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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2007-0674; FRL-8375-2]

**2,4-D, Bensulide, Chlorpyrifos, DCPA, Desmedipham, Dimethoate, Fenamiphos, Metolachlor, Phorate, Sethoxydim, Terbufos, Tetrachlorvinphos, and Triallate; Tolerance Actions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is revoking certain tolerances for the herbicides metolachlor and sethoxydim and the insecticides chlorpyrifos, dimethoate, fenamiphos, terbufos, and tetrachlorvinphos. Also, EPA is modifying certain tolerances for the herbicides 2,4-D, DCPA, desmedipham, metolachlor, sethoxydim, and triallate and the insecticides chlorpyrifos, dimethoate, fenamiphos, phorate, and tetrachlorvinphos. In addition, EPA is establishing new tolerances for the herbicides bensulide, metolachlor, and sethoxydim and the insecticide chlorpyrifos. The regulatory actions finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408(q).

**DATES:** This regulation is effective September 17, 2008. Objections and requests for hearings must be received on or before November 17, 2008, 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-2007-0674. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly

available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Jane Smith, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0048; e-mail address: [smith.jane-scott@epa.gov](mailto:smith.jane-scott@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).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather 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 electronically available documents 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 e-CFR site at <http://www.gpoaccess.gov/ecfr>.

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

Under section 408(g) of FFDCA, 21 U.S.C. 436a, 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-2007-0674 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 17, 2008.

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-2007-0674, by one of the following methods.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

**II. Background***A. What Action is the Agency Taking?*

In the **Federal Register** of February 6, 2008 (73 FR 6867) (FRL-8345-2), August 8, 2007 (72 FR 44439) (FRL-8138-8), and May 23, 2007 (72 FR 28912) (FRL-8130-8), EPA issued proposals to revoke, modify, and establish specific tolerances for residues

of the herbicides 2,4-D, bensulide, DCPA, desmedipham, metolachlor, sethoxydim, and triallate and the insecticides chlorpyrifos, fenamiphos, phorate, dimethoate, terbufos, and tetrachlorvinphos. Also, the proposals of February 6, 2008, August 8, 2007, and May 23, 2007, provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

In this final rule, EPA is revoking, modifying, and establishing specific tolerances for residues of 2,4-D, bensulide, chlorpyrifos, DCPA, desmedipham, dimethoate, fenamiphos, metolachlor, phorate, sethoxydim, terbufos, tetrachlorvinphos, and triallate in or on commodities listed in the regulatory text of this document.

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 these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of "reasonable certainty of no harm" is discussed in detail in each Reregistration Eligibility Decision (RED) and Report on Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Interim Risk Management Decision (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 copies of many 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 number: 1-800-490-9198; fax number: 1-513-489-8695; Internet at <http://www.epa.gov/ncepihom> and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 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.regulations.gov> and <http://www.epa.gov/pesticides/reregistration/status.htm>.

In this final rule, EPA is revoking certain tolerances and/or tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered

under FIFRA in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. 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 issue a final rule revoking 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 legally treated domestic commodities.

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.

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:

- Prior to EPA's issuance of a FFDCA section 408(f) order requesting additional data or issuance of a FFDCA 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.
- EPA independently verifies that the tolerance is no longer needed.
- The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

In response to the proposals published in the **Federal Register** of February 6, 2008, and August 8, 2007, EPA received comments during the 60-day public comment period, as follows:

1. *Comment by Juan Antonio Castelo de la Rosa, Mexican grower, packers and exporters of tomatoes and other vegetables; Juan Antonio Lopez Barajas, Baja Produce, LLC; Ronald Bown F., Asociaci3n de Exportadores de Chile A.G. (ASOEX); Hector Celis Aguirre, Koor Intercomercial, SA; Celso G. Goseco, Ph.D.; Del Monte Fresh Produce Company; Dr. J. Angel Saavedra, Dow AgroSciences Mexico; Yasuyo Tadokoro, Lepon Holzworth & Kato PLLC. (EPA-HQ-OPP-2007-0445-0010-0012).* In summary, their comments object to either the revocation of the tomato tolerance and/or the reduction of

the apple and grape tolerances associated with chlorpyrifos. They have expressed concern about the economic impacts on exports to the United States for growers, exporters, and others. Chlorpyrifos is considered a primary economical tool for managing pests associated with tomato, apple, and grape production.

*Agency response.* The EPA has proposed revoking the tolerance on tomatoes, and reducing the tolerances on apples and grapes based on use patterns resulting in lower residues due to the dietary risk posed to children. In June of 2000 a mitigation strategy was developed between the EPA and registrants of the technical and manufacturing use products at the time, who agreed to mitigate, and in some cases, eliminate uses resulting in reduced exposures and risks from chlorpyrifos. Based on use patterns before the June 2000 mitigation agreement, the acute dietary risk from residues of chlorpyrifos in/on food exceeded 100% for the most highly exposed subpopulation, children 1-6 years old, where greater than 100% constitutes dietary risk. The commodities that contributed the most to that risk estimate are apples (residues resulting from post-bloom uses), grapes (residues primarily on imported crops), and fresh tomatoes (residues primarily on imported crops). The mitigation measures in the June 2000 mitigation agreement addressed these dietary risks by

- i. Canceling use on tomatoes and revoking the associated tolerance.
- ii. Restricting use on apples to pre-bloom (dormant) applications and reducing the tolerance to 0.01 part per million (ppm) to reflect this new use pattern.
- iii. Reducing the tolerance on grapes to 0.01 ppm to reflect the domestic dormant use pattern.

With these mitigation measures in place, the acute dietary risk from food is below 100% for all population subgroups, including the most sensitive population subgroup, children 1-6 years old meeting the safety standard in accordance with FFDCA. Therefore, the Agency is going forward with the revocation of the tolerance on tomatoes and the reduction of the tolerance levels for apples and grapes.

