

Commodity	Parts per million	Expiration/revocation date
*	*	*
Corn, sweet, plus cobs with husks removed (K+CWHR) .....	0.02	12/31/12
Corn, sweet, forage .....	6.0	12/31/12
Corn, sweet, stover .....	2.5	12/31/12

\* \* \* \* \*

[FR Doc. 2010-2148 Filed 2-2-10; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0460; FRL-8808-8]

#### Dithianon; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of dithianon in or on grapes that are imported. BASF requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0460. 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:** Rose Kearns, Registration Division (7505P),

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5611; e-mail address: [kearns.rosemary@epa.gov](mailto:kearns.rosemary@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 those engaged in the following activities:

- 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 to provide 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 Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at <http://www.gpoaccess.gov/ecfr>. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/oppts> and select "Test Methods & Guidelines" on the left-side navigation menu.

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

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those

objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-0460 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 as required by 40 CFR part 178 on or before April 5, 2010.

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 this copy, identified by docket ID number EPA-HQ-OPP-2007-0460, 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. Petition for Tolerance

In the **Federal Register** of November 4, 2009 (74 FR 57170) (FRL-8797-7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E7103) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528. The petition requested that 40 CFR 180.621 be amended by establishing a tolerance for residues of the fungicide dithianon, 5,10-dihydro-5-10-dioxonaphtho(2,3-b)-1,4-dithiin-2,3-

dicarbonitrile, in or on grapes at 3 parts per million (ppm). That notice referenced a summary of the petition prepared by BASF, the registrant, which is available to the public in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

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

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance, for residues of dithianon on grape at 3 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

#### A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The acute toxicity is mild via the oral route. The toxicologically significant adverse effects of dithianon are similar across species. In studies with shorter durations of exposure, including the subchronic dog and rat studies, the developmental toxicity study in rats, and the 2-generation reproduction rat

study, decreases in body weight, body weight gain, and/or food consumption were noted in adults. However, with continued exposure, as in the chronic and/or carcinogenicity studies in the rat, mouse, and dog, the kidney is the target organ for toxicity. Signs of renal toxicity include increased absolute and/or relative kidney weights in the rat, mouse, and dog; non-neoplastic kidney lesions in mice and rats; and renal adenomas and carcinomas in female rats. Post-implantation loss due to early resorptions was observed in the developmental rat study.

The available toxicology database does not show any indication of increased qualitative or quantitative susceptibility of the offspring. Dithianon did not cause reproductive or developmental toxicity in the 2-generation reproduction study. In the developmental rat study, decreased fetal weights were observed only at a dose higher than that which produced similar maternal effects. The developmental toxicity study in rabbits was classified unacceptable/guideline.

Carcinogenicity studies in rats and mice do not raise a concern as to carcinogenicity. The only treatment-related tumors, rare kidney tumors, (primarily adenomas), were seen only at the highest dose tested (30 milligram/kilogram/day (mg/kg/day)) in one sex (females) and in one species (rats). The highest dose tested was considered adequate, but not excessive, to assess the carcinogenicity of dithianon; however, significant renal toxicity occurred at this dose, which may have contributed to the tumor formulation. Although the Agency concluded that there was not a sufficient or cohesive dataset at the time to fully support a mode of action, it is biologically plausible that the tumors were caused by a non-genotoxic mode of action involving hepatotoxicity and sustained regenerative proliferation. Further, dithianon is not mutagenic. Dithianon produced positive results in an acceptable chromosomal aberration assay that was conducted *in vitro* using Chinese hamster lung fibroblasts (V79 cells); in contrast, a forward gene mutation assay tested in this same cell line was negative. A second forward gene mutation assay with V79 cells was also negative, but it was classified unacceptable due to inadequate cytotoxicity at the highest concentration tested. Negative responses were seen in bacteria (two acceptable reverse gene mutation assays in *Salmonella*), Wistar rat systems (an acceptable *in vivo* cytogenetic assay and an acceptable *in vitro* UDS assay), and NMRI mice (an

unacceptable *in vivo* micronucleus assay).

Specific information on the studies received and the nature of the adverse effects caused by dithianon as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov> in the document "Dithianon-Human Health Risk Assessment for Proposed Tolerance on Imported Grapes," at pages 9–12 in docket ID number EPA-HQ-OPP-2007-0460.

