Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–R04–OAR–2008–0904; FRL–8893–6]

Amendments to Requirements To Provide Information on the Delegation of the Administrator's Authorities and Responsibilities for Certain States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend regulations to correct a sequential numbering error that failed to reserve space for the alphabetical listing of the State of Florida, reserve space in the regulations for the State of Florida, and add delegation information for the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina. This proposed action is being taken pursuant to section 112 of the Clean Air Act.

In the Final Rules Section of this **Federal Register,** EPA is publishing a direct final rule for this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the rule amendment is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by June 12, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0904, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: page.lee@epa.gov.*

3. *Fax:* 404–562–9095.

4. *Mail:* ''EPA–RO4–OAR–2008–0904'', Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9131. Mr. Page can also be reached via electronic mail at *page.lee@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Final Rules Section of this **Federal Register**.

Dated: April 3, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E9–10151 Filed 5–12–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0251; FRL–8412–3]

Ametryn, Amitraz, Ammonium Soap Salts of Higher Fatty Acids (C_8-C_{18} saturated; C_8-C_{12} unsaturated), Bitertanol, Coppers, et al.; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances/tolerance exemptions for the fungicides pentachloronitrobenzene and triadimenol, the herbicides ametryn, fluazifop-P-butyl, and prometryn; the insecticides amitraz and mineral oil; the defoliant/desiccant sodium chlorate; and the fungicide/algicide/herbicide coppers. Also, EPA is proposing to modify certain tolerances for the fungicide bitertanol and the insecticide malathion. In addition, EPA is proposing to establish new tolerances/tolerance exemptions for the fungicides coppers and pentachloronitrobenzene; the herbicide prometryn; the insecticide malathion; and the defoliant/desiccant sodium chlorate; and revise the tolerance expression for the ammonium salts of higher fatty acids (ammonium soap salts). The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408(q).

DATES: Comments must be received on or before July 13, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0251, 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.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0251. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308-8037; e-mail address: *nevola.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

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

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

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

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

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

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

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

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

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

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

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

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the

specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, modify, and establish specific tolerances/tolerance exemptions for residues of the fungicides bitertanol, pentachloronitrobenzene, and triadimenol; the herbicides ametryn, fluazifop-P-butyl, and prometryn; the insecticides amitraz, malathion, and mineral oil; the defoliant/desiccant sodium chlorate; and the fungicide/algicide/herbicide coppers; and revise the tolerance expression for the ammonium salts of higher fatty acids (ammonium soap salts) in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419; telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the Internet in public dockets; REDs for ametryn (EPA–HQ–OPP–2004–0411), coppers (EPA–HQ–OPP–2005–0558), malathion (EPA–HQ–OPP–2004–0348), aliphatic solvents (mineral oil) (EPA–HQ–OPP–2006–0284), pentachloronitrobenzene (EPA–HQ–OPP–2004–0202), and inorganic chlorates (sodium chlorate)(EPA–HQ–OPP–2005–0507), and TREDs for amitraz (EPA–HQ–OPP–2004–0048), bitertanol (EPA–HQ–OPP–2005–0491), fluazifop-P-butyl (EPA–HQ–OPP–2004–0347), and triadimenol (EPA–HQ–OPP–2006–0038), at *http://www.regulations.gov* and REDs for soap salts (includes ammonium salts of higher fatty acids) and prometryn at *http://www.epa.gov/pesticides/reregistration/status.htm*.

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

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

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

Explanations for proposed modifications in tolerances and exemptions and/or establishments of tolerances and exemptions for bitertanol, coppers, malathion, pentachloronitrobenzene, prometryn, and sodium chlorate can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and electronic copies for bitertanol, coppers (included in revised Human Health Chapter), malathion, pentachloronitrobenzene, and sodium chlorate (included in the HED Chapter of the RED) can be found under their respective public docket ID numbers, identified in Unit II.A. Electronic copies of support documents for soap salts (including the revised Human Health Assessment Scoping Document in Support of Registration Review) are available in public docket EPA–HQ–OPP–2008–0519. An electronic copy of the Residue Chemistry Chapter for prometryn is available in the public docket for this proposed rule. Electronic copies are available through EPA's electronic public docket and comment system, regulations.gov at *http://www.regulations.gov*. You may search for this proposed rule under docket ID number EPA–HQ–OPP–2009–0251, then click on that docket ID number to view its contents.

