

22, 2001). 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* (59 FR 7629, February 16, 1994); or OMB review or any 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). 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. 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 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 section 408(n)(4) of FFDCA. 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* (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 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. Congressional Review Act

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: September 19, 2006.

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 180.441 is amended by revising the listing for milk, fat in the table to paragraph (a)(2) and by amending the table in paragraph (a)(3) by alphabetically adding commodities to read as follows:

§ 180.441 Quisalofop ethyl; tolerances for residues.

- (a) * * *
- (2) * * *

Commodity	Parts per million
* * *	* *
Milk, fat	0.25
* * *	* *

- (3) * * *

Commodity	Parts per million
Barley, grain	0.05
Barley, hay	0.05
Barley, straw	0.05
* * *	* *
Flax, seed	0.05
Sunflower, seed	1.9
* * *	* *
Wheat, forage	0.05
Wheat, grain	0.05
Wheat, hay	0.05
Wheat, straw	0.05

* * * * *

[FR Doc. 06-8253 Filed 9-26-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2006-0056; FRL-8093-5]

Bentazon, Carboxin, Dipropyl Isocinchomeronate, Oil of Lemongrass (Oil of Lemon) and Oil of Orange; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking certain tolerances for the fungicide carboxin, the insecticide dipropyl isocinchomeronate, and the fungicide/ animal repellent oil of lemon (oil of lemongrass) and oil of orange. Also, EPA is modifying certain tolerances for the herbicide bentazon and the fungicide carboxin. In addition, EPA is establishing new tolerances for the herbicide bentazon.

DATES: This regulation is effective September 27, 2006. Objections and requests for hearings must be received on or before November 27, 2006, 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-2006-0056. All documents in the docket are listed in the index for the docket. 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 Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open 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: Monisha Dandridge, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0410; e-mail address: dandridge.monisha@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:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 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. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this "**Federal Register**" document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the Food Quality Protection Act (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. 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-2006-0056 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 November 27, 2006.

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 your copies, identified by docket ID number EPA-HQ-OPP-2006-0056, 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.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of July 14, 2006 (71 FR 40051) (FRL-8075-4), EPA issued a proposed rule to revoke, modify, and establish certain tolerances and tolerance exemptions for residues of the herbicide bentazon, the fungicide carboxin, the insecticide dipropyl isocinchomeronate, and the fungicide/animal repellent oil of lemon (oil of lemongrass), and oil of orange. Also, the proposal of July 14, 2006 (71 FR 40051) provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under the Federal Food, Drug, and Cosmetic Act (FFDCA) standards.

EPA is revoking, modifying, and establishing specific tolerances for residues of the herbicide bentazon, the fungicide carboxin, the insecticide dipropyl isocinchomeronate, and the fungicide/animal repellent oil of lemon (oil of lemongrass) and oil of orange in or on commodities listed in the regulatory text.

EPA is finalizing these tolerance actions in order 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 the reregistration and when taking action on tolerances and exemptions, EPA is required to determine whether each of the amended tolerances or exemptions meets the safety standards under the FQPA. The safety finding determination of "reasonable certainty of no harm" is found in detail in each Reregistration Eligibility Decision (RED) and Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend certain tolerance actions to be implemented to reflect current use patterns, to meet safety findings and change commodity

names and groupings in accordance with new EPA policy. Printed copies of 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 at <http://www.epa.gov/pesticides/reregistration/status.htm>.

In this final rule, EPA is revoking certain tolerances and tolerance exemptions because these specific tolerances and exemptions correspond to uses no longer current or registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in the United States. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to revoke those tolerances and tolerance exemptions 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 or tolerance exemption to cover residues in or on imported commodities or domestic commodities legally treated.

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. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed in Unit II.A. if one of the following conditions applies:

1. Prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.

2. EPA independently verifies that the tolerance is no longer needed.

3. The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of July 14, 2006 (71 FR 40051). EPA received no comments during the 60-day public comment period.

