Brussels sprouts
- Chlorpyrifos* (40 CFR 180.342)
 - Banana, whole
 - Bananas, pulp with peel removed
 - Corn, field, grain
 - Corn, fresh (inc. sweet, kernel plus cob with husks removed)
- Dsulfoton* (40 CFR 180.183)
 - Bean, dry
 - Bean, lima
 - Bean, snap

- Broccoli
- Brussels sprouts
- Cauiflower
- Peanut
- Pea
- Spinach
- Mevinphos* (40 CFR 180.157)
 - Melon (incl. Cantaloupe, melon, honeydew, and muskmelon, determined on the edible portion with rind removed)
- Pea
- Watermelon
- Oxydemeton methyl* (40 CFR 180.330)
 - Apple
 - Apricot
 - Bean, lima
 - Bean, snap
 - Brussels sprouts
 - Cabbage
 - Eggplant
 - Grapefruit
 - Grape
 - Lemon
 - Melon
 - Oranges
 - Pear
 - Plum, prune, fresh
 - Pumpkin
 - Squash, winter
 - Strawberry
 - Turnip
- Phorate* (40 CFR 180.206)
 - Bean
 - Corn, grain
 - Corn, sweet, kernel plus cob with husks removed
 - Soybean
- Phosalone* (40 CFR 180.263)
 - Apricot
 - Cherry
 - Grape
 - Peach
 - Pear
 - Plum, prune, fresh
- Phosmet* (40 CFR 180.261)
 - Pea
 - Potato

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: July 8, 2002.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-42079A; FRL-6821-3]

West Virginia State Plan for Certification of Applicators of Restricted Use Pesticides; Notice of Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notice.

SUMMARY: In the **Federal Register** of September 17, 2001 (66 FR 48057) (FRL-6777-1), EPA issued a notice of intent to approve an amended West Virginia Plan for the certification of applicators of restricted use pesticides. In the notice EPA solicited comments from the public on the proposed action to approve the amended West Virginia Plan. The amended Certification Plan contained several statutory and programmatic changes. The approved amendments establish: New requirements for the certification and recertification of pesticide applicators; for the issuance of pesticide business licences; categories for private applicators; additional competency standards and time intervals between re-examination attempts for initial certification; training requirements for registration of non-certified employees; commercial categories and subcategories, and civil penalties private applicators. The plan also contains a speciality subcategory for predator control. Persons certified in this subcategory will not only be required to demonstrate a practical knowledge of predator control, but also must demonstrate a knowledge of the specific label requirements and use restrictions of the 1080 Livestock Protection Collar and M-44 Device. No comments were received and EPA hereby approves the amended West Virginia Plan.

ADDRESSES: The amended West Virginia Certification Plan can be reviewed at the locations listed under Unit I.B. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Magda Rodriguez-Hunt, Pesticides/Asbestos Programs and Enforcement Branch, Waste and Chemicals Management Division (3WC32), Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2099; telephone number: (215) 814-2128; fax number: (215) 814-3113; e-mail address: rodriguez-hunt.magda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those involved in agriculture and anyone involved with the distribution and application of pesticides for agricultural purposes. Others involved with pesticides in a non-agricultural setting may also be affected. In addition, it may be of interest to others, such as, those persons