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

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

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or legally treated domestic commodities.

1. *Ametryn*. In the **Federal Register** notice of December 19, 2007 (72 FR 71898) (FRL–8343–9), EPA issued a notice regarding EPA's announcement on the receipt of requests from the registrant to voluntarily cancel specific registrations, which would terminate the last ametryn uses for banana and sweet corn. EPA approved cancellation of the registration by issuing a cancellation order with the close of the comment period, made it effective on June 16, 2008, and permitted the registrant for the canceled registration to sell and distribute existing stocks until June 16, 2009. Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing ametryn pesticide stocks on banana and sweet corn until they are exhausted. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for ametryn treated banana and sweet corn commodities to have cleared the channels of trade by June 16, 2010. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.258(a) on banana; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; and corn, sweet, stover; each with an expiration/revocation date of June 16, 2010.

There are no Codex Maximum Residue Limits (MRLs) for ametryn.

2. *Amitraz*. EPA approved cancellation of the last registration for use of amitraz on pears by issuing a cancellation order on May 3, 2006 (71 FR 26083) (FRL–8059–5), and permitted the registrants for the canceled registrations to sell and distribute existing stocks for 18 months (i.e., until November 3, 2007). Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing amitraz pesticide stocks on pears until they are exhausted. The Agency believes that end users have had sufficient time to exhaust those existing stocks and for amitraz treated pear commodities to have cleared the channels of trade. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.287(a) on pear.

There are Codex MRLs for amitraz, including one on pome fruits at 0.5 milligrams/kilogram (mg/kg).

3. *Ammonium salts of higher fatty acids* (C_8-C_{18} *saturated;* C_8-C_{12} *unsaturated)*. Currently, there is an exemption from a tolerance in 40 CFR 180.1284 for ammonium salts of higher fatty acids (C_8-C_{18} saturated; C_8-C_{12} unsaturated) residues in or on all food commodities when applied for the suppression and control of a wide variety of grasses and weeds. However, since 1993, there are existing product labels for the ammonium salts with instructions for use in agricultural settings as a deer repellent to growing crops and orchards with fruit present. Ammonium salts of fatty acids (ammonium soap salts) have low acute toxicity by oral, dermal, or inhalation routes of exposure. Due to the lack of effects at high doses in the available studies, the nature of the fatty acids and their ubiquity in nature, and the unlikelihood of prolonged human exposure via the oral route due to the use patterns, the Agency continues to believe that it is appropriate to waive all generic mammalian toxicity data requirements for the soap salts. Therefore, the Agency determined that the introductory text in 40 CFR 180.1284 should be revised from its current form where it is limited to herbicide uses to be broad enough to cover all the use patterns that exist for currently registered products. Consequently, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.1284 to read as follows: ''Ammonium salts of C_8-C_{18} saturated and C_8-C_{12} unsaturated higher fatty acids are exempted from the requirement of a tolerance for residues in or on all food commodities when used in accordance with good agricultural practice.''

There are no Codex MRLs for soap salts, including ammonium soap salts.

4. *Bitertanol, β-((1,1''-biphenyl)-4-yloxy)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol*. There have been no U.S. registrations for bitertanol, a fungicide, since 1992. Based on available foreign data that showed residues of bitertanol, β-((1,1''-biphenyl)-4-yloxy)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, as high as 0.76 parts per million (ppm) in or on the green peel and 0.36 ppm in or on the green fruit of treated unbagged bananas (washed and unwashed samples) at an exaggerated application rate of 2X (0.26 lb active ingredient per acre per application) the current application rate, the Agency believes residues would be as high as 0.38 ppm at the current application rate (0.13 pounds active ingredient per acre per application). Although intended for use on bagged bananas (where residues were <0.2 ppm) only, application to unbagged bananas may occur. Therefore, the Agency determined that the tolerance should be increased. It is the Agency's policy to harmonize its tolerances with the levels established by Codex provided that the Agency has sufficient information to make a determination that the Codex MRLs meet FFDCA standards. Because the dietary exposure and risk are not of concern, the Agency determined that the U.S. tolerance for bitertanol residues on banana should be increased from 0.2 to 0.5 ppm to harmonize with the Codex MRL (0.5 mg/kg) on banana. Also, the existing paragraph in 40 CFR 180.457 should be designated paragraph (a) because other paragraphs need to be reserved. Therefore, EPA is proposing to revise the section heading from its chemical name to bitertanol and designate the existing introductory text as paragraph (a), add bitertanol as the name of the fungicide in the introductory text, and increase the import tolerance for bitertanol in 40 CFR 180.457(a) on banana to 0.5 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.457 by adding paragraphs (b), (c), and (d), and reserving those paragraphs for tolerances with section 18 emergency exemptions, regional registrations, and indirect or inadvertent residues, respectively.

