

**Appendix Q to Subpart G of Part 82—  
Unacceptable Substitutes Listed in the  
March 28, 2007 Final Rule, Effective  
May 29, 2007.**

**FOAM BLOWING UNACCEPTABLE SUBSTITUTES**

| End use  | Substitute                                       | Decision                        | Further information                        |
|--|--|---------------------------------|--|
| —Rigid polyurethane commercial refrigeration .....<br>—Rigid polyurethane sandwich panels.   | HCFC-22; HCFC-142b as substitutes for HCFC-141b. | Unacceptable <sup>1</sup> ..... | Alternatives exist with lower or zero-ODP. |
| —Rigid polyurethane slabstock and other foams.<br>—Rigid polyurethane and polyisocyanurate laminated boardstock.<br>—Rigid polyurethane appliance.<br>—Rigid polyurethane spray and commercial refrigeration, and sandwich panels.<br>—Rigid polyurethane slabstock and other foams.<br>—Polystyrene extruded insulation boardstock and billet.<br>—Phenolic insulation board and bunstock.<br>—Flexible polyurethane.<br>—Polystyrene extruded sheet. | HCFC-22; HCFC-142b as substitutes for CFCs.      | Unacceptable <sup>2</sup> ..... | Alternatives exist with lower or zero-ODP. |

<sup>1</sup> For existing users of HCFC-22 and HCFC-142b as of November 4, 2005 other than in marine applications, the unacceptability determination is effective on March 1, 2008; for existing users of HCFC-22 and HCFC-142b as of November 4, 2005 in marine applications, including marine flotation foam, the unacceptability determination is effective on September 1, 2009. For an existing user of HCFC-22 or HCFC-142b that currently operates in only one facility that it does not own, and is scheduled to transition to a non-ODS, flammable alternative to coincide with a move to a new facility and installation of new process equipment that cannot be completed by March 1, 2008, the unacceptability determination is effective January 1, 2010.

<sup>2</sup> For existing users of HCFC-22 and HCFC-142b in polystyrene extruded insulation boardstock and billet and the other foam end uses, as of November 4, 2005, the unacceptability determination is effective on January 1, 2010.

■ 3. In Appendix K to Subpart G, the second table (Foam Blowing—Acceptable Substitutes) is removed.

[FR Doc. E7-5491 Filed 3-27-07; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2006-481; FRL-8120-1]

**Fluopicolide; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of fluopicolide in or on imported grape at 2.0 parts per million (ppm), and grape, raisin at 6.0 ppm with no U.S. registration. Bayer CropScience AG requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The tolerance petition and data was transferred to Valent U.S.A. Corporation on January 9, 2006.

**DATES:** This regulation is effective March 28, 2007. Objections and requests for hearings must be received on or before May 29, 2007, 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-2006-0481. 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Janet Whitehurst, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6129; e-mail address: [janet.whitehurst@epa.gov](mailto:janet.whitehurst@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 code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. 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 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-2006-0481 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 May 29, 2007. 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-2006-0481, by one of the following methods:

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

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

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday,

excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

**II. Petition for Tolerance**

In the **Federal Register** of January 24, 2007 (72 FR 3132) (FRL-8110-9), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5E6903) by Valent U.S.A. Corporation, Walnut Creek, CA 94596-8025. The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the fungicide fluopicolide, 2,6-dichloro-N-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl] benzamide, in or on imported grape, juice, and grape, wine at 2.0 ppm and the processed commodity grape, raisin at 9.0 ppm. That notice referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available to the public in the docket, <http://www.regulations.gov>. Comments were received on the notice of filing. EPA's response to these comments are discussed in Unit IV.C.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see <http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm>.

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

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of fluopicolide in or on grape at 2.0 ppm and grape, raisin at 6.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies 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. Specific information on the studies received and the nature of the toxic effects caused by fluopicolide as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov>. The referenced document is available in docket ID EPA-HQ-OPP-2006-0481.

*B. Toxicological Endpoints*

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q\*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q\* approach assumes that any amount of exposure will lead to some degree of cancer risk, estimates risk in terms of the probability of occurrence of additional cancer cases. More information can be found on the general

principles EPA uses in risk characterization at <http://www.epa.gov/pesticides/factsheets/riskassess.htm> and <http://www.epa.gov/oppfead1/trac/science>.

A summary of the toxicological endpoints for fluopicolide used for human risk assessment can be found at <http://www.regulations.gov>. The referenced document is available in docket ID EPA-HQ-OPP-2006-0481.

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have not been established (40 CFR 180.627) for the residues of fluopicolide, in or imported grapes. There are no registrations for use of fluopicolide in the United States. There are no major livestock feed items associated with the use on imported grapes. Therefore, residues in livestock commodities are not relevant to the establishment of import tolerances for grapes. Risk assessments were conducted by EPA to assess dietary exposures from fluopicolide in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one-day or single exposure.

No acute reference dose was established nor was a dietary endpoint identified in either the general population or for females aged 13-49 years. There were no appropriate studies that demonstrated evidence of toxicity attributable to a single dose of fluopicolide for these populations. As a result, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The dietary assessment included grape commodities, as the only source of residues for fluopicolide. It was assumed that 100% of all grape commodities contained tolerance level residues.

iii. *Cancer.* Fluopicolide is not likely to be carcinogenic to humans; therefore, a cancer exposure assessment was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information.*

Anticipated residues/PCT data were not needed to refine the risk assessment so they were not used.

