Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 2, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.649 is added to read as follows:

§ 180.649 Saflufenacil; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of saflufenacil, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of saflufenacil, 2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2*H*)-pyrimidinyl]-4-fluoro-*N*-[[methyl(1-methylethyl)amino] sulfonyl]benzamide, and its metabolites *N*-[2-chloro-5-(2,6-dioxo-4-(trifluoromethyl)-3,6-dihydro-1(2*H*)-pyrimidinyl)-4-fluorobenzoyl]-*N*′-isopropylsulfamide and fluoro-5-({[(isopropylamino)sulfonyl] amino}carbonyl)phenyl]urea, calculated as the stoichiometric equivalent of saflufenacil, in or on the commodities.

Commodity	Parts per million
Almond, hulls	0.10
Cotton, gin byproducts	0.10
Cotton, undelinted seed	0.03
Fruit, citrus, group 10	0.03
Fruit, pome, group 11	0.03
Fruit, stone, group 12	0.03
Grain, cereal, forage, fodder and straw Group 16	0.10
Grain, cereal, group 15	0.03
Grape	0.03
Nut, tree, group 14	0.03
Pistachio	0.03
Sunflower, seed	1.0
Vegetable, foliage of legume, group 7	0.10
Vegetable, legume, group 6	0.03

(2) Tolerances are established for residues of saflufenacil, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only saflufenacil, 2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2*H*)-pyrimidinyl]-4-fluoro-*N*-[[methyl(1-methylethyl) amino]sulfonyl]benzamide, in or on the commodities.

Commodity	Parts per million
Cattle, fat	0.01
Cattle, liver	0.80
Cattle, meat	0.01
Cattle, meat byproducts, except liver	0.02
Goat, fat	0.01
Goat, liver	0.80
Goat, meat	0.01
Goat, meat byproducts, except liver	0.02
Hog, fat	0.01
Hog, liver	0.80
Hog, meat	0.01
Hog, meat byproducts, except liver	0.02
Horse, fat	0.01
Horse, liver	0.80
Horse, meat	0.01
Horse, meat byproducts, except liver	0.02
Milk	0.01
Sheep, fat	0.01
Sheep, liver	0.80
Sheep, meat	0.01
Sheep, meat byproducts, except liver	0.02

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

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

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

[FR Doc. E9–21826 Filed 9–10–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0834; FRL–8426–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking 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 modifying certain tolerances for the insecticides disulfoton, esfenvalerate, and phosmet; and the plant growth regulator 1-naphthaleneacetic. In addition, EPA is establishing 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 finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408(q).

DATES: This regulation is effective September 11, 2009. Objections and requests for hearings must be received on or before November 10, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0834. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: 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. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 436a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0834 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 10, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0834, by one of the following methods.

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

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of December 31, 2008 (73 FR 80317) (FRL–8394–7), EPA issued a proposal 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; and the plant growth regulator 1-naphthaleneacetic acid; and the antimicrobial/insecticidal agent ethylene oxide and ethylene chlorohydrin (a reaction product formed during the fumigation/sterilization process). Also, the proposal of December 31, 2008 (73 FR 80317) provided a 60–day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

In this final rule, EPA is revoking, modifying, and establishing specific tolerances for residues of azinphos-methyl, disulfoton, esfenvalerate, ethylene oxide, ethylene chlorohydrin, fenvalerate, 1-naphthaleneacetic acid, phosalone, phosmet, prothioconazole, primisulfuron-methyl, and thiabendazole in or on commodities listed in the regulatory text of this document.

EPA is finalizing these tolerance actions in order to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications, to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419; telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the Internet at *http://www.regulations.gov*

and *http://www.epa.gov/pesticides/reregistration/status.htm*.

In this final rule, EPA is revoking certain tolerances and/or tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or legally treated domestic commodities.

EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States.

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

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

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

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

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of December 31, 2008 (73 FR 80317), EPA received comments during the 60–day public comment period, as follows:

1. *General—comment by private citizen*. An anonymous comment was received which expressed concerns about pesticides on food and that only zero tolerance levels should be acceptable.