1. *Bentazon*. The available residue data for bentazon indicate that the established tolerances for cowpea, forage; pea, dry, seed; pea, field, hay; soybean, forage; and soybean, hay should be increased to account for increased residue levels. Therefore, EPA is increasing tolerances in 40 CFR 180.355(a)(1) for the residues of bentazon in or on cowpea, forage from 3.0 to 10.0 parts per million (ppm); pea, dry, seed from 0.05 to 1.0 ppm; pea, field, hay from 3.0 to 8.0; soybean, forage from 3.0 to 8.0 ppm and soybean, hay from 0.3 to 8.0 ppm. The Agency has 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.

The Agency determined that the tolerance on pepper, nonbell should be decreased to 0.05 ppm, which is the limit of detection for bentazon residues of concern. Therefore, the Agency is decreasing the tolerances in 40 CFR 180.355(a)(1) for the combined residues of bentazon and its metabolites in or on pepper, nonbell to 0.05 ppm.

The processing data on rice indicate the residues concentrate in hulls. Therefore, EPA is establishing a tolerance in 40 CFR 180.355(a)(1) for the combined residues of bentazon and its metabolites in or on rice, hulls at 0.25 ppm.

In order to conform to current Agency policy on commodity terminology, EPA is modifying the tolerance in 40 CFR 180.355(a)(1), for residues of bentazon in or on mint to peppermint, tops and spearmint, tops and maintaining the tolerance level at 1.0 ppm.

2. *Carboxin*. According to the TRED, the current tolerance expression, "combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) (from treatment of seed prior to planting) in or on raw agricultural commodities as follows:" in 40 CFR 180.301(a) should be modified. The residue chemistry data indicate that as crops mature, insoluble anilide

complexes as well as polar metabolites increase. These complexes of carboxin or carboxin derivatives with macromolecules such as lignin are insoluble in water and organic solvents and liberate aniline upon hydrolysis. Further, analytical methods for detection of carboxin regulated residues produce aniline (convert carboxin and carboxin derived metabolite to aniline), which is determined either spectrophotometrically or by gas-liquid chromatography (GLC). Therefore, the residues of concern are carboxin, carboxin sulfoxide, and insoluble anilide complexes. Consequently, EPA is revising the tolerance expression in 40 CFR 180.301(a) to read as follows: "(a) *General*. Tolerances are established for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolites determined as aniline and expressed as parent compound, in or on food commodities as follows:"

Because bean forage, hay, and straw are no longer considered significant livestock feed stuffs and have been deleted from Table OPPTS 860.1000 (available at http://www.epa.gov/opptsfrs/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series): the tolerances are no longer needed. Therefore, EPA is revoking the tolerances in 40 CFR 180.301(a) on bean, forage; bean, hay; and bean, straw.

Carboxin has had no active registrations for uses on sorghum over a period of many years. Therefore, EPA is revoking the tolerances in 40 CFR 180.301(a) for residues of carboxin in or on sorghum that are no longer needed; EPA is revoking the tolerances in 40 CFR 180.301(a) for sorghum, forage; sorghum, grain; and sorghum, grain, stover.

Based on the ruminant feeding study, the lack of residues detected on the poultry feedstuff produced from treated seeds, and the use of carboxin only as a fungicide on seeds indicating there is no propensity for residues to accumulate in animal tissues, the tolerance should be established at the level of quantitation of the analytical method of 0.05 ppm rather than the current tolerance level of 0.01 ppm. Therefore, EPA is increasing the tolerances in 40 CFR 180.301(a) for combined residues of carboxin and its metabolites in or on egg from 0.01 to 0.05 ppm. The Agency has 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.