2. *Dietary exposure from drinking water.* Since there are no existing U.S. registrations for fluopicolide, no residues from fluopicolide are expected to occur in drinking water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). No occupational exposure to fluopicolide is expected to occur in the U.S. as a result of fluopicolide on imported grapes.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, 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."

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fluopicolide and any other substances and fluopicolide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluopicolide has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative>.

### D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of 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 on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk

assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* Acceptable/guideline studies for developmental toxicity in rats and rabbits as well as a 2-generation reproduction study in rats were available for consideration during endpoint selection. There is no evidence of susceptibility following *in utero* and/or postnatal exposure in the rabbit developmental toxicity study or in the 2-generation rat reproduction study. Although qualitative susceptibility was observed in the rat developmental toxicity study, there is low concern for these effects because the offspring effects (reduced growth and skeletal defects) are well characterized and accompanied by maternal toxicity. There are no residual uncertainties concerning pre- and post-natal toxicity.

3. *Conclusion.* EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings: There is a complete toxicity database for fluopicolide. There are no residual uncertainties concerning pre- and post-natal toxicity and no neurotoxicity concerns. The dietary food exposure assessment utilizes tolerance level residues and 100% CT. There is no potential for drinking water exposure. There is no potential for residential exposure.

### E. Aggregate Risks and Determination of Safety

In accordance with the FQPA, EPA must consider and aggregate pesticide exposures and risks from three major sources: Food, drinking water, and residential exposures. In an aggregate assessment, exposures from relevant sources are added together and compared to quantitative estimates of hazard (e.g., a NOAEL or PAD), or the risks themselves can be aggregated. When aggregating exposures and risks from various sources, EPA considers both the route and duration of exposure. The registrant is seeking import tolerances on grapes and its processed commodities and the risk assessment includes only dietary

exposure to fluopicolide. There is no expectation that exposure to fluopicolide would occur via water consumption or residential use. Therefore, an aggregate exposure risk assessment is equivalent to the dietary risk assessment.

1. *Acute risk.* Because there was no evidence of toxicity for fluopicolide attributable to a single dose, fluopicolide is not expected to pose an acute risk.

2. *Chronic risk.* As there are no U.S. registrations or proposed registrations, the chronic aggregate risk is equivalent to the chronic dietary risk for fluopicolide residues in food. The chronic dietary exposure estimates are <1% cPAD for the general U.S. population and 3% cPAD for children 1-2 years old, the most highly exposed subgroup. The dietary risk estimates are all below EPA's level of concern.

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). As there are no U.S. registrations or proposed registrations for fluopicolide, there will be no exposures from residential uses or residues in drinking water. Therefore, the aggregate risk is the risk from food (grape commodities) only. The dietary risk estimates are all below EPA's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). As there are no U.S. registrations or proposed registrations for fluopicolide, there will be no exposures from residential uses or residues in drinking water. Therefore, the aggregate risk is the risk from food (grape commodities) only. The dietary risk estimates are all below EPA's level of concern.

5. *Aggregate cancer risk for U.S. population.* Fluopicolide is not likely to be carcinogenic to humans; therefore, fluopicolide is not expected to pose a cancer risk.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluopicolide residues.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate enforcement methodology liquid chromatography/mass spectrometry/mass spectrometry (LC/

MS/MS) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

##### B. International Residue Limits

No Codex, Canadian, or Mexican maximum residue limits (MRLs) or tolerances have been established for fluopicolide.

##### C. Response to Comments

One comment dated June 14, 2006, was received from B. Sachau. Ms. Sachau's comments regarding general exposure to pesticides contained no scientific data or evidence to rebut the Agency's conclusion that there is a reasonable certainty that no harm will result from aggregate exposure to fluopicolide, including all anticipated dietary exposures and other exposures for which there is reliable information. This comment as well as her comments regarding animal testing have been responded to by the Agency on several occasions. For examples, see the **Federal Register** issues of January 7, 2005 (70 FR 1349) (FRL-7691-4) and October 29, 2004 (69 FR 63083) (FRL-7681-9).

#### V. Conclusion

Therefore, the tolerance is established for residues of fluopicolide, 2,6-dichloro-N-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl]benzamide, in or on grape at a tolerance level of 2.0 parts per million (ppm), and grape, raisin at a tolerance level of 6.0 ppm.

#### VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this 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 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: March 21, 2007.

**Steven Bradbury,**

*Acting Director, Office of Pesticides Program.*

■ 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 180.627 is added to subpart C to read as follows:

### § 180.627 Fluopicolide; tolerances for residues.

(a) *General.* Tolerances are established for residues of fluopicolide, 2,6-dichloro-N-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl]benzamide, in or on the following commodities.

| Commodity           | Parts per million |
|---------------------|-------------------|
| Grape .....         | 2.0               |
| Grape, raisin ..... | 6.0               |

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

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

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

[FR Doc. E7-5628 Filed 3-27-07; 8:45 am]

**BILLING CODE 6560-50-S**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 65

#### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

#### FOR FURTHER INFORMATION CONTACT:

William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for

each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30,