#### B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which the NOAEL in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a benchmark dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the level of concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www.epa.gov/pesticides/factsheets/riskassess.htm>.

A summary of the toxicological endpoints for dithianon used for human

risk assessment can be found at <http://www.regulations.gov> in the document "Dithianon — Human Health Risk Assessment for Proposed Tolerance on Imported Grapes," at pages 20–24 in docket ID number EPA-HQ-OPP-2007-0460.

### C. Exposure Assessment

**1. Dietary exposure from food and feed uses.** In evaluating dietary exposure to dithianon, EPA considered exposure under the petitioned-for tolerances as well as all existing dithianon tolerances in (40 CFR 180.621). EPA assessed dietary exposures from dithianon in food as follows:

i. **Acute exposure.** Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified applicable to the general population in the toxicological studies for dithianon; therefore, a quantitative acute dietary exposure assessment is unnecessary. However an endpoint was identified for females 13–49 years of age. In conducting the acute dietary exposure assessment EPA used the Dietary Exposure Evaluation Model-Food Commodity Intake Database (DEEM-FCID, version 2.03). EPA assumed that dithianon is used on all crops covered by tolerances and that all treated crops bear tolerance-level residues.

ii. **Chronic exposure.** In conducting the chronic dietary exposure assessment EPA used the DEEM-FCID, version 2.03. EPA assumed that dithianon is used on all crops covered by tolerances and that all treated crops bear average values from crop residue field trials.

iii. **Cancer.** For the reasons explained in Unit III.A., EPA has concluded that dithianon does not pose a cancer risk and therefore an exposure assessment for the purpose of evaluating cancer risk is unnecessary.

iv. **Anticipated residue information.** Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section

408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. **Dietary exposure from drinking water.** Current and proposed tolerances for dithianon are intended to support imported commodities only and there are no existing or proposed U.S. registrations. Therefore, there is no expectation that dithianon residues would occur in surface or ground water sources of drinking water.

3. **From non-dietary exposure.** The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Dithianon is not registered for any specific use patterns that would result in residential exposure.

4. **Cumulative effects from substances with a common mechanism of toxicity.** Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found dithianon to share a common mechanism of toxicity with any other substances, and dithianon does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that dithianon does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <http://www.epa.gov/pesticides/cumulative>.

### D. Safety Factor for Infants and Children

1. **In general.** Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety

factor when reliable data available to EPA support the choice of a different factor.

2. **Prenatal and postnatal sensitivity.** There is no indication of increased quantitative or qualitative susceptibility of rats to *in utero* and/or postnatal exposure to dithianon.

3. **Conclusion.** The FQPA Safety Factor will be retained at 10X as a database uncertainty factor for acute and chronic assessments. The primary reason for retaining the FQPA safety factor is residual uncertainty concerning lack of an acceptable rabbit development study. In deciding to retain the safety factor EPA also took into account the following considerations:

i. Immunotoxicity testing is required as a result of changes made to the pesticide data requirements in December 2007. Although a study has not yet been submitted, there is no evidence of immunotoxicity in any study in the toxicity database for dithianon and the Agency does not believe that conducting an immunotoxicity study will result in a lower POD than that currently used for overall risk assessment. Therefore, a database uncertainty factor (UFDB) is not needed to account for the lack of this study.

ii. Acute and subchronic neurotoxicity testing is required as a result of changes made to the pesticide data requirements in December 2007. Although these studies have not yet been submitted, there is no evidence of neurotoxicity in any study in the toxicity database for dithianon and the Agency does not believe that conducting these studies will result in a lower POD than that currently used for overall risk assessment. Therefore, a UFDB is not needed to account for the lack of this study. For the same reason, EPA has determined that there is no need for a developmental neurotoxicity study.

iii. There is no evidence that dithianon results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental study or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues for the acute analysis and reliable data on average field trial residues in the chronic analysis. The exposure assessments will not underestimate exposure to dithianon.

#### *E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dithianon will occupy 79% of the aPAD for (females 13–49 years of age at the 95th percentile of exposure) the population group receiving the greatest exposure.