Based on ¹⁴C-radiolabeled dairy cattle feeding data at an exaggerated 1.15x feeding level, milk showed combined carboxin residues of concern. The ¹⁴C-radiolabeled feeding study had a lower limit of quantitation (LOQ) than the enforcement method and therefore the tolerance should be established at the LOQ of the enforcement analytical method (0.05 ppm). Therefore, EPA is increasing the tolerance in 40 CFR 180.301(a) for combined residues of carboxin and its metabolites in or on "milk" from 0.01 to 0.05 ppm. The Agency has 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.

A dairy cattle feeding study conducted at an exaggerated (1.15x) feeding level, shows combined carboxin regulated residues were as low as 0.023 and 0.007 ppm in meat and fat. Therefore, EPA is decreasing the tolerances in 40 CFR 180.301(a) for residues of carboxin in or on cattle, fat; cattle, meat; goat, fat; goat, meat; hog, fat; hog, meat; horse, fat; horse, meat; sheep, fat; and sheep, meat from 0.1 to 0.05 ppm, respectively.

In order to conform to current Agency practice, EPA is revising the commodity terminology in 40 CFR 180.301(a), for residues of carboxin in or on corn, stover to read corn, field, stover; corn, pop, stover and corn, sweet, stover; corn, forage to corn, field, forage; and, corn, sweet, forage; corn, fresh, including sweet corn, kernel plus cob with husks removed to read corn, sweet, kernel plus cob with husks removed; corn, grain to corn, field, grain and corn, pop, grain; oat, seed to read oat, grain; rice to rice, grain; and soybean to read soybean, seed.

3. *Dipropyl isocinchomeronate (MGK 326)*. There have been no active registrations for uses associated with livestock or milk commodities since 1996, such that these tolerances are no longer needed, and therefore EPA is revoking the commodity tolerances in 40 CFR 180.143(a) for residues of dipropyl isocinchomeronate in or on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; milk; sheep, fat; sheep, meat; and, sheep, meat byproducts.

4. *Oil of lemongrass (oil of lemon) and oil of orange*. Oil of lemon is not a registered pesticide active ingredient nor has it ever been an active ingredient in any pesticide product. However, the Agency has determined that the exemptions from the requirement of a

tolerance under 40 CFR 180.1238 apply to oil of lemongrass, which is a registered active ingredient included in the 1993 RED entitled Flower and Vegetable Oils. Oil of lemongrass and oil of lemon are distinct and not synonyms. There have been no active food-use registrations within the past 10 years which contain either oil of lemongrass or oil of orange as pesticide active ingredients. Therefore, EPA is revoking the tolerance exemptions on raw agricultural commodities in 40 CFR 180.1238 and 180.1239 for oil of lemon (oil of lemongrass) and oil of orange, respectively, when used as a postharvest fungicide.

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

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides. As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standards under the FQPA. The safety finding determination is found in detail in each 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 a post-FQPA RED for carboxin and dipropyl isocinchomeronate (MGK 326), and a pre-FQPA RED for bentazon, whose tolerances were reassessed post-FQPA as part of the Agency's determination on March 8, 2000 (65 FR 12122) (FRL-6492-7) to establish new bentazon uses and therefore a TRED to reassess its tolerances was not needed. Also, EPA has issued a TRED for oil of lemongrass (oil of lemon) and oil of orange, as these active ingredients were part of the Flower and Vegetable Oils pre-FQPA RED. REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, including statements regarding additional data on the active ingredients that may be needed to confirm the potential human health and environmental risk assessments associated with current product uses, and 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 FQPA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in REDs and TREDs that are made final in this document are considered reassessed by the determination that the tolerances are no longer necessary.

EPA's general practice is to revoke 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.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues 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). If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and 180.6(c)).

C. When Do These Actions Become Effective?

These actions become effective on the date of publication of this final rule in the **Federal Register** because their associated uses have been canceled for several years. The Agency believes that treated commodities have had sufficient time for passage through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to

this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDC section 408(1)(5), as established by the 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 that the pesticide was applied to such food.