2. *Comment by Syngenta. (EPA-HQ-2007-0445-0013).* i. Revocation of tolerance in stone fruit - use of S-metolachlor in stone fruit is an important tool for Canadian fruit producers; and therefore, it would be beneficial to maintain United States tolerances to avoid any trade irritant issues for these crops being exported

from Canada to the United States. Canada currently has a tolerance of 0.1 ppm for S-metolachlor in apples, apricots, cherries, peaches/nectarines, pears and plums.

ii. Increase in tolerance for Crop Group 6A from 0.3 ppm to 0.5 ppm - Canada currently has a tolerance of 0.3 ppm for S-metolachlor in peas and snap beans. An increase in the United States tolerance could result in a trade irritant for these crops exported from the United States to Canada.

iii. Decrease in tolerance for Crop Group 6C from 0.3 ppm to 0.1 ppm - Canada currently has a tolerance of 0.3 ppm for S-metolachlor in dry beans. A decrease in the United States tolerance could result in a trade irritant for these crops exported from Canada to the United States.

iv. Increase in tolerance for egg and meat from 0.02 ppm to 0.04 ppm - Canada currently has a tolerance of 0.02 ppm for S-metolachlor in eggs, meat of cattle, goats, hogs, poultry and sheep. An increase in the United States tolerance could result in a trade irritant for these animal products exported from the United States to Canada.

v. Increase tolerance in animal liver from 0.05 ppm to 0.1 ppm - Canada currently has a tolerance of 0.05 ppm for S-metolachlor in liver of cattle and poultry. An increase in the United States tolerance could result in a trade irritant for these animal products exported from the United States to Canada.

*Agency response.* The fruit, stone group 12 tolerance is being revoked in 40 CFR 180.368(a)(1) for metolachlor. There is currently no tolerance for S-metolachlor in/on fruit, stone group 12 to be retained. Although the Agency agrees with the harmonization of tolerances for both metolachlor and S-metolachlor to prevent trade irritant issues as discussed in Syngenta's comments 2-5, and it appears the residue data may support harmonization of these tolerances, any modification to these tolerances needs to be formally proposed, which the Agency intends to do in a future action.

3. *Comment by private citizen (EPA-HQ-OPP-2007-0445-0014).* Tolerances should be established for residues of metolachlor on okra and dill as a consequence of the seed and pod vegetable crop group revisions.

*Agency Response.* The Agency agrees that okra and dill tolerances should be established. Tolerances were proposed for residues of metolachlor in/on okra and dill at 0.5 ppm in the **Federal Register** May 21, 2008 (73 FR 29456) (FRL-8362-1).

4. *Comment by private citizen (EPA-HQ-OPP-2007-0674-0016 and -0016.1).* A private citizen requested that the Agency retain the fenamiphos tolerances on apple, cottonseed, and meat commodities citing information relative to risk as the basis for the comment.

*Agency response.* The commenter did address EPA's basis for revocation of the tolerances, i.e., the fact there are no longer active U.S. registrations, and therefore, no need for the tolerances. The expiration/revocation dates set for the tolerances are based on the cancellation of the last active product registration containing the active ingredient, fenamiphos. Therefore, the Agency is revoking the fenamiphos tolerances and is finalizing other tolerance actions including any revocations, modifications, establishments and nomenclature revisions in 40 CFR 180.349 as was proposed (including apple with a expiration/revocation date of December 31, 2009) on February 6, 2008 (73 FR 6867)(FRL-8345-2).

5. *Comment by Private Citizen (EPA-HQ-OPP-2007-0674-0018).* A comment was received from a private citizen who agreed with the Agency's proposed revocation of tolerances for dimethoate residues of concern on apple; cabbage; collards; grape; lentil, seed; spinach; and revision of lettuce to leaf lettuce (due to cancellation of the last dimethoate registration for use on head lettuce); and establishment of a tolerance on wheat forage at 2.0 ppm.

*Agency response.* The Agency appreciates the comment of support to implement the proposed dimethoate tolerance actions. A response on dimethoate tolerance actions is provided in more detail in the Agency's response to another comment on dimethoate which follows.

6. *Comment by National Resources Defense Council (NRDC) OPP-2007-0674-0017 and -0017.1.* A comment was received from the NRDC which states general agreement with a number of proposed tolerance revocations, but also notes a number of proposed increases to tolerances or establishment of tolerances (including ones on bensulide, desmedipham, fenamiphos, phorate, sethoxydim, and tetrachlorvinphos). In particular, NRDC expresses concerns previously made to EPA on 2,4-D (including aggregate and exposure risks, and FQPA safety factor; docket ID number EPA-HQ-OPP-2004-0167) and on dimethoate (including benchmark dose (BMD) analysis and the special FQPA 10X safety factor; docket ID number EPA-HQ-OPP-2005-0084) which it again references here.

*Agency response.* In documents dated December 16, 2004, January 7, 2005, and July 12, 2005, the Agency responded to comments, concerning the human health risk assessment, submitted during Phase 3 and Phase 5 of the public participation process for 2,4-D. These documents are available in docket number EPA-HQ-OPP-2004-0167 (entries -0090, -0221, and 0242) at <http://www.regulations.gov>. The Agency responded to NRDC's comments on 2,4-D in these documents and no new information is provided in their current comment, therefore the Agency reiterates the previous responses given there. The Agency notes that the 2,4-D risk assessment states that the toxicological database is complete with the exception of a developmental neurotoxicity study, a repeat 2-generation reproduction study, and a 28-day inhalation toxicity study. The FQPA database uncertainty factor has been included in the 2,4-D risk assessment to address the uncertainties regarding developmental effects. The Agency issued a Data Call-In for 2,4-D in 2007 and expects to receive the inhalation toxicity data in early 2009 and developmental and reproduction toxicity data in early 2011 (see (page 1 of the Addendum to February 2, 2007 Memorandum: Response to Public Comments on the Dimethoate IRED in the revised IRED dated 8-2007 for details). Although additional data have been required to confirm the reregistration eligibility decision, the Agency bridged data and made conservative assumptions to conduct the risk assessment to make the reregistration eligibility decision until the confirmatory data are received. Should submitted data fail to confirm the reregistration eligibility decision, the decision will be amended as appropriate. However, the generic database supporting the reregistration of 2,4-D for eligible uses has been reviewed and determined to be substantially complete. In completing the risk assessment and reregistration eligibility decision for 2,4-D, the Agency has taken into account the complete toxicity profile for 2,4-D. Consequently, herein, the Agency is finalizing the tolerance actions on 2,4-D as described in the proposal of February 6, 2008 (73 FR 6867)(FRL-8345-2). The Agency has determined that these increased tolerances and new tolerances to be established are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In a document dated January 31, 2006, the Agency responded to comments