There are Codex MRLs for bitertanol, including one on banana at 0.5 mg/kg.

5. *Coppers*. Copper is a natural trace element that is essential for homeostasis in human health. As part of the reregistration process for copper, the Agency determined that all food use copper compounds should maintain their exemptions from the requirement of a tolerance in 40 CFR 180.1021. These exemptions are supported by the hazard assessment (based on available literature and studies there is no indication of systemic toxicity) as well as the exposure assessment (minimal contribution of copper in the diet from pesticidal use). In general, copper has moderate to low acute toxicity. Due to its ubiquitous nature, lack of systemic toxicity, homeostatic mechanisms in humans, and naturally occurring levels on raw agricultural commodities, the Agency does not expect residues from agricultural pesticide use to significantly contribute to the overall dietary intake of copper. Some copper compounds (copper ammonia complex, copper oxychloride, copper oxychloride sulfate, copper salts of fatty and rosin acids, and copper sulfate pentahydrate) have registered agricultural uses on food crops, and therefore should be included in 40 CFR 180.1021(b). Consequently, EPA is proposing to establish exemptions from the requirement of a

tolerance in 40 CFR 180.1021(b) for copper ammonia complex (CAS Reg. No. 16828–95–8), copper oxychloride (CAS Reg. No. 1332–65–6), copper oxychloride sulfate (CAS Reg. No. 8012–69–9), copper salts of fatty and rosin acids (CAS Reg. No. 9007–39–0), and copper sulfate pentahydrate (CAS Reg. No. 7758–99–8).

Also, copper oleate and copper linoleate have no active food use registrations in the United States, and therefore their tolerance exemptions in 40 CFR 180.1021(b) are no longer needed. On October 26, 1998 (63 FR 57062) (FRL–6035–8), in a batch final rule concerning several active ingredients, including copper linoleate and copper oleate, the Agency responded to public comments which requested that the exemptions when applied to growing crops not be revoked (e.g., if they covered copper salts of fatty and rosin acids), by not taking action on them at that time. However, since EPA is proposing to establish a tolerance exemption on copper salts of fatty and rosin acids, that comment is resolved. Therefore, EPA is proposing to revoke the tolerance exemptions in 40 CFR 180.1021(b) for copper linoleate and copper oleate.

Bordeaux mixture, copper-lime mixtures, copper sulfate basic, and cupric oxide are listed among the copper compounds in 40 CFR 180.1021(b) which are exempt from the requirement of a tolerance when applied as a fungicide to growing crops using good agricultural practices. Because Bordeaux mixture and copper-lime mixtures contain copper sulfate as the active ingredient, there is no reason for them to have separate tolerance exemptions since their use is covered by copper sulfate. Also, cupric oxide and copper oxychloride (CAS Reg. No. 1332–40–7), which is a synonym for basic copper chloride, have no active food use registrations in the United States, and therefore their tolerance exemptions are no longer needed and should be revoked. Therefore, EPA is proposing to revoke tolerance exemptions in 40 CFR 180.1021(b) for Bordeaux mixture, copper-lime mixtures, copper oxychloride (CAS Reg. No. 1332–40–7), and cupric oxide.

Although the copper RED recommended establishing tolerance exemptions in § 180.1021(b) for copper ammonium carbonate, and copper in the form of chelates of citrate and gluconate, none of these compounds currently has active registrations for application as a fungicide to growing crops and therefore, do not need tolerance exemptions.