2. *Chronic risk.* The exposure for all populations assessed are below the level of concern. The exposure for the general U.S. population is at 18% of cPAD. The most highly exposed sub-group is children (1–2 years old), whose exposure is at 63% of the cPAD. This assessment is slightly refined with use of average residue values and empirical processing factors, but is still highly conservative with the assumption of 100% CT. There are no residential uses for dithianon.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Dithianon is not registered for any use patterns that would result in residential exposure. Therefore, the short-term aggregate risk is the sum of the risk from exposure to dithianon through food and water and will not be greater than the chronic aggregate risk.

#### *4. Intermediate-term risk.*

Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Dithianon is not registered for any use patterns that would result in intermediate-term residential exposure. Therefore, the intermediate-term aggregate risk is the sum of the risk from exposure to dithianon through food and

water, which has already been addressed, and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population.* As described in Unit III.A. above, dithianon is not expected to pose a cancer risk.

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

### **IV. Other Considerations**

#### *A. Analytical Enforcement Methodology*

An adequate methodology LC/MS/MS method (BASF 244882) is available for enforcing the proposed tolerance on grapes. Adequate multi-residue method testing data are available for dithianon and these data have been forwarded to the FDA for evaluation. The data indicate that FDA multi-residue methods are not suitable for determining residues of dithianon.

#### *B. International Residue Limits*

There are currently no established Canadian or Mexican maximum residue limits (MRLs) for dithianon on grapes. There are no harmonization concerns with MRL's on grapes established by Codex and the European Union because the grape tolerance being established is equivalent to these MRLs both in terms of residue expression and residue level.

#### *C. Revisions to Petitioned-For Tolerances*

EPA has revised the dithianon tolerance expression to clarify the chemical moieties that are covered by the tolerances and specify how compliance with the tolerances is to be measured. The revised tolerance expression makes clear that the tolerances cover residues of dithianon and its metabolites and degradates but that compliance with tolerance levels will be determined by measuring only dithianon, (5,10-dihydro-5,10-dioxonaphtho(2-3-b)-1,4-dithiin-2,3-dicarbonitrile), in or on the commodities that have an established tolerance level. EPA has determined that it is reasonable to make this change final without prior proposal and opportunity for comment, because public comment is not necessary, in that the change has no substantive effect on the tolerance, but rather is merely intended to clarify the existing tolerance expression.

### **V. Conclusion**

Therefore, tolerances are established for residues of dithianon, 5,10-dihydro-

5,10-dioxonaphtho(2,3-b)-1,4-dithiin-2,3-dicarbonitrile, in or on grapes at 3 ppm.

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

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final

rule does not 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).

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: January 25, 2010.

**Lois Rossi,**

Director, Registration Division, Office of Pesticide Programs.

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

## PART 180—[AMENDED]

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

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

■ 2. Section 180.621 is revised to read as follows:

### § 180.621 Dithianon; tolerances for residues.

(a) *General.* Tolerances are established for residues of dithianon, 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 dithianon, 5, 10-dihydro-5,10-dioxonaphtho(2,3-b)-1,4-dithiin-2,3-dicarbonitrile.

Commodity	Parts per million
Fruit, pome, group 11 <sup>1</sup> .....	5
Grape <sup>2</sup> .....	3
Hop, dried cones <sup>1</sup> .....	100

<sup>1</sup>No U.S. registration as of September 5, 2006.

<sup>2</sup>No U.S. registration as of January 29, 2010.

(b) *Section 18 emergency exemptions.*

[Reserved]

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

(d) *Indirect or inadvertent residues.*

[Reserved]

[FR Doc. 2010-2145 Filed 2-2-10; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2008-0262; FRL-8436-9]

### Spiromesifen; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for the inadvertent or indirect combined residues of spiromesifen (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate) its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), and its metabolites containing the 4-hydroxymethyl moiety (4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4.4]non-3-en-2-one), calculated as the parent compound equivalents, in or on the following commodities from crops grown as rotational crops: bulb vegetables. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, 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-2008-0262. 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.

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#### FOR FURTHER INFORMATION CONTACT:

Jennifer Gaines, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5967; e-mail address: [gaines.jennifer@epa.gov](mailto:gaines.jennifer@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 those engaged in the following activities:

- 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 to provide 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