- Consumer information;
- Peer-to-peer file sharing/copyrighted material (HEOA sections 488(a) and 493);
- Institutional plans for improving the academic program (HEOA section 488(a));
- Placement of and types of employment obtained by graduates of degree or certificate programs/types of graduate and professional education (HEOA section 488(a));
- Retention rates (HEOA section 488(a));
- Hate crime reporting (HEOA section 488(e));
- Emergency response and evacuation procedures (HEOA section 488(e));
- Disclosure of fire safety standards and measures (HEOA sections 488(a));
- Missing person procedures (HEOA section 488(g));
- Year-round Pell Grant (HEOA section 401);
- Pell Grants and Children of Soldiers (HEOA section (HEOA section 401);
- TEACH Grants-extenuating circumstances (HEOA section 412(a)(1));
- Federal Work Study (FWS);
- Definition of community service (HEOA section 441(2));
- Grants for FWS Program (HEOA section 443);
- Flexible use of funds (HEOA section 444);
- Additional funds for off-campus community service (HEOA section 446);
- Work Colleges (HEOA section 447);
- LEAP/Grants for Access and Persistence (GAP) Program (HEOA section 407);
- Notification to students;
- GAP non-Federal share;
- Application for an allotment under GAP;
- Roles of partners in GAP;
- GAP Program activities;
- Applicability of LEAP Program requirements in GAP;
- GAP maintenance of effort requirement.

These topics are tentative. Topics may be added or removed as the process continues.

Schedule for Negotiations

We anticipate that negotiations for these committees will begin in February 2009, with each committee meeting for three sessions of approximately three days at roughly monthly intervals. The committees will meet in the Washington, DC area. The dates and locations of these meetings will be published in a subsequent notice in the **Federal Register**, and will be posted on the Department's Web site at: *http://www.ed.gov/HEOA.* Please note that the upcoming personnel changes in the executive branch of the Federal government may affect these plans.

The schedule for negotiations has been developed to ensure publication of the final regulations by the November 1 statutory deadline for publishing student financial assistance final regulations (to be addressed by Teams I, II, III, and V). Although not subject to the November 1 statutory deadline, the schedule for the Title IV discretionary grant programs (to be addressed by Team IV) will provide for the publication of regulations in time for competitions to be held during fiscal year 2010.

Electronic Access to This Document

You may view this document, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1098a.

Dated: December 24, 2008.

Vince Sampson,

Deputy Assistant Secretary for Postsecondary Education.

[FR Doc. E8–31176 Filed 12–30–08; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0834; FRL–8394–7]

Azinphos-methyl, Disulfoton, Esfenvalerate, Ethylene oxide, Fenvalerate, et al.; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances for the fungicides prothioconazole and thiabendazole; the herbicide primisulfuron- methyl; and the insecticides azinphos-methyl, disulfoton, esfenvalerate, fenvalerate, and phosalone; the plant growth regulator 1-naphthaleneacetic acid; and the antimicrobial/insecticidal agent ethylene oxide. Also, EPA is proposing to modify certain tolerances for the insecticides disulfoton, esfenvalerate, and phosmet; and the plant growth regulator 1-naphthaleneacetic acid. In addition, EPA is proposing to establish new tolerances for the insecticides disulfoton, esfenvalerate, and phosmet; and the antimicrobial/insecticidal agent ethylene oxide and ethylene chlorohydrin (a reaction product formed during the fumigation/sterilization process). The regulatory actions proposed 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: Comments must be received on or before March 2, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0834, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the online 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.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0834. EPA's policy is that all comments received will be included in the 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 regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which

means EPA 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: 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., 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 either 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 hours of operation of this Docket Facility are 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: Joseph Nevola, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. 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. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f), if needed. The order would specify data needed and the timeframes for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, modify, and establish specific tolerances for residues of the fungicides prothioconazole and thiabendazole; the herbicide primisulfuron-methyl; and the insecticides azinphos-methyl, disulfoton, esfenvalerate, fenvalerate, phosalone, and phosmet; the plant growth regulator 1-naphthaleneacetic acid; and the antimicrobial/insecticidal agent ethylene oxide and its reaction product ethylene chlorohydrin in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions for disulfoton, ethylene oxide, 1-naphthaleneacetic acid, and phosmet to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including

follow-up on canceled or additional uses of pesticides). However, in the case of prothioconazole, the proposed tolerance revocation herein is not associated with the reregistration or tolerance reassessment processes, but rather with an existing label prohibition. In the cases of azinphos-methyl, fenvalerate, primisulfuron-methyl, and thiabendazole, the proposed tolerance revocations herein are associated with no active U.S. registrations for specific food uses, and in the case of phosalone, the proposed revocations are associated with a follow-up to the withdrawal of a comment to maintain tolerances for import purposes, as described in Unit II.A. In the case of esfenvalerate, an isomer of fenvalerate, proposed tolerances to be established (for those food commodities with U.S. registrations for esfenvalerate) are being converted from fenvalerate tolerances due to a phase out of fenvalerate use in the United States, and the proposed tolerance revocation on a processed commodity tolerance is associated with data that shows such residues are covered by the appropriate tolerance on the raw agricultural commodity for which the Agency is proposing a decreased level herein. 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 of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and 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, 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 in public dockets for 1-naphthaleneacetic acid (EPA–HQ–OPP–2006–0507) and TREDs for ethylene oxide (EPA–HQ–OPP–2005–0203) and primisulfuron-methyl (EPA–HQ–OPP–2002–0163) at *http://www.regulations.gov* and REDs for azinphos-methyl, disulfoton, phosmet, and thiabendazole at *http://www.epa.gov/pesticides/reregistration/status.htm*.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

- Lawful use (sometimes through a label change) may result in a higher residue level on the commodity.
- The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance.

In REDs, Chapter IV on ''Risk Management, Reregistration, and Tolerance Reassessment'' typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances and/or establishments of tolerances for disulfoton, ethylene oxide, 1-naphthaleneactic acid, and phosmet can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Esfenvalerate was not subject to the reregistration program because it was registered after November 1, 1984. However, the explanation for the proposed modification in one tolerance and establishments of other tolerances for esvenvalerate can be found in the Residue Chemistry Chapter available in the public docket for this proposed rule. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and paper copies for ethylene oxide and 1-naphthaleneacetic acid can be found under their respective public docket ID numbers, identified in Unit II.A. Paper copies for disulfoton, esfenvalerate, and phosmet are available in the public docket for this proposed rule. Electronic copies are available through EPA's electronic public docket and comment system, regulations.gov at *http://www.regulations.gov*. You may search for docket ID number EPA–HQ–OPP–2008–0834, then click on that docket ID number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION**.

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. 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. It is EPA's general practice to propose revocation of those tolerances 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 to cover residues in or on imported commodities or legally treated domestic commodities.

1. *Azinphos-methyl*. On December 28, 2005 (70 FR 76827) (FRL–7752–5), the Agency published a notice in the **Federal Register** and approved requests from registrants to voluntarily amend their product registrations to terminate certain azinphos-methyl uses effective December 28, 2005. These amendments follow a September 30, 2002 **Federal Register** Notice of Receipt of Requests

(67 FR 61337) (FRL–7199–6) from the azinphos-methyl registrants to amend their product registrations to terminate certain uses. The amendments terminated azinphos-methyl use on a number of commodities, including alfalfa, bean (succulent and snap), broccoli, cabbage (including chinese), cauliflower, celery, citrus, clover, cucumber, eggplant, grape, hazelnut (filbert), melon, onion (green and dry bulb), pecan, pepper, fresh plum, dried plum, quince, spinach, strawberry, tomato, and birdsfoot trefoil. All sale and distribution of existing stocks of end-use products bearing these uses by registrants was prohibited 90-calendar days after receipt of EPA approved revised labels reflecting the use deletions; i.e., after August 2003. The Agency believes that end users will have had sufficient time to exhaust existing stocks and for treated commodities to have cleared the channels of trade. Therefore the associated tolerances are no longer needed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.154 on alfalfa, forage; alfalfa, hay; bean, snap, succulent; broccoli; cabbage; cauliflower; celery; clover, forage; clover, hay; cucumber; eggplant; fruit, citrus, group 10; grape; hazelnut; melon; onion; pecan; pepper; plum, prune; quince; spinach; strawberry; tomato, postharvest; trefoil, forage; and trefoil, hay.

On July 5, 2006 (71 FR 38148) (FRL–8076–4) and March 29, 2006 (71 FR 15731) (FRL–7771–4), the Agency published notices in the **Federal Register** and approved requests from registrants to voluntarily amend their product registrations to terminate certain azinphos-methyl uses on caneberry (blackberry, boysenberry, loganberry, raspberry), cotton, cranberry, nectarine (covered by the peach tolerance under 40 CFR 180.1(g)), peach, and potato effective September 30, 2006. The Agency believes that end users will have had sufficient time for treated commodities to have cleared the channels of trade. Therefore the associated tolerances are no longer needed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.154 on blackberry; boysenberry; cotton, undelinted seed; cranberry; loganberry; peach; potato; and raspberry.