submitted during Phase 5b of the public participation process for dimethoate. That document is available in docket number EPA-HQ-OPP-2005-0084 (entry -0036). The Agency responded to NRDC's comments on the Dimethoate Revised Risk Assessments and Risk Reduction Options on pages 20-26 of its response. Because no new information is provided in their current comment, the Agency reiterates the previous responses given there. As described, developmental and reproductive toxicity studies are available for dimethoate and omethoate. Prenatal developmental toxicity studies in rats and rabbits showed no indication of increased susceptibility of rat or rabbit fetuses to *in utero* exposure to dimethoate or omethoate. Similarly, there was no indication of increased susceptibility in the offspring as compared to parental animals in the reproduction studies. Acceptable developmental neurotoxicity and comparative cholinesterase (ChE) studies are available for dimethoate. BMD analysis of the ChE data from the comparative ChE study indicates that juvenile animals exhibit similar sensitivity to dimethoate from acute or multiple exposures. Furthermore, BMD analysis indicates that use of the BMD L<sub>10</sub> (the estimated dose at which 10% ChE is observed at the lower 95% confidence interval) for brain ChE is protective for potential pup mortality; therefore, a special hazard-based FQPA factor is not needed. However, an uncertainty factor of 100 was applied to the doses selected for risk assessment to account for both interspecies extrapolation and intraspecies variability. The BMD analysis of the pup mortality data from the dimethoate DNT study was performed using EPA's Benchmark Dose Software (BMDS). The BMDS, user's manual, and technical guidance can be obtained at <http://www.epa.gov/ncea/bmds.htm>. BMD analysis of brain ChE data was also performed by the Agency using the exponential dose-response model. The Agency's development of the exponential model and the Agency's use of the model for ChE inhibition have been well documented in previous SAP presentations since 2001, and are available on the EPA's SAP website at <http://www.epa.gov/scipoly/sap/index.htm>. Datasets upon which the dimethoate BMD values are based along with all model outputs were provided to the public at the time of the FIFRA SAP in 2004. These can be found in the appendices to the dimethoate issue paper on the EPA's SAP website at <http://www.epa.gov/scipoly/sap/2004/>

[november/appendix9.pdf](#).

Consequently, the Agency is finalizing the tolerance actions on dimethoate as described in the proposal of February 6, 2008. The Agency has determined that these increased tolerances and new tolerances to be established are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Regarding proposed tolerance increases and establishments for bensulide, desmedipham, fenamiphos, phorate, sethoxydim, and tetrachlorvinphos, while the commenter expressed a general concern, no chemical specific comments were made. The Agency is finalizing the tolerance actions on dimethoate as described in the proposal of February 6, 2008. The Agency has determined that these increased tolerances and new tolerances to be established are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

**Triallate.** Based on the available field trial data that indicate triallate residues of concern as high as 0.42 ppm, the Agency determined that a tolerance should be established in/on wheat forage at 0.5 ppm. This action was inadvertently omitted in the **Federal Register** proposal published September 27, 2006. In the **Federal Register** published August 8, 2007, the Agency proposed the tolerance for wheat, forage at 0.5 ppm. In the **Federal Register** published January 29, 2008 (73 FR 5104)(FRL-8348-8), the Agency finalized wheat, forage at 0.05 ppm rather than 0.5 ppm incorrectly. Therefore, EPA is establishing and correcting the tolerance in 40 CFR 180.314(c) for the combined triallate residues of concern in/on wheat, forage at 0.5 ppm.

**Sethoxydim.** In the **Federal Register** published February 6, 2008 (73 FR 6867)(FRL-8345-2), the EPA proposed revising commodity terminology in 40 CFR 180.412(a) for sethoxydim residues of concern in/on corn, fodder to corn, field, fodder at 2.5 ppm; corn, forage to corn, field, stover at 2.0 ppm in error. The corrected revision should read in 40 CFR 180.412(a) for sethoxydim residues of concern in/on corn, fodder to corn, field, stover at 2.5 ppm and corn, forage to corn, field, forage at 2.0 ppm.

**Metolachlor.** In the **Federal Register** published August 8, 2007, the Agency recommended the terminology in 40 CFR 180.368(a)(2) be revised from vegetable, fruiting, group 8, except tabasco pepper at 0.1 ppm to vegetable fruiting, group 8, except nonbell pepper at 0.1 ppm and in 40 CFR 180.368(c)(2)

be revised from pepper, tabasco at 0.5 ppm to pepper, nonbell at 0.5 ppm. The residue data for the variety, tabasco pepper, require a tolerance of 0.5 ppm and the other nonbell peppers residue levels are lower such that a tolerance of 0.1 ppm is more appropriate. Therefore, the Agency has determined to retain the current terminology in 40 CFR 180.368(a)(2) (as proposed) and (c)(2) for vegetable, fruiting, except tabasco pepper, group 8 and pepper, tabasco, respectively.

**Bensulide.** The chemical name for the bensulide oxygen analog that currently contains a typographical error in 40 CFR 180.241 is being corrected to *S*-(*O*,*O*-diisopropyl phosphorothioate) ester of *N*-(2-mercaptoethyl) benzenesulfonamide.