Agency response. The commenter did not take issue with any of the Agency's specific conclusions to modify, revoke, or establish certain tolerances. Also, the commenter did not refer to any specific studies which pertained to those conclusions. EPA believes that the tolerance actions finalized herein meet the safety standard of FFDCA section 408, 21 U.S.C. 346a. In developing REDs and TREDs, EPA worked with stakeholders, pesticide registrants, growers, and other pesticide users, environmental and public health interests, the States, the U.S. Department of Agriculture, other Federal agencies, and others to develop voluntary measures or regulatory controls needed to effectively reduce risks of concern. Such options include voluntary cancellation of pesticide products or deletion of uses, declaring certain uses ineligible or not yet eligible, restricting use of products to certified applicators, limiting the amount or frequency of use, improving use directions and precautions, adding more protective clothing and equipment requirements, requiring special packaging or engineering controls, requiring no-treatment buffer zones, employing environmental and ecological safeguards, and other measures.

2. *Azinphos-methyl*—i. *Comment by the Cranberry Institute*. The Cranberry Institute requested that the tolerance on cranberry be maintained until the planned Canadian phase-out in 2012, and the commenter also requested that a channels of trade date be made as 2014. The commenter stated that much of the Canadian cranberry crop is imported into the United States.

ii. *Comments by Argentina's Secretary of Agriculture and multiple growers organizations in Argentina, Chile, Mexico, and Uruguay*. The Secretary of Agriculture in Argentina requested that the U.S. tolerances for azinphos-methyl on apples, pears, and cherries not be revoked, but rather remain in place to maintain trade flows with the United States. The commenter stated that in 2008, Argentina exported 2 and 37 million kilograms of apples and pears, respectively, to the United States and that a diminished supply of apples and pears may raise costs for U.S. consumers. Also, the Secretary of Agriculture in Argentina stated that the azinphos-methyl tolerance revocations were not associated with dietary risks. Multiple commenters from agricultural organizations in Argentina and one grower organization from Uruguay also requested that the U.S. tolerances for azinphos-methyl on apples and pears not be revoked, but rather remain in place to maintain trade flows with the United States. Several of these commenters also stated that the azinphos-methyl tolerance revocations were not associated with dietary risks and that use of alternatives to azinphos-methyl would be costly to growers there and U.S. consumers.

iii. *Comment by Makhteshim Agan of North America, Inc. (MANA)*. The commenter, a manufacturer of azinphos-methyl, expressed concern that azinphos-methyl treated crops may be in channels of trade beyond last azinphos-methyl use dates. Also, MANA stated that the azinphos-methyl tolerance revocations were not associated with dietary risks. In addition, MANA stated that import tolerances may be necessary because in 2008, the United States imported 93 million kilograms of apples from Chile, 2 million kilograms of apples from Argentina, 25 million kilograms of pears from Chile, and 37 million kilograms of pears from Argentina, countries where azinphos-methyl is used to treat apples and pears. Furthermore, MANA stated that in 2006, the United States imported 40% of fruit, 15% of vegetables, and 18% of nuts and that a substantial number of crops have been treated with azinphos-methyl and expressed concern that tolerance revocation would discriminate against foreign food commodities for sale in the United States and internationally accepted scientific evidence in violation of the World Trade Organization's General Agreement on Tariffs and Trade (GATT) Articles III and III.3, against GATT Members in violation of GATT Articles II.2. and II.3, and Member standards in violation of GATT Article IV. Finally, MANA requested that the U.S. tolerances for azinphos-methyl on apples, almonds, almond hulls, blueberries, Brussels sprouts, cherries, crabapples, parsley leaves, parsley turnip roots, peaches, pistachios, and walnuts not be revoked, but rather remain in place to maintain trade flows with the United States.

iv. *Comment by the Association of Exporters of Chile (ASOEX)*. ASOEX, a non-governmental Chilean organization, stated that the Agency's proposal to revoke tolerances for azinphos-methyl on pome fruit, stone fruit, berries, and kiwifruit would be an unfair restriction on international trade, prohibited by GATT, and requested that the tolerances not be revoked.