On March 26, 2008 (73 FR 16006) (FRL–8355–1) and February 20, 2008 (73 FR 9328) (FRL–8349–8), the Agency published notices in the **Federal Register** and approved requests from registrants to voluntarily cancel and amend their product registrations to terminate azinphos-methyl uses on Brussels sprouts effective September 30, 2008, on almonds, pistachios, and walnuts effective October 30, 2009, and on apples, blueberries, cherries, parsley, and pears effective September 30, 2012. Treated commodities subject to the final rule and that are in the channels of trade following the tolerance revocations are subject to FFDCA section 408(l)(5). Residues of pesticides whose tolerances have been revoked do not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA and 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. Therefore, the associated tolerances will no longer be needed after the last use dates specified. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.154 on Brussels sprouts on the date of publication of the final rule in the **Federal Register**, on almond; almond, hulls; pistachio; and walnut; each with an expiration/revocation date of October 30, 2009, and on apple; crabapple; blueberry; cherry; parsley, leaves; parsley, turnip rooted, roots; and pear; each with an expiration/revocation date of September 30, 2012.

In addition, because the tolerance expired on June 30, 2000, EPA is proposing to remove the tolerance in 40 CFR 180.154 on sugarcane, cane.

Also, EPA is proposing to revise the section heading in 40 CFR 180.154 from *O,O*-Dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate to that of azinphos-methyl.

There are Codex Maximum Residue Limits (MRLs) for residues of azinphos-methyl on alfalfa forage; almonds; almond hulls; apple; blueberries; broccoli; cherries; clover hay or fodder; cottonseed; cranberry; cucumber; fruits (except as otherwise listed); melons, except watermelon; peach; pear; pecan; peppers, chili (dry); peppers, sweet; plums (including prunes); potato; tomato; vegetables (except as otherwise listed); and walnuts.

2. *Disulfoton, O,O-Diethyl S-[2-(ethylthio)ethyl]phosphorodithioate*. Currently, tolerances for disulfoton in 40 CFR 180.183(a) and (c) are established for the combined residues of disulfoton, *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate, and its cholinesterase-inhibiting metabolites, calculated as demeton. Based on plant and animal metabolism data, the Agency determined that residues of concern should include the sulfoxide and sulfone degradates and oxygen analogues of the sulfoxide and sulfone degradates and calculated as disulfoton in compatibility with the Codex expression. Therefore, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.183(a) to read as follows: ''Tolerances are established for the combined residues of the insecticide disulfoton, *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate; demeton-*S*, *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorothioate; disulfoton sulfoxide, *O,O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorodithioate; disulfoton oxygen analog sulfoxide, *O,O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorothioate; disulfoton sulfone, *O,O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorodithioate; and disulfoton oxygen analog sulfone, *O,O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorothioate; calculated as disulfoton, in or on food commodities as follows.''

Also, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.183(c) to read as follows: ''Tolerances with regional registration are established for the combined residues of the insecticide disulfoton, *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate; demeton-*S*, *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorothioate; disulfoton sulfoxide, *O,O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorodithioate; disulfoton oxygen analog sulfoxide, *O,O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorothioate; disulfoton sulfone, *O,O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorodithioate; and disulfoton oxygen analog sulfone, *O,O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorothioate; calculated as disulfoton, in or on food commodities as follows.''

In the **Federal Register** of May 21, 2008 (73 FR 29507) (FRL–8364–7), EPA issued a notice regarding EPA's announcement of the receipt of requests from a registrant to voluntarily amend certain registrations for disulfoton, including deletion of the last barley and wheat uses from disulfoton registrations. EPA approved the barley and wheat use deletions for disulfoton and issued a cancellation order on July 30, 2008 (73 FR 44263) (FRL–8375–7) and permitted the registrants to sell and distribute product under the previously approved labeling for a period of 6 months after the effective date of the cancellation order; i.e., until January 30,

2009. The Agency believes that end users will have had sufficient time to exhaust existing stocks and for disulfoton-treated barley and wheat commodities to have cleared the channels of trade by January 30, 2010. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.183(a) on barley, grain; barley, straw; wheat, hay; wheat, grain; and wheat, straw; each with an expiration/revocation date of January 30, 2010. In addition, based on field trial data and in order to be compatible with Codex MRLs of 0.2 milligram/kilogram (mg/kg), EPA determined that the tolerance on wheat, grain should be decreased from 0.3 to 0.2 parts per million (ppm). Also, the Agency determined that wheat data may be translated to barley and the tolerance on barley, grain should be decreased from 0.75 to 0.2 ppm. Therefore, EPA is proposing to decrease the tolerances in 40 CFR 180.183 on barley, grain and wheat, grain; each to 0.2 ppm, the appropriate tolerance level for the interim period before each tolerance expires on January 30, 2010.

Available wheat processing data showed that disulfoton residues of concern concentrated in wheat aspirated grain fractions at 1.35X and based on a reassessed tolerance for wheat, grain at 0.2 ppm (see the disulfoton RED), and the translation of wheat data to barley, EPA determined that a tolerance should be established on aspirated grain fractions at 0.3 ppm. Therefore, EPA is proposing to establish a tolerance in 40 CFR 180.183(a) on grain, aspirated fractions at 0.3 ppm with an expiration/revocation date of January 30, 2010.

Based on available field trial data that showed combined disulfoton residues of concern as high as <0.2 ppm on coffee beans, EPA determined that the tolerance should be decreased from 0.3 to 0.2 ppm. Therefore, EPA is proposing to decrease the tolerance in 40 CFR 180.183(a) on coffee, bean to 0.2 ppm.

In the **Federal Register** of September 12, 2008 (73 FR 53007) (FRL–8380–7), EPA issued a notice regarding EPA's announcement of the receipt of requests from a registrant to voluntarily cancel certain registrations for disulfoton, including termination of the last spinach and tomato uses from disulfoton registrations. On October 14, 2008, EPA approved the registration cancellations for disulfoton and issued a cancellation order to the registrant and permitted the registrant to sell and distribute product under the previously approved labeling until April 11, 2009. Typically, the Agency will permit a registrant to sell and distribute existing stocks for 1 year after the date the cancellation request was received. Such policy is in accordance with the Agency's statement of policy as set forth in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). However, in this case, the registrant, Bonide Products, Inc. (Bonide), has provided information to the Agency that these registrations were dormant, the pesticide has not been recently produced or distributed by Bonide, and that no existing stocks provision is needed by Bonide in association with these cancellation requests. However, in its request of April 11, 2008 for voluntary cancellation, Bonide noted that previously sold/distributed product may be in the channels of trade. The Agency believes that end users will have had sufficient time (18 months) to exhaust existing stocks and for disulfoton-treated spinach and tomato commodities to have cleared the channels of trade by October 14, 2009. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.183(a) on spinach and tomato; each with an expiration/revocation date of October 14, 2009.

Also, in **Federal Register** notices of September 12, 2008 (73 FR 53007) (FRL–8380–7) and May 21, 2008 (73 FR 29507) (FRL–8364–7), EPA announced the receipt of requests from registrants to voluntarily cancel certain or amend registrations for disulfoton, which include the last potato use registrations. On October 14, 2008, the Agency issued a cancellation order for specific Bonide registrations and permitted the registrant to sell and distribute product under the previously approved labeling until April 11, 2009. However, Bonide, the registrant, had informed the Agency in its request of April 11, 2008, that while the associated registrations were dormant ones where the pesticide has not been recently produced or distributed by the registrant such that it did not need an existing stocks provision, previously sold/distributed product in the channels of trade would need an existing stocks provision. The Agency believes that end users will have had sufficient time to exhaust existing stocks and for disulfoton-treated potato commodities to have cleared the channels of trade by October 14, 2009. However, the Agency issued an order on July 30, 2008 (73 FR 44263) (FRL–8375–7) to amend and terminate certain uses, including potato, for specific Bayer CropSciences registrations and permitted the registrant to sell and distribute product under the previously approved labeling until January 30, 2009. The Agency believes that end users will have had sufficient time to exhaust existing stocks and for disulfoton-treated potato commodities to have cleared the channels of trade by January 30, 2010. Consequently, using the latter date, EPA is proposing to revoke the tolerance in 40 CFR 180.183(a) on potato with an expiration/revocation date of January 30, 2010. In addition, based on field trial data that showed disulfoton residues of concern at less than 0.5 ppm, EPA determined that the tolerance on potatoes should be decreased from 0.75 to 0.5 ppm. Therefore, EPA is proposing to decrease the tolerance in 40 CFR 180.183 on potato to 0.5 ppm, the appropriate tolerance level for the interim period before it expires on January 30, 2010.