#### *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 FFDCA. The safety finding determination is found in detail in each post-FQPA 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 post-FQPA REDs for 2,4-D, bensulide, DCPA, desmedipham, dimethoate, fenamiphos, phorate, sethoxydim, terbufos, tetrachlorvinphos, and triallate, and TREDs for chlorpyrifos and metolachlor, whose REDs were completed prior to FQPA. Also, EPA issued a RED prior to FQPA for tetrachlorvinphos and made a safety finding which reassessed its tolerances according to FFDCA standard, maintaining them when new tolerances were established as noted in Unit II.A. REDs and TREDs contain the Agency's evaluation of the database 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 FFDCA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in REDs and TREDs that are made final in this document do not need such assessment when 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** with the exception of certain fenamiphos and tetrachlorvinphos tolerances. The tolerances revoked in the rule (with exception) are associated with uses that have been canceled for several years. The Agency believes that treated commodities have had sufficient time

for passage through the channels of trade. EPA is revoking fenamiphos tolerances for 17 commodities as of December 31, 2009, and tetrachlorvinphos tolerances within 18 months from the date of final tolerance publication for cattle, hog, and poultry commodities. The Agency believes that these expiration/revocation dates allow users to exhaust any existing stocks and allows sufficient time for the passage of treated commodities 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 FFDCA section 408(1)(5), as established by FQPA. Under this unit, 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.
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?**

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports

the RED and TRED, as mentioned in the proposed rule cited in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) is discussed in Unit II.A.

#### **IV. Statutory and Executive Order Reviews**

In this final rule, EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA 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 final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). 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) (FRL-5753-1), 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. 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 FFDCA. For these same reasons, the Agency has determined that this final 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 9, 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 final 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 final rule.

**V. Congressional Review Act**

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

**List of Subjects in 40 CFR Part 180**

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

Dated: September 8, 2008.

**Marty Monell,**

*Acting Director, 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 180.142 is amended by revising the entries for "Grape," "Fruit, pome, group 11," "Fruit, stone, group 12," and "Strawberry" in the table in paragraph (a) to read as follows:

**§ 180.142 2, 4-D; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * *	* *
Grape .....	0.05
* * *	* *
Fruit, pome, group 11 .....	0.05
Fruit, stone, group 12 .....	0.05

Commodity	Parts per million
* * *	* *
Strawberry .....	0.05
* * *	* *

■ 3. Section 180.185 is amended by removing the entry for "Vegetable, brassica, leafy, group 5" from the table in paragraph (d) and adding it alphabetically to the table in paragraph (a) to read as follows.

**§ 180.185 DCPA; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * *	* *
Vegetable, brassica, leafy, group 5 .....	0.05
* * *	* *

■ 4. Section 180.204 is amended by revising the section heading, the table in paragraph (a), and paragraph (c) to read as follows:

**§ 180.204 Dimethoate; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Alfalfa, forage .....	2.0
Alfalfa, hay .....	2.0
Bean, dry, seed .....	2.0
Bean, lima .....	2.0
Bean, snap, succulent ...	2.0
Blueberry <sup>1</sup> .....	1.0
Broccoli .....	2.0
Cattle, meat byproducts	0.02
Cauliflower .....	2.0
Celery .....	2.0
Citrus, dried pulp .....	5.0
Corn, field, forage .....	1.0
Corn, field, grain .....	0.1
Corn, field, stover .....	1.0
Corn, pop, grain .....	0.1
Corn, pop, stover .....	1.0
Corn, sweet, forage .....	1.0
Cotton, undelinted seed	0.1
Egg .....	0.02
Endive .....	2.0
Goat, meat byproducts ...	0.02
Grapefruit .....	2.0
Hog, meat byproducts ...	0.02
Horse, meat byproducts	0.02
Kale .....	2.0
Lemon .....	2.0
Lettuce, leaf .....	2.0
Melon .....	1.0
Milk .....	0.002
Mustard greens .....	2.0
Orange .....	2.0
Pea .....	2.0
Pear .....	2.0
Pecan .....	0.1
Pepper .....	2.0
Potato .....	0.2
Poultry, meat byproducts	0.02
Safflower, seed .....	0.1

Commodity	Parts per million
Sheep, meat byproducts	0.02
Sorghum, grain, forage ...	0.1
Sorghum, grain, grain ....	0.1
Sorghum, grain, stover ...	0.1
Soybean, forage .....	2.0
Soybean, hay .....	2.0
Soybean, seed .....	0.05
Swiss chard .....	2.0
Tangerine .....	2.0
Tomato .....	2.0
Turnip, roots .....	0.2
Turnip, tops .....	2.0
Wheat, forage .....	2.0
Wheat, grain .....	0.04
Wheat, hay .....	2.0
Wheat, straw .....	2.0

<sup>1</sup> There are U.S. registrations as of August 16, 1996.

\* \* \* \* \*

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in §180.1(m), are established for total residues of dimethoate including its oxygen analog in or on the following food commodities:

Commodity	Parts per million
Asparagus .....	0.15
Brussels sprouts .....	5.0
Cherry, sweet .....	2.0
Cherry, tart .....	2.0

\* \* \* \* \*

■ 5. Section 180.206 is amended by revising paragraph (a) to read as follows:

**§ 180.206 Phorate; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the insecticide phorate (*O,O*-diethyl *S* (ethylthio) methyl]phosphorodithioate), phorate sulfoxide, phorate sulfone, phorate oxygen analog, phorate oxygen

analog sulfoxide, and phorate oxygen analog sulfone in or on the following food commodities:

Commodity	Parts per million
Bean, dry, seed .....	0.05
Bean, succulent .....	0.05
Beet, sugar, roots .....	0.3
Beet, sugar, tops .....	3.0
Coffee, green bean <sup>1</sup> .....	0.02
Corn, field, forage .....	0.5
Corn, field, grain .....	0.05
Corn, sweet, forage .....	0.5
Corn, sweet, kernel plus cob with husks removed .....	0.05
Cotton, undelinted seed .....	0.05
Hop, dried cones .....	2.0
Peanut .....	0.1
Potato .....	0.2
Sorghum, grain, grain ....	0.05
Sorghum, grain, stover ...	0.1
Soybean, seed .....	0.05
Sugarcane, cane .....	0.05
Wheat, forage .....	1.5
Wheat, grain .....	0.05
Wheat, hay .....	1.5
Wheat, straw .....	0.05

<sup>1</sup> There are no U.S. registrations as of September 1, 1993 for the use of phorate on the growing crop, coffee.