Agency response. According to the revised Canadian phase-out schedule for azinphos-methyl, the last date for use of azinphos-methyl by users in Canada on

cranberries is December 31, 2012. In the **Federal Register** of December 31, 2008 (73 FR 80317)(FRL–8394–7), EPA proposed tolerance actions for several active ingredients including a proposal to revoke the tolerance for residues of azinphos-methyl on cranberry in 40 CFR 180.154 and, as described in Unit II.C. of that document, the revocation would become effective on the date of publication of the final rule. Because the Cranberry Institute has expressed a need for maintenance of the tolerance until the end of 2012 for import purposes, EPA is revoking the U.S. tolerance for residues of azinphos-methyl in 40 CFR 180.154 on cranberry at 0.5 ppm with an expiration/revocation date of December 31, 2012. Commodities treated with pesticides that are in the channels of trade following tolerance revocation are subject to FFDCA section 408(l)(5). Under this section, any residues of 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 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 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 a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

Currently, there is no tolerance for azinphos-methyl residues in or on kiwifruit and kiwifruit was not addressed in the proposal of December 31, 2008 (73 FR 80317). Based on comments which expressed a need to retain specific tolerances for importation purposes into the United States, EPA will not revoke tolerances for residues of azinphos-methyl in or on almond; almond, hulls; apple; blackberry; blueberry; boysenberry; Brussels sprouts; cherry; crabapple; loganberry; parsley, leaves; parsley, turnip rooted, roots; peach; pear; pistachio; plum, prune; quince; raspberry; and walnut in 40 CFR 180.154 at this time. Therefore, any arguments regarding GATT are moot at this time. However, retaining these tolerances indefinitely will likely require submission of data to demonstrate their safety. EPA believes that residue data from foreign countries, and perhaps other data, will be needed to support import tolerances for azinphos-methyl. For example, domestic U.S. residue data are not likely to be representative of growing conditions and use patterns in other countries. EPA published guidances on pesticide import tolerances and residue data for imported food in the **Federal Register** notices of April 5, 2006 (71 FR 17099)(FRL–7772–1) and June 1, 2000 (65 FR 35069)(FRL–6559–3).

The Agency is revoking the following azinphos-methyl tolerances in 40 CFR 180.154, for which no commenter expressed a need: Alfalfa, forage; alfalfa, hay; bean, snap, succulent; broccoli; cabbage; cauliflower; celery; clover, forage; clover, hay; cotton, undelinted seed; cucumber; eggplant; fruit, citrus, group 10; grape; hazelnut; melon; onion; pecan; pepper; potato; spinach; strawberry; tomato, postharvest; trefoil, forage; and trefoil, hay. Also, the Agency is removing the expired tolerance in 40 CFR 180.154 on sugarcane, cane.

3. *Esfenvalerate—comment by DuPont Crop Protection.* DuPont Crop Protection stated that a tolerance of 1.0 ppm on succulent peas is appropriate for esfenvalerate, that the regional tolerance for okra at 0.1 ppm for esfenvalerate be retained because there is a pending IR-4 request to set okra as a national tolerance at 0.5 ppm based on existing pepper data, that the kohlrabi and head lettuce tolerances not be made regional tolerances because kohlrabi is not geographically restricted and DuPont expects to submit a label amendment which removes the geographical restriction on head lettuce for esfenvalerate. Also, DuPont requested that a national tolerance be established on pistachios at 0.1 ppm and a regional tolerance be established on cardoon at 1.0 ppm based on pending tolerance petitions (PP#7F4859 and PP#0E3912, respectively). In addition, DuPont notes that the Agency proposed revocation in 40 CFR 180.379(a)(3) for the tolerance on soybean hulls for fenvalerate and states that, using the conversion method, one should be established for esfenvalerate at 0.5 ppm.

