

**Federal Register.** This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

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

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

Dated: March 19, 2009.

**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 180.588 is amended in paragraph (a), by removing the commodities “Cherry, sweet” and “Cherry, tart”; and by alphabetically adding the following commodities to the table; and in paragraph (b), by removing all of the commodities and reserving the paragraph designation and heading to read as follows:

**§ 180.588 Quinoxifen; tolerances for residues.**

(a) \* \* \*

| Commodity                    | Parts per million |
|------------------------------|-------------------|
| Artichoke, globe .....       | 1.4               |
| Fruit, stone, group 12 ..... | 0.70              |
| * * *                        |                   |
| Gourd, edible .....          | 0.20              |
| * * *                        |                   |
| Pumpkin .....                | 0.20              |
| Squash, winter .....         | 0.20              |
| * * *                        |                   |

(b) Section 18 emergency exemptions. [Reserved]

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2007-0097; FRL-8407-2]

**Captan, 2,4-D, Dodine, DCPA, Endothall, Fomesafen, Propyzamide, Ethofumesate, Permethrin, Dimethipin, and Fenarimol; Technical Amendment**

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of September 12, 2007, revoking, revising, and establishing certain tolerances. This document is being issued to correct a terminology omission associated with DCPA and onions.

**DATES:** This final rule is effective April 1, 2009.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0097. All documents in the docket are listed in the docket index available in <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

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

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have 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 and Other Related Information?*

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>.

**II. What Does this Technical Amendment Do?**

EPA issued a notice of proposed rulemaking in the **Federal Register** of June 6, 2007 (72 FR 31221) (FRL-8122-7), that proposed to revoke, revise, and establish certain tolerances for captan, 2,4-D, dodine, DCPA, endothall, fomesafen, propyzamide, ethofumesate, permethrin, dimethipin, and fenarimol. On page 31228, third column, first full paragraph, the Agency stated the following:

... EPA is proposing to revise commodity terminology and tolerances to conform to current Agency practice in 40 CFR 180.185(a) for the combined residues of the herbicide DCPA and its metabolites MTP and TCP (calculated as DCPA) in or on melon, honey dew to muskmelon; and onion to onion, bulb ...

The June 6, 2007 **Federal Register** publication was intended only to update commodity terminology, and not to revoke or revise the scope of existing tolerances. The existing tolerance for “onion” covered both “onion, bulb” and “onion, green” as defined under current commodity terminology. The reference to “onion, green” was inadvertently omitted from both the June 6, 2007 proposed rule and the final rule published on September 12, 2007 (72 FR 52013) (FRL-8142-2). Use on both “onion, bulb” and “onion, green” continues to be permitted according to labels of currently registered DCPA products, and the required safety findings for the residues permitted under the tolerance were made taking into account both types of onions. Therefore, 40 CFR 180.185(a) is amended by establishing a tolerance for DCPA in/on onion, green at 1.0 ppm to effectuate EPA’s original intention in the proposed and final rules changing terminology only.

**III. Why is this Technical Amendment Issued as a Final Rule?**

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today’s technical amendment final without prior proposal and opportunity for comment, because this action merely corrects a drafting error in the rulemaking that was

contrary to the intention of the changes as discussed in the proposed rule. Notice and comment are unnecessary to correct an erroneous deletion of a tolerance that was neither intended nor discussed in rulemaking. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

**IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?**

The discussion in Unit IV. of the September 12, 2007 final rule also applies to this action.

**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: March 18, 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), 346(a) and 371.

■ 2. Section 180.185, is amended by alphabetically adding the following commodity to the table in paragraph (a) to read as follows:

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

(a) *General.* \* \* \*

| Commodity    | Parts per million |
|--------------|-------------------|
| * * *        | * *               |
| Onion, green | * * 1.0           |
| * * *        | * *               |

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2008-0327; FRL- 8403-9]

**Prothioconazole; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation increases a tolerance for combined residues of prothioconazole and prothioconazole-desthio, calculated as parent in or on, wheat, forage. Bayer CropScience requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective April 1, 2009. Objections and requests for hearings must be received on or before June 1, 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-2008-0327. 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:** Bryant Crowe, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0025; e-mail address: [crowe.bryant@epa.gov](mailto:crowe.bryant@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 <http://www.epa.gov/fedrgstr>. You may also 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>.

*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-2008-0327 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 June 1, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please