\* \* \* \* \*

■ 6. Section 180.241 is amended by revising the section heading and paragraphs (a) and (c) to read as follows:

**§ 180.241 Bensulide; tolerances for residues.**

(a) *General.* Tolerances are established for the residues of *S*-(*O,O*-diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide including its oxygen analog *S*-(*O,O*-diisopropyl phosphorothioate) of *N*-(2-mercaptoethyl) benzenesulfonamide in or on the following food commodities:

Commodity	Parts per million
Onion, bulb .....	0.10
Vegetable, brassica, leafy group 5 .....	0.15
Vegetable, cucurbits group 9 .....	0.15
Vegetable, fruiting group 8 .....	0.10
Vegetable, leafy except brassica group 4 .....	0.15

\* \* \* \* \*

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(m), are established for the residues of *S*-(*O,O*-diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide including its oxygen analog *S*-(*O,O*-diisopropyl phosphorothioate) of *N*-(2-mercaptoethyl) benzenesulfonamide in or on the following food commodities:

Commodity	Parts per million
Carrot, roots .....	0.10

\* \* \* \* \*

■ 7. Section 180.252 is amended by revising paragraph (a) to read as follows:

**§ 180.252 Tetrachlorvinphos; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the insecticide tetrachlorvinphos, (*Z*)-2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate, and its metabolites, 1-(2,4,5-trichlorophenyl)-ethanol (free and conjugated forms), 2,4,5-trichloroacetophenone, and 1-(2,4,5-trichlorophenyl)-ethanediol in/on the following food commodities:

Commodity	Parts per million	Expiration/Revocation Date
Cattle, fat (of which no more than 0.1 ppm is tetrachlorvinphos <i>per se</i> ) .....	0.2	3/17/10
Cattle, kidney (of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	1.0	3/17/10
Cattle, liver (of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	0.5	3/17/10
Cattle, meat (of which no more than 2.0 ppm is tetrachlorvinphos <i>per se</i> ) .....	2.0	3/17/10
Cattle, meat by products, except kidney and liver .....	1.0	3/17/10
Egg (of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	0.2	3/17/10
Hog, fat (of which no more than 0.1 ppm is tetrachlorvinphos <i>per se</i> ) .....	0.2	3/17/10
Hog, kidney (of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	1.0	3/17/10
Hog, liver (of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	0.5	3/17/10
Hog, meat (of which no more than 2.0 ppm is tetrachlorvinphos <i>per se</i> ) .....	2.0	3/17/10
Hog, meat byproducts, except kidney and liver .....	1.0	3/17/10
Milk, fat (reflecting negligible residues in whole milk and of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	0.05	3/17/10
Poultry, fat (of which no more than 7.0 ppm is tetrachlorvinphos <i>per se</i> ) .....	7.0	3/17/10
Poultry, liver (of which no more than 0.05 ppm is tetrachlorvinphos <i>per se</i> ) .....	2.0	3/17/10
Poultry, meat (of which no more than 3.0 ppm is tetrachlorvinphos <i>per se</i> ) .....	3.0	3/17/10
Poultry, meat byproducts, except liver .....	2.0	3/17/10

\* \* \* \* \*

■ 8. Section 180.314 is amended by revising the entry for “Wheat, forage” in

the table in paragraph (c) to read as follows:

**§ 180.314 Triallate; tolerance for residues.**

\* \* \* \* \*

(c) \* \* \*

Commodity	Parts per million
* * *	* *
Wheat, forage .....	0.5
* * *	* *

■ 9. Section 180.342 is amended by revising paragraph (a)(1); removing existing paragraph (a)(2); redesignating paragraph (a)(3) as paragraph (a)(2); redesignating paragraph (a)(4) as paragraph (a)(3); and by revising paragraph (c) to read as follows:

**§ 180.342 Chlorpyrifos; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of the pesticide chlorpyrifos *per se* (*O,O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate) in or on the following food commodities:

Commodity	Parts per million
Alfalfa, forage .....	3.0
Alfalfa, hay .....	13
Almond .....	0.2
Almond, hulls .....	12
Apple .....	0.01
Apple, wet pomace .....	0.02
Banana .....	0.1
Beet, sugar, dried pulp ...	5.0
Beet, sugar, molasses ...	15
Beet, sugar, roots .....	1.0
Beet, sugar, tops .....	8.0
Cattle, fat .....	0.3
Cattle, meat .....	0.05
Cattle, meat byproducts .....	0.05
Cherry, sweet .....	1.0
Cherry, tart .....	1.0
Citrus, dried pulp .....	5.0
Citrus, oil .....	20
Corn, field, forage .....	8.0
Corn, field, grain .....	0.05
Corn, field, refined oil ....	0.25
Corn, field, stover .....	8.0
Corn, sweet, forage .....	8.0
Corn, sweet, kernel plus cob with husk removed	0.05

Commodity	Parts per million
Corn, sweet, stover .....	8.0
Cotton, undelinted seed .....	0.2
Cranberry .....	1.0
Cucumber .....	0.05
Egg .....	0.01
Fig .....	0.01
Fruit, citrus, group 10 ....	1.0
Goat, fat .....	0.2
Goat, meat .....	0.05
Goat, meat byproducts ...	0.05
Hazelnut .....	0.2
Hog, fat .....	0.2
Hog, meat .....	0.05
Hog, meat byproducts ....	0.05
Horse, fat .....	0.25
Horse, meat .....	0.25
Horse, meat byproducts .....	0.25
Kiwifruit .....	2.0
Lettuce .....	1.0
Milk, fat (Reflecting 0.01 ppm in whole milk) .....	0.25
Nectarine .....	0.05
Onion, bulb .....	0.5
Peach .....	0.05
Peanut .....	0.2
Peanut, refined oil .....	0.2
Pear .....	0.05
Pecan .....	0.2
Pepper .....	1.0
Peppermint, tops .....	0.8
Peppermint, oil .....	8.0
Plum, prune, fresh .....	0.05
Poultry, fat .....	0.1
Poultry, meat .....	0.1
Poultry, meat byproducts .....	0.1
Pumpkin .....	0.05
Radish .....	2.0
Rutabaga .....	0.5
Sheep, fat .....	0.2
Sheep, meat .....	0.05
Sheep, meat byproducts .....	0.05
Spearmint, tops .....	0.8
Spearmint, oil .....	8.0
Sorghum, grain, forage ...	0.5
Sorghum, grain, grain ....	0.5
Sorghum, grain, stover ...	2.0
Soybean, seed .....	0.3
Strawberry .....	0.2
Sunflower, seed .....	0.1
Sweet potato, roots .....	0.05