Agency response. In the **Federal Register** of December 31, 2008 (73 FR 80317)(FRL–8394–7), EPA proposed to revoke the tolerances in 40 CFR 180.379(a) for residues of fenvalerate in or on pea at 1.0 ppm and pea, dry, seed at 0.25 ppm with expiration/revocation dates of April 2, 2010, and establish tolerances in 40 CFR 180.533(a)(1) for residues of esfenvalerate, its non-racemic isomer, and its diastereomers in or on pea, succulent at 0.5 ppm and pea, dry, seed at 0.25 ppm. Esfenvalerate is an enriched isomer of fenvalerate and bridging studies (field trial data) indicate that esfenvalerate residues are lower than fenvalerate residues. The Agency agreed that bridging data could satisfy registration requirements and used the tiered approach originally proposed by DuPont in tolerance petition PP#4F4329, which included that fenvalerate tolerances greater than or equal to 1.0 ppm but less than or equal to 2.0 ppm, should be divided by 2 in a conversion to esfenvalerate tolerances for certain crop commodities, including peas, where the Agency recommended a tolerance of 0.5 ppm in or on succulent pea. Therefore, because the Agency considers that to be the appropriate tolerance, EPA is establishing the tolerance on pea, succulent in 40 CFR 180.533(a)(1) at 0.5 ppm.

The supporting data for the tolerance on kohlrabi comes from two field trials in Texas. However, in Table 1 of guideline 860.1500 for crop field trials, available at *http:/www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/860-1500.pdf*, the minimum number of crop field trials for kohlrabi is listed to be three. In addition, when the Agency reviewed the 1996 petition, it determined at that time that the labels should bear directions for kohlrabi grown in Texas only. Therefore, the available data do not support a national (non-geographically restricted) tolerance for esfenvalerate. Consequently, EPA is recodifying the tolerance for kohlrabi at 2.0 ppm from 40 CFR 180.533(a) into 40 CFR 180.533(c) as a regional tolerance. If the commenter has any additional information to provide on this issue, it should submit it to the Agency for consideration.

Because the available data that the Agency has reviewed and approved supports a regional tolerance for head lettuce, EPA is recodifying the tolerance for lettuce, head at 5.0 ppm from 40 CFR 180.533(a) into 40 CFR 180.533(c) as a regional tolerance. Should the commenter submit additional information, the Agency will consider it and take any appropriate actions.

Regarding tolerance petition PP#6E7096, which proposed a tolerance on okra, the Agency notes that the petitioner needs to submit revised Sections B and F of the petition. See guidelines 860.1200 *(http:/www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/860-1200.pdf) and 860.1550 (http:/www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/860-1550.pdf)*, respectively, available at *http:/www.epa.gov/opptsfrs/home/guidelin.htm*. However, due to an existing regional tolerance for

fenvalerate on okra and EPA's proposed establishment of tolerances in 40 CFR 180.533(a) for esfenvalerate residues of concern in or on pepper and tomato (whose bridging data the Agency determined can be translated to okra) at 0.5 ppm, the Agency agrees that the tolerance on okra should be established for esfenvalerate at this time. This is consistent with the Agency's proposal published on December 31, 2008 (73 FR 80317) to convert tolerances for fenvalerate to esfenvalerate. Therefore, EPA is establishing a permanent tolerance in 40 CFR 180.533(a)(1) for esfenvalerate residues of concern in or on okra at 0.5 ppm. Also, the Agency notes that label revisions are required to specify a maximum seasonal application rate of 0.5 lb active ingredient/Acre (ai/A) for okra. Petition PP#0E3912, which proposed a tolerance for cardoon, proposed the tolerance in terms of fenvalerate and the petitioner needs to submit a revised Section F to request a tolerance for esfenvalerate. Regarding tolerance petition PP#7F4859, which proposed a tolerance on pistachio, the petitioner needs to submit a revised Section F to correct the tolerance expression and the commodity name. Consequently, after the Agency receives each revised Section F, the Agency expects to address cardoon and pistachio in a future publication in the **Federal Register**.