Many food commodities not treated with copper have naturally-occurring levels of copper that are higher than those found in or on pears as a result of residues from treated wrappers. In addition, the Agency determined that toxicological data show that potential copper residue levels from the use of treated pear wrappers do not pose a significant risk to human health, and therefore, the tolerance in 40 CFR 180.136 at 3 ppm for residues of basic copper carbonate in or on pear from postharvest use is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.136 for residues of the fungicide basic copper carbonate in or on pear from postharvest use of the chemical.

There is a tolerance in 40 CFR 180.538 at 1 ppm in water, potable for residues of copper resulting from use of the algicides or herbicides copper carbonate (malachite), copper sulfate, copper monoethanolamine, and copper triethanolamine to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water. However, potable water is regulated under the Safe Drinking Water Act, and the Office of Pesticide Programs in EPA no longer establishes water tolerances. Thus, this tolerance is no longer applicable to current regulations for managing copper residues in drinking water and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.538 for residues of copper in potable water. The Office of Ground Water and Drinking Water sets drinking water standards and currently sets a Maximum Contaminant Level Goal (MCLG) of 1.3 ppm and an Action Level of 1.3 ppm for copper.

There are no Codex MRLs for coppers.

6. *Fluazifop-P-butyl*. There have been no active food-use registrations for use of fluazifop-P-butyl on spinach for more than 10 years; although there is currently one active non-food registration on spinach grown for seed production which prohibits treated seed from distribution for food or feed or portioned (e.g., seed screenings) for food or feed. Because there are no current active food-use registrations for use of fluazifop-P-butyl on spinach, the tolerance is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.411(a) on spinach.

There are no Codex MRLs for fluazifop-P-butyl.

7. *Malathion*. Currently, tolerances for malathion are established in 40 CFR 180.111(a)(1) for residues of the insecticide malathion, *O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate. Based on available plant metabolism data, the Agency determined that malathion residues of concern in plants should include its metabolite, malaoxon, *O,O*-dimethyl thiophosphate of diethyl mercaptosuccinate. However, in the malathion RED, many plant commodity tolerances are recommended to be decreased concomitant with product label changes to their use patterns. No mitigation is required to address either acute or chronic dietary risks from food alone. Acute dietary exposure from food alone are below the Agency's level of concern at the 99.9th percentile of exposure; i.e., exposure is 5% of the Acute Population Adjusted Dose (aPAD) for the U.S. population and 11% of aPAD for all infants (<1 year old), the most highly exposed population subgroup. Chronic dietary exposure from food alone are below the Agency's level of concern; i.e., exposure is <1% of the Chronic Population Adjusted Dose (cPAD) for the U.S. population and all population subgroups. Nevertheless, the available data submitted by the registrants and approved by the Agency and comments and feedback from the user community, and communication with USDA and the technical registrant (regarding EPA's screening-level ecological assessment that resulted in estimated acute risks to birds and mammals which only slightly exceeded the Agency's level of concern) supported many decreased plant tolerance levels associated with specific reductions to use pattern parameters which would need to appear on malathion product labels. These reductions may impact on reducing potential exposure of non-target terrestrial and aquatic organisms to malathion residues of concern. Because the Agency is still in the process of obtaining the needed amended malathion product labels, their associated plant tolerances will remain at their current level in 40 CFR 180.111(a)(1) under the existing tolerance expression there. When appropriate malathion product label changes for specific plant commodity uses are provided to and approved by the Agency, EPA expects to follow up and propose the recommended tolerance decreases in a future publication in the **Federal Register**.

In order to accommodate a proposed separation of plant and livestock tolerances, EPA is proposing to redesignate in 40 CFR 180.111 currently existing paragraphs (a)(2) through (a)(5) as paragraphs (a)(4) through (a)(7), respectively.

Because EPA expects certain product label changes will be submitted for its approval in the near future, the Agency will herein propose tolerance actions recommended in the malathion RED for increasing or establishing specific plant tolerances. Therefore, these tolerances should be separated from other plant tolerances and moved from 40 CFR 180.111(a)(1) into a proposed new 40 CFR 180.111(a)(2) with a new tolerance expression for the combined residues of malathion and malaoxon. Consequently, EPA is proposing to add a new 40 CFR 180.111(a)(2) with the introductory text containing the tolerance expression to read as follows: ''Tolerances are established for the combined residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) and its metabolite, malaoxon (*O,O*-dimethyl thiophosphate of diethyl mercaptosuccinate), in or on the following food commodities.''