Commodity	Parts per million
Turnip, roots .....	1.0
Turnip, tops .....	0.3
Vegetable, brassica, leafy, group 5 .....	1.0
Vegetable, legume, group 6, except soy- bean .....	0.05
Walnut .....	0.2
Wheat, forage .....	3.0
Wheat, grain .....	0.5
Wheat, straw .....	6.0

\* \* \* \* \*

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in 180.1(m), are established for residues of the pesticide chlorpyrifos *per se* (*O,O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate) in or on the following food commodities:

Commodity	Parts per million
Asparagus .....	5.0
Grape .....	0.01

\* \* \* \* \*

■ 10. Section 180.349 is amended by revising paragraph (a) and the table in paragraph (c) to read as follows:

**§ 180.349 Fenamiphos; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the nematocide fenamiphos, (ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate, and its cholinesterase inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl)phenyl (1-methylethyl)phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl)phenyl (1-methylethyl)phosphoramidate in or on the following food commodities:

Commodity	Parts per million	Expiration/Revocation Date
Apple .....	0.25	12/31/09
Banana <sup>1</sup> .....	0.10	None
Brussels sprouts .....	0.05	12/31/09
Cabbage .....	0.10	12/31/09
Cherry, sweet .....	0.25	12/31/09
Cherry, tart .....	0.25	12/31/09
Citrus, dried pulp .....	2.5	None
Citrus, oil .....	25.0	None
Eggplant .....	0.05	12/31/09
Fruit, citrus, group 10 <sup>1</sup> .....	0.50	None
Garlic <sup>1</sup> .....	0.50	None
Grape <sup>1</sup> .....	0.10	None
Grape, raisin .....	0.30	None
Okra .....	0.30	12/31/09
Peach .....	0.25	12/31/09
Peanut .....	1.0	12/31/09
Pineapple <sup>1</sup> .....	0.30	None
Raspberry .....	0.10	12/31/09
Strawberry .....	0.60	12/31/09

<sup>1</sup> There are no U.S. registrations as of December 31, 2009.

\* \* \* \* \*  
(c) \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Asparagus .....	0.02	12/31/09
Beet, garden roots .....	1.5	12/31/09
Beet, garden, tops .....	1.0	12/31/09
Cabbage, Chinese, bok choy .....	0.50	12/31/09
Kiwifruit .....	0.10	12/31/09
Pepper, nonbell .....	0.60	12/31/09

\* \* \* \* \*

■ 11. Section 180.352 is revised to read as follows:

**§ 180.352 Terbufos; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the insecticide terbufos (phosphorodithioic acid, *S*-(*t*-butylthio)methyl *O,O*-diethyl ester) and its phosphorylated (cholinesterase-inhibiting) metabolites (phosphorothioic acid, *S*-(*t*-butylthio)methyl *O,O*-diethyl ester; phosphorothioic acid, *S*-(*t*-butylsulfanyl)methyl *O,O*-diethyl ester; phosphorothioic acid, *S*-(*t*-butylsulfonyl)methyl *O,O*-diethyl ester; phosphorodithioic acid, *S*-(*t*-butylsulfanyl)methyl *O,O*-diethyl ester; and phosphorodithioic acid, *S*-(*t*-butylsulfonyl)methyl *O,O*-diethyl ester) in or on food commodities:

Commodity	Parts per million
Banana .....	0.025
Beet, sugar, roots .....	0.05
Beet, sugar, tops .....	0.1
Coffee, green bean <sup>1</sup> .....	0.05
Corn, field, forage .....	0.5
Corn, field, grain .....	0.5
Corn, field, stover .....	0.5
Corn, pop, grain .....	0.5
Corn, pop, stover .....	0.5
Corn, sweet, kernel plus cob with husks removed .....	0.05
Corn, sweet, forage .....	0.5
Corn, sweet, stover .....	0.5
Sorghum, grain, forage ...	0.5
Sorghum, grain, grain .....	0.05
Sorghum, grain, stover ...	0.5

<sup>1</sup> There are no U. S. registrations as of August 2, 1995, for the use of terbufos on the growing crop, coffee.

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

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

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

■ 12. Section 180.353 is amended by revising the entries for “Beet, sugar, roots” and “Beet, sugar, tops” in the table in paragraph (a), and removing and reserving paragraph (b) including the paragraph heading to read as follows:

**§ 180.353 Desmedipham; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Beet, sugar, roots .....	0.1
Beet, sugar, tops .....	5.0

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

13. Section 180.368 is revised to read as follows:

**§ 180.368 Metolachlor; tolerances for residues.**

(a) *General.* (1) Tolerances are established for the combined residues (free and bound) of the herbicide metolachlor, 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in the following raw agricultural commodities:

Commodity	Parts per million
Almond, hulls .....	0.30
Animal feed, nongrass, group 18 .....	1.0
Cattle, fat .....	0.04
Cattle, kidney .....	0.20
Cattle, liver .....	0.10
Cattle, meat .....	0.04
Cattle, meat byproducts, except kidney and liver .....	0.04
Corn, field, forage .....	6.0
Corn, field, grain .....	0.10
Corn, field, stover .....	6.0
Corn, sweet, forage .....	6.0
Corn, sweet, kernel plus cob with husks removed .....	0.10
Corn, sweet, stover .....	6.0
Cotton, gin byproducts ...	4.0
Cotton, undelinted seed	0.10
Dill .....	0.50
Egg .....	0.04
Goat, fat .....	0.04
Goat, kidney .....	0.20
Goat, liver .....	0.10
Goat, meat .....	0.04