In the **Federal Register** of December 15, 2004 (69 FR 75061) (FRL–7689–8), EPA issued a notice which announced the receipt of requests from a registrant to voluntarily amend a specific registration for disulfoton, including deletion of the last peanut and pepper uses. EPA approved the amendments, including the peanut and pepper use deletions for disulfoton in an order issued on October 10, 2007 (72 FR 57571) (FRL–8151–8), and permitted the registrant and others to sell, distribute, and use product under the previously approved labeling until stocks are exhausted. The registrant and others have had more than 4 years since the voluntary amendment requests and more than 1 year since the amendment order to sell and distribute stocks and the Agency believes that end users will have had sufficient time to exhaust existing stocks and for disulfoton-treated peanut and pepper commodities to have cleared the channels of trade by January 30, 2010. Also, based on available data that showed combined disulfoton residues of concern below 0.1 ppm in or on nutmeat, the Agency determined that the tolerance should be decreased from 0.75 to 0.1 ppm. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.183(a) on peanut and pepper; each with an expiration/revocation date of January 30, 2010, and decrease the tolerance on peanut to 0.1 ppm for the interim period before it expires.

There have been no active registrations in the United States for disulfoton use on peas since 2002. The Agency believes that end users have had sufficient time to exhaust existing stocks and for disulfoton-treated peas to have cleared the channels of trade. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.183(a) on pea, dry, seed; pea, field, vines; and pea, succulent.

Based on available field trial data that showed combined disulfoton residues of

concern as high as 1.15 ppm on leaf lettuce, EPA determined that the existing tolerance for lettuce at 0.75 ppm should be revised and a separate tolerance for leaf lettuce should be increased from 0.75 to 2 ppm. Therefore, EPA is proposing to revise the tolerance on lettuce at 0.75 ppm in 40 CFR 180.183(a) and separate it into lettuce, head at 0.75 and lettuce, leaf at 2 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available metabolism and cattle feeding data (3.6X) that showed combined disulfoton residues of concern in milk were as high as 0.012 ppm, EPA calculated residues at the 1X feeding level to be <0.01 ppm. Therefore, EPA determined that a tolerance should be established on milk at 0.01 ppm with an expiration/revocation date of January 30, 2010. Also, based on available metabolism and cattle feeding data (0.7X) that showed combined disulfoton residues of concern in or on meat and meat byproducts as high as <0.01 ppm in fat and muscle, and 0.03 ppm in kidney, EPA calculated that residues at the 1X feeding level are expected to be <0.05 ppm in meat byproducts. Therefore, EPA determined that tolerances on the fat, meat and meat byproducts of cattle, goats, hogs, horses, and sheep should be established at 0.05 ppm. Currently, there are label restrictions against the grazing of disulfoton-treated cotton fields and feeding of treated cotton forage to livestock and cotton forage is not considered by EPA to be a significant livestock feed item. While cotton gin byproducts may occasionally serve as a livestock feed, the Agency has determined that there is no reasonable expectation that disulfoton residues would transfer to livestock tissue. However, based on the feed crops of barley, peanut, and wheat that are proposed herein for tolerance revocation, each with an expiration/revocation date of January 30, 2010, the Agency determined that the livestock and milk tolerances should be established, each with an expiration/revocation date of January 30, 2010. Consequently, EPA is proposing to establish tolerances in 40 CFR 180.183(a) on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts, each at 0.05 ppm and with an expiration/revocation date of January 30, 2010, and on milk at 0.01 ppm with an expiration/revocation date of January 30, 2010.

There are Codex MRLs for combined residues of disulfoton, demeton-*S*, and their sulfoxides and sulfones on a number of commodities, including barley, barley straw, peanut, wheat, and wheat straw.

3. *Esfenvalerate*. Existing tolerances for fenvalerate are proposed herein to be converted to esfenvalerate tolerances for those crops with U.S. registrations for esfenvalerate. This is because fenvalerate uses are being phased out in the United States. Esfenvalerate and fenvalerate are considered chemically and toxicologically equivalent by EPA. Esfenvalerate is the S,S-isomer (the most insecticidally active isomer) enriched version of fenvalerate. Currently, esfenvalerate tolerances in 40 CFR 180.533(a) are established for residues of esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate. The Agency had determined that residues of concern should include its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate. In addition, the Agency determined that proposed and existing tolerances for residues of concern as a result of esfenvalerate use on food commodities should be recodified into 40 CFR 180.533(a)(1) and separated from the proposed tolerance on food commodities for residues of concern as a result of esfenvalerate use in food-handling establishments. Therefore, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.533(a) and recodify that section under 40 CFR 180.533(a)(1), as follows: ''Tolerances are established for the combined residues of the insecticide esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, in or on food commodities as follows:.''

In order to cover current registrations for use of esfenvalerate in food-handling establishments, EPA is proposing to establish a tolerance of 0.05 ppm under newly recodified 40 CFR 180.533(a)(2) on raw agricultural food commodities (other than those food commodities already covered by a higher tolerance as a result of use on growing crops) for the combined residues of the insecticide esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate.

Based on available data that showed combined esfenvalerate residues of concern that were non-detectable (<0.01 ppm) in or on sugar beet roots, and in order to harmonize with the fenvalerate Codex MRL for root and tuber vegetables, EPA determined that the tolerance should be decreased from 0.5 to 0.05 ppm. Therefore, EPA is proposing to decrease the tolerance in newly recodified 40 CFR 180.533(a)(1) on beet, sugar, roots to 0.05 ppm. In addition, based on available processing data that showed an average concentration factor of 4.5X for dried sugar beet pulp and the highest average field trial (HAFT) for sugar beet roots (<0.01 ppm), EPA determined that the expected combined esfenvalerate residues of concern in dried sugar beet pulp are <0.045 ppm. Because the proposed tolerance for the raw agricultural commodity (sugar beet root) at 0.05 ppm should sufficiently cover expected combined esfenvalerate residues of concern in or on sugar beet pulp resulting from registered use, the Agency determined that the existing tolerance on dried sugar beet pulp is no longer needed and should be revoked. Therefore, the Agency is proposing to revoke the tolerance in newly recodified 40 CFR 180.533(a)(1) on beet, sugar, dried pulp.

Because the existing tolerances for kohlrabi and head lettuce support regional registrations in Texas and Arizona, California, Colorado, Florida, New Mexico, and Texas, respectively, EPA determined that these tolerances are no longer general tolerances and should be redesignated as regional registrations. Therefore, the Agency is proposing to recodify tolerances on kohlrabi at 2.0 ppm and lettuce, head at 5.0 ppm from 40 CFR 180.533(a) into 40 CFR 180.533(c) for regional tolerances. Also, because that section is currently reserved, EPA is proposing introductory text as follows: ''Tolerances with regional registration are established for the combined residues of the insecticide

esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, in or on food commodities as follows:.''

Currently, many crop commodities registered for esfenvalerate, the S,S-isomer of fenvalerate, have been covered by tolerances in 40 CFR 180.379 for fenvalerate, a racemic mixture of four stereoisomers (the S,S; R,S; S,R; and R,R isomers). However, as described earlier in this document, EPA is proposing to revoke fenvalerate tolerances. Therefore, EPA is proposing to establish separate tolerances for esfenvalerate in 40 CFR 180.533 as described below.

Based on the available bridging data from fenvalerate that compared residues of fenvalerate with esfenvalerate for certain crop commodities and using a tiered approach of residue conversion, EPA determined that fenvalerate tolerances less than 1.0 ppm should be established for esfenvalerate at levels that remain unchanged due to the increased variability in analytical data as the limit of quantitation is approached. Therefore, the Agency is proposing to establish tolerances in newly recodified 40 CFR 180.533(a)(1) for combined esfenvalerate residues of concern on almond at 0.2 ppm; bean, dry, seed at 0.25 ppm; carrot, roots at 0.5 ppm; cauliflower at 0.5 ppm; corn, field, grain at 0.02 ppm; corn, pop, grain at 0.02 ppm; corn, sweet, kernel plus cob with husks removed at 0.1 ppm; cotton, undelinted seed at 0.2 ppm; cucumber at 0.5 ppm; hazelnut at 0.2 ppm; lentil, seed at 0.25 ppm; pea, dry, seed at 0.25 ppm; peanut at 0.02 ppm; pecan at 0.2 ppm; potato at 0.02 ppm; radish, roots at 0.3 ppm; soybean, seed at 0.05 ppm; squash, summer at 0.5 ppm; turnip, roots at 0.5 ppm; and walnut at 0.2 ppm.