III. Are There Any International Trade Issues Raised By This Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDC section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. 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 and Regulations," 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>.

IV. Statutory and Executive Order Reviews

In this final rule EPA establishes tolerances under FFDC section 408(e), and also modifies and revokes specific

tolerances established under FFDC section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., 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 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* (66 FR 28355, May 22, 2001). 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 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 104-13, 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 rule, the Agency hereby certifies that this final rule will not have a significant 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 final rule). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. 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 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 section 408(n)(4) of FFDC. 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* (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 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.

V. Congressional Review Act

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: September 20, 2006.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 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.

§ 180.143 [Removed]

■ 2. Section 180.143 is removed.

■ 3. Section 180.301 is amended by revising paragraph (a) to read as follows:

§ 180.301 Carboxin; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolites determined as

aniline and expressed as parent compound, in or on food commodities as follows:

Commodity	Parts per million
Barley, grain	0.2
Barley, straw	0.2
Bean, dry, seed	0.2
Bean, succulent	0.2
Canola, seed	0.03
Cattle, fat	0.05
Cattle, meat byproducts	0.1
Cattle, meat	0.05
Corn, field, forage	0.2
Corn, field, grain	0.2
Corn, field, stover	0.2
Corn, pop, grain	0.2
Corn, pop, stover	0.2
Corn, sweet, forage	0.2
Corn, sweet, kernel plus cob with husks removed	0.2
Corn, sweet, stover	0.2
Cotton, undelinted seed	0.2
Egg	0.05
Goat, fat	0.05
Goat, meat byproducts	0.1
Goat, meat	0.05
Hog, fat	0.05
Hog, meat byproducts	0.1
Hog, meat	0.05
Horse, fat	0.05
Horse, meat byproducts	0.1
Horse, meat	0.05
Milk	0.05
Oat, forage	0.5
Oat, grain	0.2
Oat, straw	0.2
Onion, bulb	0.2
Peanut	0.2
Peanut, hay	0.2
Poultry, fat	0.1
Poultry, meat byproducts	0.1
Poultry, meat	0.1
Rice, grain	0.2
Rice, straw	0.2
Safflower, seed	0.2
Sheep, fat	0.05
Sheep, meat byproducts	0.1
Sheep, meat	0.05
Soybean, seed	0.2
Wheat, forage	0.5
Wheat, grain	0.2
Wheat, straw	0.2

* * * * *

■ 4. Section 180.355 is amended by revising the table in paragraph (a)(1) to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Bean, dry, seed	0.05
Bean, succulent	0.5
Corn, field, forage	3.0
Corn, field, grain	0.05
Corn, field, stover	3.0
Corn, pop, grain	0.05
Corn, sweet, kernel plus cob with husks removed	0.05

Commodity	Parts per million
Cowpea, forage	10.0
Cowpea, hay	3.0
Flax, seed	1.0
Pea, dry, seed	1.0
Pea, field, hay	8.0
Pea, field, vines	3.0
Pea, succulent	3.0
Peanut	0.05
Peanut, hay	3.0
Pepper, nonbell	0.05
Peppermint, tops	1.0
Rice, grain	0.05
Rice, hulls	0.25
Rice, straw	3.0
Sorghum, forage	0.20
Sorghum, grain	0.05
Sorghum, grain, stover	0.05
Soybean, forage	8.0
Soybean, hay	8.0
Soybean, seed	0.05
Spearmint, tops	1.0

* * * * *

§§ 180.1238 and 180.1239 [Removed]

■ 5. Section 180.1238 and 180.1239 are removed.

[FR Doc. 06–8255 Filed 9–26–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0016; FRL–8085–2]

Metconazole; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of metconazole in or on bananas. BASF Agricultural Products requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective September 27, 2006. Objections and requests for hearings must be received on or before November 27, 2006, 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–2005–0016. All documents in the docket are listed in the index for the docket. 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.