Based on dietary exposure to malathion, the Agency determined that neither malathion nor malaoxon residues were observed in eggs, milk, and animal tissues. However, active registrations with malathion use for direct animal treatment still exist and need to be amended. Furthermore, plant tolerances remaining in 40 CFR 180.111(a)(1) will be addressed in the near future and moved under the revised tolerance expression. Therefore, the current egg, milk, and livestock tolerances in 40 CFR 180.111(a)(1) should be separated from the plant tolerances and recodified in 40 CFR 180.111(a)(3). Consequently, EPA is proposing to recodify the tolerances on cattle, fat (PRE-S); cattle, meat (PRE-S); cattle, meat byproducts (PRE-S); goat, fat (PRE-S); goat, meat (PRE-S); goat, meat byproducts (PRE-S); hog, fat (PRE-S); hog, meat (PRE-S); hog, meat byproducts (PRE-S); horse, fat (PRE-S); horse, meat (PRE-S); horse, meat byproducts (PRE-S); poultry, fat (PRE-S); poultry, meat (PRE-S); poultry, meat byproducts (PRE-S); sheep, fat (PRE-S); sheep, meat (PRE-S); sheep, meat byproducts (PRE-S); milk, fat (from application to dairy cows) revised to milk, fat; and egg (from application to poultry) revised to egg; from 40 CFR 180.111(a)(1) to a proposed new paragraph (a)(3) and establish the introductory text containing the tolerance expression in newly added 40 CFR 180.111(a)(3) to read as follows: ''Tolerances are established for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate), in or on the following food commodities.'' Use of the parenthetical ''(PRE-S)'' was discontinued by the Agency in a final rule published in the **Federal Register** on July 1, 2003 (68 FR 39429) (FRL–7308–9). Consequently, to comply with established Agency nomenclature, the prenthetical will not be transferred to proposed § 180.111(a)(3).

EPA determined that data on wheat straw may be translated to barley straw, oat straw, and rye straw. Based on the translation of available field trial data from wheat straw that showed combined malathion residues of concern on wheat straw as high as 34.38 ppm, EPA determined that malathion registrations for barley straw, oat straw, rye straw, and wheat straw should specify for barley, rye, and wheat use a 12–hour Restricted Entry Interval (REI). For Non-ULV (Non-Ultra-Low-Volume) applications, the maximum application rate should specify pounds active ingredient per acre per application as 1.25 for barley and 1.0 for oats, rye, and wheat; a maximum number of applications per year as two for barley, oats, rye, and wheat, and a minimum retreatment interval of 7 days for barley, oats, rye, and wheat. For ULV (Ultra-Low-Volume) applications, the maximum application rate should specify 0.61 pounds active ingredient per acre per application for barley, oats, rye, and wheat; a maximum number of applications per year as one for rye and two for barley, oats, and wheat; and a minimum retreatment interval as 7 days for barley, oats, rye, and wheat. The Agency also determined that tolerances should be established for these straw commodities at 50 ppm. Therefore, EPA is proposing to establish tolerances in proposed 40 CFR 180.111(a)(2) at 50 ppm on barley, straw; oat, straw; rye, straw; and wheat, straw.

In addition, EPA determined that data on wheat forage may be translated to oat forage and rye forage. Based on the translation of available field trial data from wheat forage that showed combined malathion residues of concern on wheat forage as less than 2.35 ppm, EPA determined that malathion registrations for oat forage, rye forage, and wheat forage should specify for rye and wheat use a 12–hour REI. For Non-ULV applications, the maximum application rate should specify pounds of active ingredient per acre per application as 1.0 for oats, rye, and wheat; a maximum number of applications per year as two for oats, rye, and wheat, and a minimum retreatment interval of 7 days for oats, rye, and wheat. For ULV applications, the maximum application rate should specify 0.61 pounds active ingredient per acre per application for oats, rye, and wheat; a maximum number of applications per year as one for rye and two for oats and wheat; and a minimum retreatment interval as 7 days for oats, rye, and wheat. The Agency also determined that tolerances should be established for these forage commodities at 4.0 ppm. Therefore, EPA is proposing to establish tolerances in proposed 40 CFR 180.111(a)(2) at 4.0 ppm on oat, forage; rye, forage; and wheat, forage.