Based on the available bridging data from fenvalerate that compared residues of fenvalerate with esfenvalerate for certain crop commodities and using a tiered approach of residue conversion, EPA determined that fenvalerate tolerances that range from 1.0 to 2.0 ppm should be established for esfenvalerate at levels divided by 2. Therefore, the Agency is proposing to establish tolerances in newly recodified 40 CFR 180.533(a)(1) for combined esfenvalerate residues of concern on apple at 1.0 ppm; bean, snap, succulent at 1.0 ppm; broccoli at 1.0 ppm; cantaloupe at 0.5 ppm; eggplant at 0.5 ppm; melon, honeydew at 0.5 ppm; muskmelon at 0.5 ppm; pea, succulent at 0.5 ppm; pear at 1.0 ppm; pepper at 0.5 ppm; pumpkin at 0.5 ppm; squash, winter at 0.5 ppm; sugarcane, cane at 1.0 ppm; sunflower, seed at 0.5 ppm; tomato at 0.5 ppm; and watermelon at 0.5 ppm.

Based on the available bridging data from fenvalerate that compared residues of fenvalerate with esfenvalerate for certain crop commodities and using a tiered approach of residue conversion, EPA determined that fenvalerate tolerances greater than 2.0 ppm should be established for esfenvalerate at levels divided by 3 and rounded to the nearest whole number. Therefore, the Agency is proposing to establish tolerances in newly recodified 40 CFR 180.533(a)(1) for combined esfenvalerate residues of concern on almond, hulls at 5.0 ppm; blueberry at 1.0 ppm; cabbage, except chinese cabbage at 3.0 ppm; caneberry subgroup 13A at 1.0 ppm; collards at 3.0 ppm; elderberry at 1.0 ppm; fruit, stone, group 12 at 3.0 ppm; gooseberry at 1.0 ppm; radish, tops at 3.0 ppm; and turnip, tops at 7.0 ppm.

Based on the available bridging data from fenvalerate that compared residues of fenvalerate with esfenvalerate for corn and using a tiered approach of residue conversion, the Agency determined that tolerances should be established for combined esfenvalerate residues of concern on the forage of field and sweet corn and the stover of field, pop, and sweet corn, each at 15.0 ppm. Therefore, the Agency is proposing to establish tolerances in newly recodified 40 CFR 180.533(a)(1) for combined esfenvalerate residues of concern on corn, field, forage at 15.0 ppm; corn, field, stover at 15.0 ppm; corn, pop, stover at 15.0 ppm; corn, sweet, forage at 15.0 ppm; and corn, sweet, stover at 15.0 ppm.

In order to cover potential secondary residues in or on milk and ruminant tissues which could result from registered uses of esfenvalerate on many livestock feed items and livestock premises, and because the ruminant metabolism of esfenvalerate is similar to fenvalerate, EPA determined that animal commodity tolerances for esfenvalerate should be established at levels which match the existing tolerances for fenvalerate. Therefore, the Agency is proposing to establish tolerances in 40 CFR 180.533(a)(1) on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts; each at 1.5 ppm; in milk at 0.3 ppm; and in milk, fat at 7.0 ppm.

Based on a petition with data submitted by the Interregional Research Project No. 4 (IR-4) in support of the use of esfenvalerate on sweet potatoes that showed residues of concern at <0.05 ppm, EPA determined that a tolerance should be established at 0.05 ppm. Therefore, the Agency is proposing to establish a tolerance in 40 CFR 180.533(a)(1) on sweet potato, roots at 0.05 ppm.

Also, based on a petition with data submitted by IR-4 in support of a regional registration (east of the Mississippi River only) for use of esfenvalerate on bok choy that showed residues of concern at <1.0 ppm, EPA determined that a regional tolerance should be established at 1.0 ppm. Therefore, the Agency is proposing to establish a regional tolerance in 40 CFR 180.533(c) on cabbage, chinese, bok choy at 1.0 ppm.

In addition, based on a petition with data submitted by IR-4 regarding bulk food storage areas and in support of postharvest uses of esfenvalerate on stored almonds, cacao beans, peanuts, and walnuts that showed residues of concern as high as 43.48 ppm, 0.79 ppm, 0.11 ppm and 13.05 ppm, respectively, on samples collected from exposed surface sections of sacks (samples from interior sections of sacks were mostly non-detectable; i.e., <0.1 ppm), EPA determined that postharvest tolerances should be established on almond, postharvest at 50 ppm; cacao bean, postharvest at 1.0 ppm; peanut, postharvest at 0.20 ppm; and walnut, postharvest at 15 ppm. However, the petitioner needs to submit a revised Section B to limit number of consecutive daily spray applications to 270 days and specify a retreatment interval of 3-4 days when the proposed formulation is used for space treatments of food-handling establishments other than on stored almonds, cacao beans, peanuts, and walnuts. Therefore, the Agency is not taking action to establish such postharvest tolerances at this time.

Moreover, based on a petition with data submitted by IR-4 in support of a regional registration (for use of esfenvalerate on Brussels sprouts grown in all states except California) that showed esfenvalerate residues of concern as high as 0.141 ppm, EPA determined that a postharvest tolerance should be established at 0.20 ppm. Provided that the use of esfenvalerate on Brussels sprouts is limited to the EPA-defined growing regions represented by Arkansas (Region 4) and North Carolina (Region 2), no additional field trials are required. However, the petitioner did

not specify the minimum spray volumes for ground versus aerial equipment applications, and this information is required since the amount of spray volumes as well as equipment types can affect the magnitude of residues. Therefore, the Agency is not taking action to establish such a tolerance for Brussels sprouts at this time.

There are Codex MRLs for residues of esfenvalerate on eggs; poultry meat; and poultry, edible offal.

4. *Ethylene oxide.* Because there are no active registrations for use of ethylene oxide on coconut, EPA determined that the tolerance on coconut, copra is no longer needed and should be revoked. Consequently, the Agency is proposing to revoke the tolerance in 40 CFR 180.151(a) on coconut, copra.

EPA has determined that the tolerance on processed spices at 50 ppm in 40 CFR 180.151(a)(2) should be reassigned with the tolerance on whole spices at 50 ppm in 40 CFR 180.151(a)(1), as one tolerance termed herbs and spices, group 19, dried (except basil), and should be lowered to 7 ppm based on a reevaluation of a single chamber process that showed much lower residue levels. Therefore, the Agency is proposing to revoke the tolerances on processed (ground) spices in 40 CFR 180.151(a)(2) and the tolerance on spices, whole in 40 CFR 180.151(a)(1), and establish a tolerance in 40 CFR 180.151(a)(1) on herb and spice, group 19, dried, except basil at 7 ppm.

Based on data for spices/herbs and single chamber treatment process, EPA determined that a tolerance should be established on dried vegetables at 7 ppm, provided that label amendments are made as described above. Therefore, the Agency is proposing to establish a tolerance in 40 CFR 180.151(a)(1) for residues of ethylene oxide in or on vegetable, dried at 7 ppm.

Currently in 40 CFR 180.151(a)(2), there are prescribed conditions of use for ethylene oxide. The Agency believes that these current sections in 40 CFR 180.151(a)(2) should be removed because all treatment parameters should be on the label. Ethylene chlorohydrin is a reaction product that results from the fumigation of foods with ethylene oxide due to interaction of the ethylene oxide with natural chlorides present in the crop. Based on spice sterilization data and a refined probabilistic acute dietary assessment for all supported ethylene oxide food uses, the Agency concluded that ethylene chlorohydrin is a residue of concern and should have tolerances. Therefore, EPA is proposing to remove existing paragraph (a)(2) and establish a tolerance expression in newly revised 40 CFR 180.151(a)(2) as follows: ''Tolerances are established for residues of the ethylene oxide reaction product, 2-chloroethanol, commonly referred to as ethylene chlorohydrin, when ethylene oxide is used as a postharvest fumigant in or on food commodities as follows:.''

Also, EPA is proposing to establish tolerances in 40 CFR 180.151(a)(2) for ethylene chlorohydrin on herb and spice, group 19, dried, except basil at 940 ppm and vegetable, dried at 940 ppm.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice as follows: in 40 CFR 180.151(a)(1), ''walnut, black'' to ''walnut.''

There are no Codex MRLs for residues of ethylene oxide or ethylene chlorohydrin in or on spices/herbs. A Canadian MRL exists for ethylene chlorohydrin on spices at 1,500 ppm. There is no Canadian MRL for ethylene oxide on spices/herbs. However, because the U.S. residue data showed slightly lower levels of ethylene chlorohydrin, the Agency is proposing a 940 ppm tolerance.