Commodity	Parts per million
Goat, meat byproducts, except kidney and liver	0.04
Grass, forage .....	10
Grass, hay .....	0.20
Horse, fat .....	0.04
Horse, kidney .....	0.20
Horse, liver .....	0.10
Horse, meat .....	0.04
Horse, meat byproducts, except kidney and liver	0.04
Milk .....	0.02
Nut, tree, group 14 .....	0.10
Okra .....	0.50
Pea and bean, dried shelled, except soybean, subgroup 6C .....	0.10
Pea and bean, succulent shelled, subgroup 6B ..	0.30
Peanut .....	0.20
Peanut, hay .....	20
Peanut, meal .....	0.40
Potato .....	0.20
Poultry, fat .....	0.04
Poultry, meat .....	0.04
Poultry, meat byproducts	0.04
Safflower, seed .....	0.10
Sheep, fat .....	0.04
Sheep, kidney .....	0.20
Sheep, liver .....	0.10
Sheep, meat .....	0.04
Sheep, meat byproducts, except kidney and liver	0.04
Sorghum, grain, forage ...	1.0
Sorghum, grain, grain .....	0.30
Sorghum, grain, stover ...	4.0
Soybean, forage .....	5.0
Soybean, hay .....	8.0
Soybean, seed .....	0.20
Spinach .....	0.50
Tomato .....	0.10
Vegetable, foliage of legume, subgroup 7A, except soybean .....	15.0
Vegetable, legume, edible podded, subgroup 6A .....	0.50

(2) Tolerances are established for the combined residues (free and bound) of the herbicide *S*-metolachlor *S*-2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, its *R*-enantiomer, and its metabolites, determined as the derivatives, 2-[2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the

parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Asparagus .....	0.10
Beet, sugar, molasses ...	2.0
Beet, sugar, roots .....	0.5
Beet, sugar, tops .....	15.0
Brassica, head and stem, subgroup 5A .....	0.60
Cattle, fat .....	0.04
Cattle, kidney .....	0.20
Cattle, liver .....	0.05
Cattle, meat .....	0.02
Cattle, meat byproducts, except kidney and liver .....	0.04
Corn, field, grain .....	0.10
Corn, field, forage .....	6.0
Corn, field, stover .....	6.0
Corn, pop, grain .....	0.10
Corn, pop, stover .....	6.0
Corn, sweet, forage .....	6.0
Corn, sweet, kernel plus cob with husks removed .....	0.10
Corn, sweet, stover .....	6.0
Cotton, gin byproducts ...	4.0
Cotton, undelinted seed .....	0.10
Egg .....	0.02
Garlic, bulb .....	0.10
Goat, fat .....	0.04
Goat, kidney .....	0.20
Goat, liver .....	0.05
Goat, meat .....	0.02
Goat, meat byproducts, except kidney and liver .....	0.04
Grass, forage .....	10.0
Grass, hay .....	0.20
Horse, fat .....	0.04
Horse, kidney .....	0.20
Horse, liver .....	0.05
Horse, meat .....	0.02
Horse, meat byproducts, except kidney and liver .....	0.04
Milk .....	0.02
Onion, bulb .....	0.10
Onion, green .....	2.0
Peanut .....	0.20
Pea and bean, dried shelled, except soybean, subgroup 6C .....	0.10
Peanut, hay .....	20.0
Peanut, meal .....	0.40
Poultry, fat .....	0.04
Poultry, meat .....	0.02
Poultry, meat byproducts .....	0.04
Pumpkin .....	0.10
Safflower, seed .....	0.10
Shallot, bulb .....	0.10
Sheep, fat .....	0.04
Sheep, kidney .....	0.20
Sheep, liver .....	0.05
Sheep, meat .....	0.02
Sheep, meat byproducts, except kidney and liver .....	0.04
Sorghum, grain, forage ...	1.0
Sorghum, grain, grain ....	0.3
Sorghum, grain, stover ...	4.0
Soybean, forage .....	5.0
Soybean, hay .....	8.0
Soybean, seed .....	0.20
Spinach .....	0.50
Squash, winter .....	0.10
Sunflower, seed .....	0.50
Sunflower, meal .....	1.0

Commodity	Parts per million
Tomato, paste .....	0.30
Vegetable, foliage of legume, except soybean, subgroup 7A .....	15.0
Vegetable, fruiting, except tabasco pepper, group 8 .....	0.10
Vegetable, leaf petioles, subgroup 4B .....	0.10
Vegetable, legume, edible podded, subgroup 6A .....	0.50
Vegetable, root, except sugar beet, subgroup 1B .....	0.30
Vegetable, tuberous and corn, subgroup 1C .....	0.20

(b) Section 18 emergency exemptions.

[Reserved]

(c) Tolerances with regional registrations. (1) Tolerances with regional registration as defined in 180.1(m) are established for the combined residues (free and bound) of the herbicide metolachlor [2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide] and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Pepper, nonbell .....	0.50

(2) Tolerances with regional registration as defined in 180.1(m) are established for the combined residues (free and bound) of the herbicide S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Pepper, tabasco .....	0.50

(d) Indirect or inadvertent residues.