The April 2006, Residue Chemistry Chapter for esfenvalerate, posted in the docket of the proposed rule of December 31, 2008 (73 FR 80317), noted that the Agency would allow conversion of the established fenvalerate tolerance on soybean (seed) to esfenvalerate. However, it did not mention establishing an esfenvalerate tolerance for soybean hulls. Instead, it inadvertently recommended retaining the fenvalerate tolerance on soybean hulls for import purposes instead of revocation concomitant with the establishment of that tolerance for esfenvalerate based on available bridging data. Typically, the Agency provides for public comment, including requests to maintain tolerances for import purposes, in its publication in the **Federal Register** of a proposed tolerance revocation. No public comments were received by the Agency during the 60–day comment period provided by the proposed rule of December 31, 2008 (73 FR 80317) regarding a request to maintain any fenvalerate tolerances for import purposes. The Agency agrees with DuPont that bridging residue comparison data on soybean hulls are available. According to the April 2006 Residue Chemistry Chapter, fenvalerate residues concentrated approximately 20X in soybean hulls, and with a soybean seed tolerance of 0.05 ppm an appropriate fenvalerate tolerance on soybean hulls is calculated by the Agency to be 1.0 ppm. An expected fenvalerate tolerance level of 1.0 ppm should be divided by 2 for esfenvalerate conversion, so that the Agency believes that a tolerance on soybean, hulls at 0.5 ppm should be established for esfenvalerate at this time. This is consistent with the Agency's proposal published on December 31, 2008 (73 FR 80317) to convert tolerances for fenvalerate to esfenvalerate. Therefore, EPA is establishing a tolerance in 40 CFR 180.533(a)(1) on soybean, hulls at 0.5 ppm.

EPA did not propose in a notice for comment to revise the tolerance nomenclature for esfenvalerate in 40 CFR 180.533(a)(1) from sorghum, forage to sorghum, grain, forage, and turnip, tops to turnip, greens is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the tolerance terminology in 40 CFR 180.533(a)(1) from sorghum, forage to sorghum, grain, forage, and turnip, tops to turnip, greens. The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, esfenvalerate, in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.

Consequently, in addition to the establishment of tolerances on okra and soybean, hulls, and the revising of the tolerance nomenclature for sorghum, forage to sorghum, grain, forage, the Agency is finalizing all other amendments proposed concerning esfenvalerate in the **Federal Register** of December 31, 2008 (73 FR 80317).

4. *Ethylene oxide (ETO)—comments by the American Spice Trade Association (ASTA) and Cosmed Group, Inc.*. The commenters, McDermott, Will, and Emery on behalf of ASTA, and the Cosmed Group, Inc., expressed concern that while they are not objecting to the exclusion of basil, the replacement of ethylene oxide tolerances for ''whole spices'' and ''ground spices'' in 40 CFR 180.151(a) with ''herb and spice, group 19, dried, except basil'' and ''vegetable, dried'' may not be as comprehensive as the existing tolerances. Also, the commenters provided a list of spices. In addition, McDermott, Will, and Emery on behalf of ASTA, stated that there has been some difficulty in meeting the proposed tolerance value for the reaction product, 2-chloroethanol, commonly referred to as ethylene chlorohydrin (ECH), and that some of ASTA's members need additional time to address application steps to help assure that the tolerance proposal for ECH tolerances can be met. Therefore, ASTA is requesting that the finalization of the ECH tolerances not be made effective before August 31, 2009.

Agency response. Certain spices depicted in ASTA's list (Capsicums, ginger, horseradish, paprika, garlic, onion, turmeric, and arrowroot) are covered by the proposed tolerances on ''vegetable, dried.'' Camomile (German or Hungarian) is covered by camomile; oregano is covered by the preferred term marjoram, and pink peppercorns is covered by black pepper within the proposed tolerance on ''herb and spice, group 19, dried, except basil.'' However, there are four commodities (licorice roots, peppermint and spearmint leaves, and sesame seeds) cited by ASTA and Cosmed that are not currently covered by proposed tolerances for ''vegetable, dried'' or ''herb and spice, group 19, dried, except basil.'' In the future, the Agency may revise crop groupings (e.g., the Agency may consider the addition of licorice roots into vegetable, root and tuber, group 1, which would then cover licorice roots as a spice under vegetable, dried). At this time, the Agency determined that addition of individual tolerances for these four commodities at 7 ppm for ethylene oxide residues and 940 ppm for ethylene chlorohydrin residues does not significantly affect the dietary risk assessment. Therefore, EPA is establishing tolerances in 40 CFR 180.151(a)(1) for residues of the antimicrobial agent and insecticide ethylene oxide, when used as a postharvest fumigant, in or on licorice, roots; peppermint, tops, dried; spearmint, tops, dried; and sesame, seed; each at 7 ppm and in 40 CFR 180.151(a)(2) 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 licorice, roots; peppermint, tops, dried; spearmint, tops, dried; and sesame, seed; each at 940 ppm. Also, the Agency expects to publish this final rule in September 2009, which is consistent with ASTA's request that tolerances for

ethylene chlorohydrin not be made effective before August 31, 2009.