5. *Fenvalerate.* Fenvalerate is a racemic mixture of four stereoisomers (the S,S; R,S; S,R; and R,R isomers). On August 5, 2004 (69 FR 47437) (FRL–7369–5), EPA issued a cancellation order for all technical registrations for fenvalerate that permitted one technical registrant to sell and distribute existing stocks until March 27, 2004 and the other technical registrant to sell and distribute existing stocks until April 1, 2004. Since then, in the **Federal Register** of April 30, 2008 (73 FR 23457) (FRL–8363–5), EPA issued a notice regarding EPA's announcement of the receipt of requests from end-use registrants to voluntarily cancel certain registrations for fenvalerate, cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methylethyl)benzeneacetate, which would terminate the last fenvalerate products registered for use in the United States. EPA approved the cancellations effective on July 9, 2008, and permitted the registrants to sell and distribute product under the previously approved labeling for a period of 1 year from the date of the cancellation request (which ranged from August 29, 2007 through April 2, 2008), i.e., until April 2, 2009 for the last end-use registrations. These last registrations were for uses associated with agricultural, pet care, domestic home and garden, and commercial/industrial/food sites and non-food/mosquito abatement. The Agency believes that end users will have had sufficient time to exhaust existing stocks and for the fenvalerate-treated food commodities to have cleared the channels of trade by April 2, 2010. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.379(a)(1) on almond, hulls; almond; apple; artichoke, globe; bean, dry, seed; bean, snap, succulent; broccoli; blueberry; cabbage; caneberry subgroup 13A; cantaloupe; carrot, roots; cattle, fat; cattle, meat byproducts; cattle, meat; cauliflower; collards; corn, grain; corn, forage; corn, stover; corn, sweet, kernel plus cob with husks removed; cotton, undelinted seed; cucumber; currant; eggplant; elderberry; fruit, stone; goat, fat; goat, meat byproducts; goat, meat; gooseberry; hazelnut; hog, fat; hog meat byproducts; hog, meat; horse, fat; horse, meat byproducts; horse, meat; huckleberry; melon, honeydew; milk; milk, fat; muskmelon; peanut; pear; pea; pea, dry, seed; pecan; pepper; potato; pumpkin; radish, roots; radish, tops; sheep, fat; sheep, meat byproducts; sheep, meat; soybean; squash, summer; squash, winter; sugarcane, cane; sunflower, seed; tomato; turnip, greens; turnip, roots; walnut; and watermelon; each with an expiration/revocation date of April 2, 2010. Also, EPA is proposing to revoke the tolerance in 40 CFR 180.379(a)(3) on soybean, hulls and the regional tolerance in 40 CFR 180.379(c) on okra. In addition, EPA is proposing to revoke a tolerance on raw agricultural food commodities (other than those food commodities already covered by a higher tolerance as a result of use on growing crops) at 0.05 ppm in 40 CFR 180.379(a)(2) for residues of fenvalerate and esfenvalerate as a result of use in food-handling establishments. A separate tolerance for use of esfenvalerate in food-handling establishments is proposed by the Agency to be established in 40 CFR 180.533(a)(2) as described earlier in this document.

Due to the proposed tolerance revocations herein, EPA is proposing to revise the section heading in 40 CFR 180.379 from cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methylethyl)benzeneacetate to that of fenvalerate, remove the table in paragraph (c) and reserve paragraph (c), remove paragraphs (a)(2) and (a)(3), revise paragraph (a)(1) into (a) and the introductory text containing the tolerance expression in newly recodified 40 CFR 180.379(a) to read as follows: ''Tolerances are established for residues of the insecticide fenvalerate, cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methylethyl)benzeneacetate, in or on food commodities as follows.''

Also, EPA is proposing to revise commodity terminology to conform to current Agency practice in 40 CFR

180.379(a) from ''corn, forage'' to ''corn, field, forage'' and ''corn, sweet, forage;'' ''corn, grain'' to ''corn, field, grain'' and ''corn, pop, grain;'' ''corn, stover'' to ''corn, field, stover,'' ''corn, pop, stover,'' and ''corn, sweet, stover;'' ''fruit, stone'' to ''fruit, stone, group 12;'' ''soybean'' to ''soybean, seed;'' and ''turnip, greens'' to ''turnip, tops.''

Currently, there are existing Codex MRLs for fenvalerate residues on beans, shelled at 0.1 mg/kg; beans, except broad bean and soya bean at 1 mg/kg; berries and other small fruits at 1 mg/kg; broccoli at 2 mg/kg; cabbages, head at 3 mg/kg; cauliflower at 2 mg/kg; cereal grains at 2 mg/kg; cherries at 2 mg/kg; cottonseed at 0.2 mg/kg; cucumber at 0.2 mg/kg; edible offal (mammalian) at 0.02 mg/kg; fat of meat (from mammals other than marine mammals) at 1 mg/kg; melons, except watermelon at 0.2 mg/kg; milks at 0.1 mg/kg; peach at 5 mg/kg; peanut, whole at 0.1 mg/kg; peas, shelled (succulent seeds) at 0.1 mg/kg; peppers, chili (dry) at 5 mg/kg; peppers, sweet at 0.5 mg/kg; pome fruits at 2 mg/kg; root and tuber vegetables at 0.05 mg/kg; soya bean (dry) at 0.1 mg/kg; squash, summer at 0.5 mg/kg; sunflower seed at 0.1 mg/kg; sweet corn (corn-on-the-cob) at 0.1 mg/kg; tomato at 1 mg/kg; watermelon at 0.5 mg/kg; tree nuts at 0.2 mg/kg; and winter squash at 0.5 mg/kg.

6. *1-Naphthaleneacetic acid*. Currently, tolerances in 40 CFR 180.155(a) are established for residues of 1-naphthaleneacetic acid, in 40 CFR 180.155(b) for residues of the ethyl ester of 1-naphthaleneacetic acid, and in 40 CFR 180.309 for combined residues of α-naphthaleneacetamide and its metabolite α-naphthaleneacetic acid (calculated as α-naphthaleneacetic acid). However, the Agency has determined the residues of concern are 1-naphthaleneacetic acid and its conjugates and therefore that the introductory text in 40 CFR 180.155(a) should be revised for residues of 1-naphthaleneacetic acid and its conjugates calculated as 1-naphthaleneacetic acid that result from application of the acid, its ammonium, sodium, or potassium salts, ethyl ester, or acetamide. Therefore, while tolerances on apple, pear, and olive should be proposed at reassessed levels in 40 CFR 180.155(a), separate tolerances on apple, pear, and olive in 40 CFR 180.155(b) and on apple and pear in 40 CFR 180.309 are no longer needed and should be revoked. Consequently, EPA is proposing to revoke the tolerances on apple, pear, and olive in 40 CFR 180.155(b) and revise and reserve that paragraph for tolerances with section 18 emergency exemptions. Also, EPA is proposing to revoke the tolerances on apple and pear in 40 CFR 180.309, and remove that section. In addition, EPA is proposing to revise the introductory text in 40 CFR 180.155(a) as follows: ''Tolerances are established for the combined residues of the plant growth regulator 1-naphthaleneacetic acid and its conjugates calculated as 1-naphthaleneacetic acid from the application of 1-naphthaleneacetic acid, its ammonium, sodium, or potassium salts, ethyl ester, and acetamide in or on food commodities as follows:.''

Because tolerances for residues of 1-naphthaleneacetic acid by application of its various forms will be combined into one introductory text in 40 CFR 180.155(a), 40 CFR 180.3(d)(7), which states that the total amount of residues for α-naphthaleneacetamide and/or α-naphthaleneacetic acid on the same raw agricultural commodity shall not exceed more residue than that permitted by the higher of the two tolerances, is no longer needed and therefore 40 CFR 180.3(d)(7) should be removed. Consequently, EPA is proposing to remove the current 40 CFR 180.3(d)(7) and redesignate current 40 CFR 180.3(d)(8) through (d)(13) as 40 CFR 180.3(d)(7) through (d)(12), respectively.

Based on available field trial data that showed combined naphthaleneacetic acid residues of concern in or on apples and pears as high as 0.06 ppm and 0.03 ppm, respectively, EPA determined that the tolerances on apple, pear, and quince in 40 CFR 180.155(a) should be decreased from 1 to 0.1 ppm and revised into a crop group tolerance entitled fruit, pome, group 11. Therefore, EPA is proposing to decrease the tolerances on apple, pear, and quince in 40 CFR 180.155(a) to 0.1 ppm and revise them into fruit, pome, group 11.

Based on available field trial data that showed combinednaphthaleneacetic acid residues of concern in or on olives as high as 0.61 ppm, EPA determined that the tolerances on olive in 40 CFR 180.155(a) should be increased from 0.1 to 0.7 ppm. Therefore, EPA is proposing to increase the tolerance on olive in 40 CFR 180.155(a) to 0.7 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. Also, EPA is proposing to remove the ''(N)'' designation from the tolerance on olive in 40 CFR 180.155(a) to conform to current Agency administrative practice, where the ''(N)'' designation means negligible residue.

Also, in accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.155 by adding separate paragraphs (c), and (d), and reserving those sections for tolerances with regional registrations and indirect or inadvertent residues, respectively.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice in 40 CFR 180.155(a) from ''orange, sweet'' to ''orange.'' Also, in order to reflect that there are no U.S. registrations, but only support for importation, EPA is proposing to footnote the pineapple tolerance and revise it from ''pineapple (from the application of the sodium salt to the growing crop)'' to ''pineapple.''