(1) Tolerances are established for the indirect or inadvertent combined residues (free and bound) of the herbicide metolachlor, 2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-

methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in the following raw agricultural commodities:

Commodity	Parts per million
Animal feed, nongrass, group 18 .....	1.0
Barley, grain .....	0.10
Barley, straw .....	0.50
Buckwheat, grain .....	0.10
Millet, forage .....	0.50
Millet, grain .....	0.10
Millet, straw .....	0.50
Oat, forage .....	0.50
Oat, grain .....	0.10
Oat, straw .....	0.50
Rice, grain .....	0.10
Rice, straw .....	0.50
Rye, forage .....	0.50
Rye, grain .....	0.10
Rye, straw .....	0.50
Wheat, forage .....	0.50
Wheat, grain .....	0.10
Wheat, straw .....	0.50

(2) Tolerances are established for the indirect or inadvertent combined residues (free and bound) of the herbicide S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on the following food commodities:

Commodity	Parts per million
Animal feed, nongrass, group 18 .....	1.0
Barley, grain .....	0.10
Barley, hay .....	1.0
Barley, straw .....	0.50
Buckwheat, grain .....	0.10
Oat, forage .....	0.50
Oat, grain .....	0.10
Oat, hay .....	1.0
Oat, straw .....	0.50
Rice, grain .....	0.10
Rice, straw .....	0.50
Rye, forage .....	0.50
Rye, grain .....	0.10
Rye, straw .....	0.50
Wheat, forage .....	0.50
Wheat, grain .....	0.10
Wheat, hay .....	1.0
Wheat, straw .....	0.50

■ 14. Section 180.412 is amended by revising in paragraph (c) the reference “§ 180.1(n)” to read “§ 180.1(m)”, and in paragraph (a) by revising the table to read as follows:

**§ 180.412 Sethoxydim; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Alfalfa, forage .....	40
Alfalfa, hay .....	40
Almond, hulls .....	2.0
Apricot .....	0.2
Apple, wet pomace .....	0.8
Asparagus .....	4.0
Bean, succulent .....	15
Beet, sugar, molasses ...	10
Beet, sugar, tops .....	3.0
Blueberry .....	4.0
Borage, meal .....	10
Borage, seed .....	6.0
Buckwheat, flour .....	25
Buckwheat, grain .....	19
Caneberry subgroup 13	
A .....	5.0
Canola, meal .....	40
Canola, seed .....	35
Cattle, fat .....	0.2
Cattle, meat .....	0.2
Cattle, meat byproducts	1.0
Cherry, sweet .....	0.2
Cherry, tart .....	0.2
Citrus, dried pulp .....	1.5
Clover, forage .....	35
Clover, hay .....	55
Coriander, leaves .....	4.0
Corn, field, forage .....	2.0
Corn, field, grain .....	0.5
Corn, field, stover .....	2.5
Corn, sweet, forage .....	3.0
Corn, sweet, kernel plus	
cob with husk removed	0.4
Corn, sweet, stover .....	3.5
Cotton, undelinted seed	5.0
Cowpea, forage .....	15
Cowpea, hay .....	50
Cranberry .....	2.5
Dillweed, fresh leaves ...	10
Egg .....	2.0
Flax, seed .....	5.0
Fruit, citrus, group 10 ...	0.5
Fruit, pome, group 11 ...	0.2
Goat, fat .....	0.2
Goat, meat .....	0.2
Goat, meat byproducts ...	1.0
Grape .....	1.0
Grape, raisin .....	2.0
Hog, fat .....	0.2
Hog, meat .....	0.2
Hog, meat byproducts ...	1.0
Horse, fat .....	0.2
Horse, meat .....	0.2
Horse, meat byproducts	1.0
Juneberry .....	5.0
Lingonberry .....	5.0
Milk .....	0.5
Nectarine .....	0.2
Nut, tree, group 14 .....	0.2
Okra .....	2.5
Pea and bean, dried	
shelled, except soy-	
bean, subgroup 6C ...	25
Pea, field, hay .....	40
Pea, field, vines .....	20
Pea, succulent .....	10
Peach .....	0.2
Peanut .....	25
Peppermint, tops .....	30
Pistachio .....	0.2

Commodity	Parts per million
Potato granules/flakes ....	8.0
Potato waste, processed	8.0
Poultry, fat .....	0.2
Poultry, meat .....	0.2
Poultry, meat byproducts	2.0
Radish, tops .....	4.5
Rapeseed, meal .....	40
Rapeseed, seed .....	35
Safflower, seed .....	15
Salal .....	5.0
Sheep, fat .....	0.2
Sheep, meat .....	0.2
Sheep, meat byproducts	1.0
Soybean, hay .....	10
Soybean, seed .....	16
Spearmint, tops .....	30
Strawberry .....	10
Sunflower, meal .....	20
Sunflower, seed .....	7.0
Turnip, tops .....	5.0
Vegetable, brassica,	
leafy, group 5 .....	5.0
Vegetable, bulb, group 3	1.0
Vegetable, cucurbit,	
group 9 .....	4.0
Vegetable, fruiting, group	
8 .....	4.0
Vegetable, leafy, except	
brassica, group 4 .....	4.0
Vegetable, root and	
tuber, group 1 .....	4.0

\* \* \* \* \*

[FR Doc. E8-21736 Filed 9-16-08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 282**

[EPA-R09-UST-2007-1122; FRL-8716-3]

**Underground Storage Tank Program: Approved State Program for Hawaii**

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

**ACTION:** Immediate final rule.

**SUMMARY:** The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes EPA to grant approval to States to operate their underground storage tank programs in lieu of the Federal program. This action codifies EPA's decision to approve State programs and incorporates by reference those provisions of the State statutes and regulations that will be subject to EPA's inspection and enforcement authorities in accordance with sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. This rule codifies the prior approval of the State of Hawaii's underground storage tank program and incorporates by reference appropriate provisions of State statutes and regulations.

**DATES:** This final rule is effective November 17, 2008, unless EPA publishes a prior **Federal Register** notice withdrawing this immediate final rule. All comments on the codification of Hawaii's underground storage tank program must be received by the close of business October 17, 2008. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register**, as of November 17, 2008, in accordance with 5 U.S.C. 552(a).

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-UST-2007-112, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [amaro.laurie@epa.gov](mailto:amaro.laurie@epa.gov).
- *Fax:* (415) 947-3530.
- *Mail:* Laurie Amaro, U.S. EPA Region 9, 75 Hawthorne Street, (Mail Code: WST-8), San Francisco, CA 94105.

- *Hand Delivery:* Laurie Amaro, Waste Management Division, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Such deliveries are only accepted during EPA's normal hours of operation and should be made to the EPA receptionist office on the first floor.

*Instructions:* Direct your comments to Docket ID No. EPA-R09-UST-2007-112. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means WPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to