Consequently, in addition to the establishment of tolerances for both ethylene oxide and ethylene chlorohydrin on licorice, roots; peppermint, tops, dried; spearmint, tops, dried; and sesame, seed, the Agency is finalizing all other amendments proposed concerning ethylene oxide and ethylene chlorohydrin in the **Federal Register** of December 31, 2008 (73 FR 80317).

5. *1-Naphthaleneacetic acid, salts, ethyl ester, and acetamide—comments by the Northwest Horticultural Council (NHC) and AMVAC Chemical Corporation*. The NHC expressed a concern about the proposed tolerance decreases on apple, pear, and quince from 1.0 to 0.1 ppm (revised into fruit, pome, group 11) because the registrant suggested that when conducting field trials using two applications at 50 g per acre, residues of up to 0.094 ppm resulted, and stated that residues may be dependent on time of year and variety of apple or pear being treated. Also, the NHC stated that, in the 2007 revised RED, the modified label language for potassium salt formulation and the number of applications allowed each year is not clear; i.e., it appears to limit use to one or two applications. AMVAC stated that residues on apples and pears in one study were as high as 0.093 ppm and 0.086 ppm, respectively, and requested that the tolerances on apples and pears be maintained at 1.0 ppm.

Agency response. NHC's and AMVAC's citation of residues on apples as high as 0.093 ppm (MRID 45283601) represented samples from one of four site locations with a 2–day pre-harvest interval (PHI). AMVAC's citation of residues on pears as high as 0.086 ppm (MRID 45283602) represented samples with a 1–day PHI. Half-life for 1-naphthaleneacetic acid (NAA) residues on apples and pears under field conditions from these studies were determined to be 4.8 days and 1.9 days, respectively. Residues at a PHI of 2 days were as high as 0.0455 ppm on pears. The recommendation in the RED for a group tolerance of 0.1 ppm on pome fruit cited detectable residues for apple and pear that were below 0.1 ppm following sequential treatments at rates approximating the maximum label use patterns. The March 2004 Residue Chemistry Chapter for NAA cited residues at 5 days following the last sequential treatment as high as 0.06 ppm for apples (MRID 40884401) and 0.03 ppm for pears (MRID 40884402) and at 2–day PHIs as 0.093 ppm for apples (MRID 45283601) and 0.075 ppm for pears (MRID 45283602). The Agency notes that the degradation of NAA may result in variable residue levels with environmental variables such as seasonality and temperature as well as with early/late season apple/pear varieties. If such data are submitted, EPA will further evaluate appropriate tolerance levels. Currently, in response to comments from NHC and AMVAC, the Agency put residue levels for apples and pears, representing the 2–day PHI, into the NAFTA MRL Calculator, a statistical procedure for tolerance assessment, and determined that based on the variability of the residue data and a 99% confidence limit, a tolerance level of 0.15 ppm is appropriate; i.e., the tolerance on pome fruit should be increased above the proposed level of 0.1 ppm to 0.15 ppm. Consequently, the Agency is decreasing the tolerances on apple, pear, and quince to 0.15 ppm and revising them into a crop group tolerance in 40 CFR 180.155(a) on fruit, pome, group 11 at 0.15 ppm. EPA has determined that this tolerance is safe.

The Agency agrees that Appendix A in the RED summarizes use patterns at the time of the RED that were eligible for registration for potassium 1-naphthaleneacetate, whose labels needed to be changed as per the RED, with amended language to specify a maximum single application rate as 0.11 pound of acid equivalents per acre (lb ae/A), (except for olive trees only at 0.33 lb ae/A), a maximum rate for all uses per year or crop cycle as 0.33 lb ae/A, a minimum re-treatment interval between applications of 5 days and re-entry intervals (REIs) of 12 hours for the ethyl ester and 48 hours for the acid, potassium salt, ammonium salt, sodium salt and acetamide forms. Any discrepancies in the use profile will be evaluated by the Agency and, if needed, corrected.