There are no Codex MRLs for residues of 1-naphthaleneacetic acid, its salts, ester, and acetamide.

7. *Phosalone*. In the **Federal Register** of October 26, 1998 (63 FR 57062) (FRL–6035–8), EPA responded to a comment from Rhone-Poulenc Ag Company, which requested that the Agency not revoke tolerances for phosalone on almonds; apricots; apples; cherries; grapes; peaches; pears; and plums/prunes in order to maintain them for importation purposes, by not revoking those tolerances at that time. Later, after a merger, Rhone-Poulenc Ag Company became Aventis CropScience, and was eventually acquired by Bayer CropScience, which later entered into an agreement that transferred the global rights of phosalone to Cheminova. On April 30, 2008, Cheminova notified EPA that for commercial reasons it will not develop the requested data to support the phosalone import tolerances. However, Cheminova urged the Agency to prevent trade irritants and consider that Canada is phasing out the use of phosalone. Health Canada's Pest Management Regulatory Agency (PMRA) has scheduled a last date of application for phosalone on apple; cherry; grape; peach; pear; and plum/prune as September 30, 2012, with the earliest date for amending (revoking) its MRLs as September 30, 2013. This information is found on PMRA's website at *http://www.pmra-arla.gc.ca/english/pdf/rev/rev2008-02-e.pdf*. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.263 on apple; cherry; grape; peach; pear; and plum, prune, fresh; each with an expiration date of September 30, 2013. In addition, EPA is proposing to revoke the tolerances in 40 CFR 180.263 on almond and apricot effective on the day of publication of the final rule in the **Federal Register**.

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.263 by adding separate paragraphs (b), (c), and (d), and reserving those sections for tolerances

with section 18 emergency exemptions, regional registrations, and indirect or inadvertent residues, respectively.

There are Codex MRLs for residues of phosalone on almonds, pome fruits, and stone fruits.

8. *Phosmet, N-(Mercaptomethyl)phthalimide S-(O,O-dimethyl phosphorodithioate)*. Based on metabolism and cattle feeding data (0.2X (MTDB) that showed combined phosmet residues of concern in milk below the limit of quantitation (LOQ) of 0.05 ppm, EPA determined that a tolerance should be established on milk for phosmet residues of concern at the combined LOQ level of 0.1 ppm. Therefore, EPA is proposing to establish a tolerance on milk in 40 CFR 180.261(a) at 0.1 ppm.

Based on available metabolism and cattle feeding data (1.1X MTDB) that showed combined phosmet residues of concern in or on meat and meat byproducts below the LOQ of 0.05 ppm, EPA determined that the tolerances on meat and meat byproducts of cattle, goats, horses, and sheep should be set at the combined LOQ of 0.1 ppm, and therefore decreased from 0.2 to 0.1 ppm. Consequently, EPA is proposing to decrease tolerances in 40 CFR 180.261(a) on cattle, meat; goat, meat; horse, meat; sheep, meat; cattle, meat byproducts; goat, meat byproducts; horse, meat byproducts; and sheep, meat byproducts, each to 0.1 ppm.

Based on a slightly exaggerated dermal application, EPA determined that combined phosmet residues of concern in or on cattle fat were below the combined LOQ and in order to reflect both secondary residues from feed and direct dermal application, the Agency determined that overall combined residues in or on cattle fat are expected to be <0.2 ppm. However, phosmet is not registered for dermal application to goats, horses, and sheep, and the fat tolerances on goats, horses and sheep should be based on the cattle feeding data alone and set at a combined LOQ of 0.1 ppm, and therefore decreased from 0.2 to 0.1 ppm. Consequently, EPA is proposing to decrease the tolerances in 40 CFR 180.261(a) on goat, fat; horse, fat; and sheep, fat to 0.1 ppm.

Based on swine dermal treatment data that showed combined phosmet residues of concern in or on liver, kidney, and muscle from animals at the 1–day pre-slaughter interval, each below the combined LOQ of 0.04 ppm, EPA determined that the tolerances on meat and meat byproducts of hogs should be decreased from 0.2 to 0.04 ppm. Consequently, EPA is proposing to decrease tolerances in 40 CFR 180.261(a) on hog, meat; and hog, meat byproducts, each to 0.04 ppm.

Based on available storage stability data that showed no significant decline in residues after 343 days of freezer storage and field trial data that showed combined phosmet residues of concern in or on washed sweet potatoes as high as 11.2 ppm following postharvest treatment and 40–day storage, EPA determined that the tolerance on sweet potatoes should be increased from 10 to 12 ppm. Therefore, EPA is proposing to increase the tolerance in 40 CFR 180.261(a) on sweet potato, roots to 12 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed combined phosmet residues of concern in or on succulent pea pods, and dry pea hay as high as 0.56 ppm and 17.3 ppm, respectively, EPA determined that the tolerance on field pea hay should be increased from 10 to 20 ppm, and the pea tolerance at 0.5 ppm should be revised and divided into pea, dry, seed at 0.5 ppm and pea, succulent, which should be increased from 0.5 to 1 ppm. Therefore, EPA is proposing in 40 CFR 180.261(a) to increase the tolerance on pea, field, hay to 20 ppm and revise pea into pea, dry, seed at 0.5 ppm and pea, succulent at 1 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed combined phosmet residues of concern below 20 ppm on alfalfa forage, EPA determined that the tolerance on alfalfa at 40 ppm should be revised and divided into alfalfa, hay at 40 ppm and alfalfa, forage, which should be decreased from 40 to 20 ppm. Therefore, EPA is proposing to revise the tolerance in 40 CFR 180.261(a) on alfalfa into alfalfa, hay at 40 ppm and alfalfa, forage at 20 ppm.

Based on available processing data for cotton that showed phosmet residues of concern concentrated in cottonseed oil at 2X the treatment of cotton, EPA determined that a tolerance of 0.2 ppm should be established based on the existing tolerance of 0.1 ppm for cotton, undelinted seed. Therefore, EPA is proposing to establish a tolerance in 40 CFR 180.261(a) on cotton, refined oil at 0.2 ppm.

Also, EPA is proposing to revise commodity terminology to conform to current Agency practice in 40 CFR 180.261(a) from ''fruit, citrus'' to ''fruit, citrus, group 10'' and ''nut'' to ''nut, tree, group 14.'' Moreover, in 40 CFR 180.261, EPA is proposing to remove the ''(N)'' designation from all entries to conform to current Agency administrative practice, where the ''(N)'' designation means negligible residues.

There is compatibility between U.S. tolerances and Codex MRLs for residues of phosmet on apple at 10 mg/kg; apricot at 5 mg/kg; blueberries at 10 mg/kg; citrus fruits at 5 mg/kg; grapes at 10 mg/kg; nectarine at 5 mg/kg; peach at 10 mg/kg; pear at 10 mg/kg. In addition, there are Codex MRLs for residues of phosmet on tree nuts at 0.2 mg/kg and potato at 0.05 mg/kg.

9. *Primisulfuron-methyl*. There have been no active registrations for use of primisulfuron-methyl on sweet corn for more than 10 years. Also, for at least 10 years, active registrations for primisulfuron-methyl have shown a label prohibition of its use on sweet corn. Therefore, there is no longer a need for the sweet corn tolerance. Consequently, EPA is proposing to revoke the tolerance in 40 CFR 180.452 on corn, sweet, kernel plus cob with husks removed.

There are no Codex MRLs for residues of primisulfuron-methyl.

10. *Prothioconazole*. Prothioconazole is a fungicide first registered for use in the United States in 2007. Therefore, it did not need to be reviewed under the reregistration or tolerance reassessment programs. However, current active registrations for the use of prothioconazole on peanuts have a label restriction against the feeding of peanut hay or threshings to livestock or grazing of livestock in treated areas. Based on these restrictions, the Agency has determined that the tolerance on peanut hay is no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerance in 40 CFR 180.626(a)(1) on peanut, hay.

There are no Codex MRLs for residues of prothioconazole.

11. *Thiabendazole*. In the **Federal Register** of December 28, 2007 (72 FR 73809) (FRL–8345–5), EPA issued a notice regarding EPA's announcement of the receipt of requests from registrants to voluntarily amend certain registrations for several active ingredients, including deletion of the last sugar beet uses from thiabendazole registrations. EPA approved the sugar beet use deletions for thiabendazole and made the last one effective on June 25, 2008, and permitted the registrants to sell and distribute product under the previously approved labeling for a period of 18 months after approval of the revision; i.e., until December 25, 2009. The Agency believes that end users will have had sufficient time to

exhaust existing stocks and for thiabendazole-treated sugar beet commodities to have cleared the channels of trade by December 25, 2010. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.242(a)(1) on beet, sugar, dried pulp; beet, sugar, roots; and beet, sugar, tops; each with an expiration/revocation date of December 25, 2010.

There are no Codex MRLs for residues of thiabendazole on sugar beets.

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

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions 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 FQPA. The safety finding determination is discussed 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 REDs for azinphos-methyl, disulfoton, 1-naphthaleneacetic acid, phosmet, and thiabendazole, and TREDs for ethylene oxide and primisulfuron methyl. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in 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 proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of 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.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals 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). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.

2. There is a reasonable expectation that finite residues will exist.

3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this document and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

C. When Do These Actions Become Effective?

With the exception of certain tolerances for azinphos-methyl, disulfoton, fenvalerate, phosalone, and thiabendazole for which EPA is proposing specific expiration/revocation dates, the Agency is proposing that these revocations, modifications, establishments of tolerances, and revisions of tolerance nomenclature become effective on the date of publication of the final rule in the **Federal Register.** With the exception of the proposed revocation of specific tolerances for azinphos-methyl, disulfoton, fenvalerate, phosalone, and thiabendazole, the Agency believes that existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been completely exhausted and that treated commodities have cleared the channels of trade. EPA is proposing expiration/revocation dates of October 30, 2009, for azinphos-methyl tolerances on almond; almond, hulls; pistachio; and walnut; September 30, 2012, for azinphos-methyl tolerances on apple; crabapple; blueberry; cherry; parsley, leaves; parsley, turnip rooted, roots; and pear; October 14, 2009, for disulfoton tolerances on spinach and tomato; January 30, 2010, for disulfoton tolerances on barley, grain; barley, straw; grain, aspirated fractions; peanut; pepper; potato; wheat, hay; wheat, grain; wheat, straw; milk; and the fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep; April 2, 2010, for most of the fenvalerate tolerances (as described in Unit II.A.); September 30, 2013, for phosalone tolerances on apple; cherry; grape; peach; pear; and plum, prune, fresh; and December 25, 2010, for thiabendazole tolerances on beet, sugar, dried pulp; beet, sugar, roots; and beet, sugar, tops. The Agency believes that these revocation dates allow users to exhaust stocks and allows sufficient time for passage of treated commodities through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(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, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. Are the Proposed Actions Consistent with International Obligations?

The tolerance actions in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

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 MRLs established by the Codex Alimentarius is a joint U.N. 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 Unit II.A. Specific tolerance actions in this proposed rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed 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 104–113, 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 proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. 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 proposed 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 proposed 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 proposed 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 proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: December 22, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.3 [Amended]

2. Section 180.3 is amended by removing paragraph (d)(7) and redesignating paragraphs (d)(8) through (d)(13) as paragraphs (d)(7) through (d)(12), respectively.

3. Section 180.151 is amended by revising the table in paragraph (a)(1) and by revising paragraph (a)(2) to read as follows:

§ 180.151 Ethylene oxide; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
Herb and spice, group 19, dried, except basil	7
Vegetable, dried	7
Walnut	50

(2) Tolerances are established for residues of the ethylene oxide reaction product, 2-chloroethanol, commonly referred to as ethylene chlorohydrin, when ethylene oxide is used as a postharvest fumigant in or on food commodities as follows:

Commodity	Parts per million
Herb and spice, group 19, dried, except basil	940
Vegetable, dried	940

* * * * *

4. Section 180.154 is amended by revising the section heading and the table in paragraph (a) to read as follows:

§180.154 Azinphos-methyl; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
Almond	0.2	10/30/09
Almond, hulls	5.0	10/30/09
Apple	1.5	9/30/12
Blueberry	5.0	9/30/12
Cherry	2.0	9/30/12
Crabapple	1.5	9/30/12
Parsley, leaves	5.0	9/30/12
Parsley, turnip rooted, roots	2.0	9/30/12
Pear	1.5	9/30/12
Pistachio	0.3	10/30/09
Walnut	0.3	10/30/09

* * * * *

5. Section 180.155 is revised to read as follows:

§ 180.155 1-Naphthaleneacetic acid; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the plant growth regulator 1-naphthaleneacetic acid and its conjugates calculated as 1-naphthaleneacetic acid from the application of 1-naphthaleneacetic acid, its ammonium, sodium, or potassium salts, ethyl ester, and acetamide in or on food commodities as follows:

Commodity	Parts per million
Cherry, sweet	0.1
Fruit, pome, group 11	0.1
Olive	0.7
Orange	0.1
Pineapple [1]	0.05
Tangerine	0.1

[1] There are no U.S. registrations since 1988.

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

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

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

6. Section 180.183 is amended by revising paragraph (a) and paragraph (c) to read as follows:

§ 180.183 O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the insecticide disulfoton, *O*,*O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate; demeton-*S*, *O*,*O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorothioate; disulfoton sulfoxide, *O*,*O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorodithioate; disulfoton oxygen analog sulfoxide, *O*,*O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorothioate; disulfoton sulfone, *O*,*O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorodithioate; and disulfoton oxygen analog sulfone, *O*,*O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorothioate; calculated as disulfoton, in or on food commodities as follows:

Commodity	Parts per million	Expiration/Revocation Date
Barley, grain	0.2	1/30/10
Barley, straw	5.0	1/30/10
Bean, lima	0.75	None
Bean, snap, succulent	0.75	None
Broccoli	0.75	None
Brussels sprouts	0.75	None
Cabbage	0.75	None
Cattle, fat	0.05	1/30/10
Cattle, meat	0.05	1/30/10
Cattle, meat byproducts	0.05	1/30/10
Cauliflower	0.75	None
Coffee, bean	0.2	None
Cotton, undelinted seed	0.75	None
Goat, fat	0.05	1/30/10
Goat, meat	0.05	1/30/10
Goat, meat byproducts	0.05	1/30/10
Grain, aspirated fractions	0.3	1/30/10
Hog, fat	0.05	1/30/10
Hog, meat	0.05	1/30/10
Hog, meat byproducts	0.05	1/30/10
Horse, fat	0.05	1/30/10
Horse, meat	0.05	1/30/10
Horse, meat byproducts	0.05	1/30/10
Lettuce, head	0.75	None
Lettuce, leaf	2	None
Milk	0.01	1/30/10
Peanut	0.1	1/30/10
Pepper	0.1	1/30/10
Potato	0.5	1/30/10
Sheep, fat	0.05	1/30/10
Sheep, meat	0.05	1/30/10
Sheep, meat byproducts	0.05	1/30/10
Spinach	0.75	10/14/09
Tomato	0.75	10/14/09
Wheat, grain	0.2	1/30/10
Wheat, hay	5.0	1/30/10
Wheat, straw	5.0	1/30/10

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration are established for the combined residues of the insecticide disulfoton, *O*,*O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate; demeton-*S*, *O*,*O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorothioate; disulfoton sulfoxide, *O*,*O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorodithioate; disulfoton oxygen analog sulfoxide, *O*,*O*-diethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorothioate; disulfoton sulfone, *O*,*O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorodithioate; and disulfoton oxygen analog sulfone, *O*,*O*-diethyl *S*-[2-(ethylsulfonyl)ethyl] phosphorothioate; calculated as disulfoton, in or on food commodities as follows:

Commodity	Parts per million
Asparagus	0.1

* * * * *

7. Section 180.242 is amended by revising the table in paragraph (a)(1) to read as follows:

§180.242 Thiabendazole; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million	Expiration/Revocation Date
Apple, wet pomace	12.0	None
Avocado [1]	10.0	None
Banana, postharvest	3.0	None
Bean, dry, seed	0.1	None
Beet, sugar, dried pulp	3.5	12/25/10
Beet, sugar, roots	0.25	12/25/10
Beet, sugar, tops	10.0	12/25/10
Cantaloupe [1]	15.0	None
Carrot, roots, postharvest	10.0	None
Citrus, oil	15.0	None
Fruit, citrus, group 10, postharvest	10.0	None
Fruit, pome, group 11, postharvest	5.0	None
Mango	10.0	None
Mushroom	40.0	None
Papaya, postharvest	5.0	None
Potato, postharvest	10.0	None
Soybean	0.1	None
Strawberry [1]	5.0	None
Sweet potato (postharvest to sweet potato intended only for use as seed)	0.05	None
Wheat, grain	1.0	None
Wheat, straw	1.0	None

[1] There are no U.S. registrations on the indicated commodity.