In addition to the establishment of the tolerance on fruit, pome, group 11 at 0.15 ppm, the Agency is finalizing all other amendments proposed concerning 1-naphthaleneacetic acid, salts, ethyl ester, and acetamide in the **Federal Register** of December 31, 2008 (73 FR 80317).

In addition, the Agency is making the following revision in this final rule.

6. *Disulfoton*. EPA did not propose in a notice for comment to revise the tolerance nomenclature for disulfoton, *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate, in 40 CFR 180.183(a) from coffee, bean to coffee, green bean, as is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the tolerance terminology in 40 CFR 180.183(a) from coffee, bean to coffee, green bean. The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, disulfoton, in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.

The Agency did not receive any specific comments on the following pesticide active ingredients: Disulfoton, fenvalerate, phosalone, phosmet, primisulfuron-methyl, prothioconazole, and thiabendazole. Therefore, in addition to revising the tolerance nomenclature for coffee, bean to coffee, green bean for disulfoton, EPA is finalizing the amendments proposed concerning these active ingredients in the **Federal Register** of December 31, 2008 (73 FR 80317). For a detailed discussion of the Agency's rationale for the establishments, revocations, and modifications to the tolerances, refer to the proposed rule of December 31, 2008.

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

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides. As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standards under FFDCA. The safety finding determination is found in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued 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 statements regarding additional data on the active ingredients that may be needed to confirm the potential human health and environmental risk assessments associated with current product uses, and REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are made final in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to revoke tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and 180.6(c)).

C. When Do These Actions Become Effective?

With the exception of certain tolerances for azinphos-methyl, disulfoton, fenvalerate, phosalone, and thiabendazole for which EPA is revoking with specific expiration/revocation dates, the Agency is revoking, modifying, and establishing specific tolerances, and revising specific commodity terminologies effective on the date of publication of this final rule in the **Federal Register**. With the exception of the 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 revoked tolerances have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. EPA is revoking certain specific tolerances with expiration/revocation dates of December 31, 2012 for the azinphos-methyl tolerance on cranberry; 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; 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 allow sufficient time for passage of treated commodities through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(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.

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

III. Are There Any International Trade Issues Raised by this Final Action?

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint 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 the proposed rule cited in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) is discussed in Unit II.A.

IV. Statutory and Executive Order Reviews

In this final rule, EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public

Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. 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 the proposed rule, as mentioned in Unit II.A.). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this 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 rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 27, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

§ 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
Licorice, roots	7
Peppermint, tops, dried	7
Sesame, seed	7
Spearmint, tops, dried	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
Licorice, roots	940
Peppermint, tops, dried	940
Sesame, seed	940
Spearmint, tops, dried	940

Commodity	Parts per million
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[1]	0.2	None
Almond, hulls[1]	5.0	None
Apple[2]	1.5	None
Blackberry[3]	2.0	None
Blueberry[2]	5.0	None
Boysenberry[3]	2.0	None
Brussels sprouts[4]	2.0	None
Cherry[2]	2.0	None
Crabapple[2]	1.5	None
Cranberry[3]	0.5	12/31/12
Loganberry[3]	2.0	None
Parsley, leaves[2]	5.0	None
Parsley, turnip rooted, roots[2]	2.0	None
Peach[3]	2.0	None
Pear[2]	1.5	None
Pistachio[1]	0.3	None
Plum, prune[5]	2.0	None
Quince[5]	1.5	None
Raspberry[3]	2.0	None
Walnut[1]	0.3	None

[1]There are no U.S. registrations as of October 30, 2009.

[2]There are no U.S. registrations as of September 30, 2012.

[3]There are no U.S. registrations since September 30, 2006.

[4]There are no U.S. registrations since September 30, 2008.

[5]There are no U.S. registrations since December 28, 2005.

* * * * *

■ 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	0.15
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 by-products	0.05	1/30/10
Cauliflower	0.75	None
Coffee, green 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 by-products	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 by-products	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

Commodity	Parts per million	Expiration/ Revocation Date
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
Okra	0.5
Pea, dry, seed	0.25
Pea, succulent	0.5
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, grain, forage	10.0
Sorghum, grain, grain	5.0
Sorghum, grain, stover	10.0
Soybean, hulls	0.5
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, greens	7.0
Turnip, roots	0.5
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).

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8091]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.