* * * * *

8. Section 180.261 is amended by revising the table in paragraph (a) to read as follows:

§180.261 N-Mercaptomethyl phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, forage	20
Alfalfa, hay	40
Almond, hulls	10
Apple	10
Apricot	5
Blueberry	10
Cattle, fat	0.2
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Cherry	10
Cotton, refined oil	0.2
Cotton, undelinted seed	0.1
Cranberry	10
Fruit, citrus, group 10	5
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Grape	10
Hog, fat	0.2
Hog, meat	0.04
Hog, meat byproducts	0.04
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Kiwifruit	25
Milk	0.1
Nectarine	5
Nut, tree, group 14	0.1
Pea, dry, seed	0.5
Pea, field, hay	20
Pea, field, vines	10
Pea, succulent	1
Peach	10
Pear	10
Plum, prune, fresh	5
Potato	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, meat byproducts	0.1
Sweet potato, roots	12

* * * * *

9. Section 180.263 is revised to read as follows:

§180.263 Phosalone; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide phosalone, *S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) *O,O*-diethyl phosphorodithioate, in or on the following food commodities:

Commodity	Parts per million	Expiration/ Revocation Date
Apple [1]	10.0	9/30/13
Cherry [1]	15.0	9/30/13
Grape [1]	10.0	9/30/13
Peach [1]	15.0	9/30/13
Pear [1]	10.0	9/30/13
Plum, prune, fresh [1]	15.0	9/30/13

[1] There are no U.S. registrations since 1992.

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

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

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

§ 180.309 [Removed]

10. Section 180.309 is removed.

11. Section 180.379 is revised to read as follows:

§180.379 Fenvalerate; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide fenvalerate, cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methylethyl)benzeneacetate, in or on food commodities as follows:

Commodity	Parts per million	Expiration/Revocation Date
Almond	0.2	4/2/10
Almond, hulls	15.0	4/2/10
Apple	2.0	4/2/10
Artichoke, globe	0.2	4/2/10
Bean, dry, seed	0.25	4/2/10
Bean, snap, succulent	2.0	4/2/10
Broccoli	2.0	4/2/10
Blueberry	3.0	4/2/10
Cabbage	10.0	4/2/10
Caneberry subgroup 13A	3.0	4/2/10
Cantaloupe	1.0	4/2/10
Carrot, roots	0.5	4/2/10
Cattle, fat	1.5	4/2/10
Cattle, meat	1.5	4/2/10
Cattle, meat byproducts	1.5	4/2/10
Cauliflower	0.5	4/2/10
Collards	10.0	4/2/10
Corn, field, forage	50.0	4/2/10
Corn, field, grain	0.02	4/2/10
Corn, field, stover	50.0	4/2/10
Corn, pop, grain	0.02	4/2/10
Corn, pop, stover	50.0	4/2/10
Corn, sweet, forage	50.0	4/2/10
Corn, sweet, kernel plus cob with husks removed	0.1	4/2/10
Corn, sweet, stover	50.0	4/2/10
Cotton, undelinted seed	0.2	4/2/10
Cucumber	0.5	4/2/10
Currant	3.0	4/2/10
Eggplant	1.0	4/2/10
Elderberry	3.0	4/2/10
Fruit, stone, group 12	10.0	4/2/10
Goat, fat	1.5	4/2/10
Goat, meat	1.5	4/2/10
Goat, meat byproducts	1.5	4/2/10
Gooseberry	3.0	4/2/10
Hazelnut	0.2	4/2/10
Hog, fat	1.5	4/2/10
Hog, meat	1.5	4/2/10
Hog, meat byproducts	1.5	4/2/10
Horse, fat	1.5	4/2/10
Horse, meat	1.5	4/2/10
Horse, meat byproducts	1.5	4/2/10
Huckleberry	3.0	4/2/10
Melon, honeydew	1.0	4/2/10
Milk	0.3	4/2/10
Milk, fat	7.0	4/2/10
Muskmelon	1.0	4/2/10
Pea	1.0	4/2/10
Pea, dry, seed	0.25	4/2/10
Peanut	0.02	4/2/10
Pear	2.0	4/2/10
Pecan	0.2	4/2/10
Pepper	1.0	4/2/10
Potato	0.02	4/2/10
Pumpkin	1.0	4/2/10
Radish, roots	0.3	4/2/10
Radish, tops	8.0	4/2/10
Sheep, fat	1.5	4/2/10
Sheep, meat	1.5	4/2/10
Sheep, meat byproducts	1.5	4/2/10
Soybean, seed	0.05	4/2/10
Squash, summer	0.5	4/2/10
Squash, winter	1.0	4/2/10
Sugarcane, cane	2.0	4/2/10
Sunflower, seed	1.0	4/2/10
Tomato	1.0	4/2/10
Turnip, roots	0.5	4/2/10
Turnip, tops	20.0	4/2/10
Walnut	0.2	4/2/10
Watermelon	1.0	4/2/10

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

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

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

§ 180.452 [Amended]

12. Section 180.452 is amended by removing from the table in paragraph (a) the entry ''corn, sweet, kernel plus cob with husks removed.''

13. Section 180.533 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§180.533 Esfenvalerate; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of the insecticide esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, in or on food commodities as follows:

Commodity	Parts per million
Almond	0.2
Almond, hulls	5.0
Apple	1.0
Artichoke, globe	1.0
Bean, dry, seed	0.25
Bean, snap, succulent	1.0
Beet, sugar, roots	0.05
Beet, sugar, tops	5.0
Blueberry	1.0
Broccoli	1.0
Cabbage, except chinese cabbage	3.0
Caneberry subgroup 13A	1.0
Cantaloupe	0.5
Carrot, roots	0.5
Cattle, fat	1.5
Cattle, meat	1.5
Cattle, meat byproducts	1.5
Cauliflower	0.5
Collards	3.0
Corn, field, forage	15.0
Corn, field, grain	0.02
Corn, field, stover	15.0
Corn, pop, grain	0.02
Corn, pop, stover	15.0
Corn, sweet, forage	15.0
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	15.0
Cotton, undelinted seed	0.2
Cucumber	0.5
Egg	0.03
Eggplant	0.5
Elderberry	1.0
Fruit, stone, group 12	3.0
Goat, fat	1.5
Goat, meat	1.5
Goat, meat byproducts	1.5
Gooseberry	1.0
Hazelnut	0.2
Hog, fat	1.5
Hog, meat	1.5
Hog, meat byproducts	1.5
Horse, fat	1.5
Horse, meat	1.5
Horse, meat byproducts	1.5
Kiwifruit	0.5
Lentil, seed	0.25
Melon, honeydew	0.5
Milk	0.3
Milk, fat	7.0
Muskmelon	0.5
Mustard greens	5.0
Pea, dry, seed	0.25
Pea, succulent	0.5

Commodity	Parts per million
Peanut	0.02
Pear	1.0
Pecan	0.2
Pepper	0.5
Potato	0.02
Poultry, fat	0.3
Poultry, liver	0.03
Poultry, meat	0.03
Poultry, meat byproducts, except liver	0.3
Pumpkin	0.5
Radish, roots	0.3
Radish, tops	3.0
Sheep, fat	1.5
Sheep, meat	1.5
Sheep, meat byproducts	1.5
Sorghum, forage	10.0
Sorghum, grain, grain	5.0
Sorghum, grain, stover	10.0
Soybean, seed	0.05
Squash, summer	0.5
Squash, winter	0.5
Sugarcane, cane	1.0
Sunflower, seed	0.5
Sweet potato, roots	0.05
Tomato	0.5
Turnip, roots	0.5
Turnip, tops	7.0
Walnut	0.2
Watermelon	0.5

(2) A tolerance of 0.05 ppm on raw agricultural food commodities (other than those food commodities already covered by a higher tolerance as a result of use on growing crops) is established for the combined residues of the insecticide esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate as a result of the use of esfenvalerate in food-handling establishments.

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration are established for the combined residues of the insecticide esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer, (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and its diastereomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, in or on food commodities as follows:

Commodity	Parts per million
Cabbage, chinese, bok choy	1.0
Kohlrabi	2.0
Lettuce, head	5.0

* * * * *

§ 180.626 [Amended]

14. Section 180.626 is amended by removing the entry for peanut, hay from the table in paragraph (a)(1).

[FR Doc. E8–31182 Filed 12–30–08; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 08–255; FCC 08–281]

Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition ''Analog Nightlight'' Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document describes and seeks comment on the Commission's implementation of the Short-term Analog Flash and Emergency Readiness Act (''Analog Nightlight Act''), S. 3663, 110th Cong., as enacted December 23, 2008. The Analog Nightlight Act requires the Commission to develop and implement a program by January 15, 2009, to ''encourage and permit'' continued analog TV service for a period of thirty days after the February 17, 2009 DTV transition date, where technically feasible, to provide ''public safety information'' and ''DTV transition information.'' For consumers who are not capable of receiving digital television signals by the transition deadline, the Analog Nightlight program proposed herein will ensure that there is no interruption in the provision of critical emergency information and will provide useful information regarding the transition to help consumers establish digital service.

DATES: Comments are due on or before January 5, 2009; reply comments are due on or before January 8, 2009.

ADDRESSES: You may submit comments, identified by MB Docket No. 08–255, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: *http://www.fcc.gov/cgb/ecfs/.* Filers should follow the instructions provided on the Web site for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number.
- E-mail: *ecfs@fcc.gov.* To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- Mail: Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.
- Hand Delivery/Courier: Filings can be sent by hand or messenger delivery. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
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