Based on available field trial data that showed combined malathion residues of concern on field corn stover as high as 27.07 ppm, EPA determined that malathion registrations for field corn use should specify an REI of 72 hours for detasseling and 12 hours for all other activities. For Non-ULV applications, the maximum application rate should specify 1.0 pounds active ingredient per acre per application using ground equipment, a maximum of two foliar applications per year, a minimum retreatment interval of 7 days, and a 7–day PHI. For ULV applications, the maximum application rate should specify 0.61 pounds active ingredient per acre per application using aerial ULV equipment, a maximum of two foliar applications per year, a minimum retreatment interval of 7 days, and 7–day PHI. The Agency also determined that a tolerance should be established on corn, field, stover at 30.0 ppm. Therefore, EPA is proposing to establish a tolerance in proposed 40 CFR 180.111(a)(2) at 30.0 ppm on corn, field, stover.

Based on available field trial data that showed combined malathion residues of concern at less than the combined limit of quantitation (LOQ) (<0.1 ppm) on watercress, EPA determined that malathion registrations with Emulsifiable Concentrate (EC) formulation should specify for watercress use a maximum of five foliar applications per growing season at 1.25 pounds active ingredient (ai) per acre per application using ground equipment, with minimum retreatment interval of 3 days, and a 3–day PHI. The Agency also determined that a tolerance should be established for watercress at 0.2 ppm. Therefore, EPA is proposing to establish a tolerance in proposed 40 CFR 180.111(a)(2) at 0.2 ppm on watercress.

Based on available field trial data that showed combined malathion residues of concern on grass, forage and grass, hay as high as <190.2 ppm and 264 ppm respectively, EPA determined that malathion registrations for all pertinent EC formulations should specify for grass, forage and grass, hay use a maximum of one foliar application per growing season at 1.25 pounds active ingredient per acre per application using ground equipment with a 0–day

PHI, and for 9.79 lb/gal Ready-To-Use (RTU) formulations a maximum of one foliar application per growing season at 0.92 pounds active ingredient per acre per application using aerial ULV equipment with a 0–day PHI, and the tolerances on grass, forage and grass, hay in 40 CFR 180.111(a)(1) should be moved to proposed § 180.111(a)(2) and increased from 135 to 200 ppm and 135 to 270 ppm, respectively. Therefore, EPA is proposing to move the tolerances on grass, forage and grass, hay from 40 CFR 180.111(a)(1) to proposed § 180.111(a)(2) and increase them to 200 ppm and 270 ppm, respectively. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed combined malathion residues of concern on cottonseed as high as 19.12 ppm, EPA determined that the tolerance on cotton, undelinted seed in 40 CFR 180.111(a)(1) should be moved to proposed § 180.111(a)(2) and increased from 2 to 20 ppm. Therefore, EPA is proposing to move the tolerance on cotton, undelinted seed from 40 CFR 180.111(a)(1) to proposed § 180.111(a)(2) and increase it to 20.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice in 40 CFR 180.111(a)(1) as follows: ''beet (including tops)'' to ''beet, garden, roots'' and ''beet, garden, tops,'' ''clover'' to ''clover, forage'' and ''clover, hay,'' ''corn, forage'' to ''corn, field, forage'' and ''corn, sweet, forage,'' ''garlic'' to ''garlic, bulb,'' ''onion (including green onion)'' to ''onion, bulb'' and ''onion, green,'' ''orange, sweet'' to ''orange,'' ''rutabagas'' to ''rutabaga,'' ''sorghum, forage'' to ''sorghum, grain, forage,'' ''soybean (dry and succulent)'' to ''soybean, seed'' and ''soybean, vegetable, succulent,'' ''squash, summer and winter'' to ''squash, summer'' and ''squash, winter,'' ''sunflower, seed (Post-H)'' to ''sunflower, seed, postharvest,'' ''turnip (including tops)'' to ''turnip, roots'' and ''turnip, tops,'' and ''vegetables, leafy, except brassica, group 4'' to ''vegetable, leafy, except brassica, group 4.''

There are Codex MRLs for malathion, including one on cotton seed at 20 mg/kg.

8. *Mineral oil*. In the aliphatic solvents RED, which includes mineral oil and aliphatic petroleum hydrocarbons, the Agency recommended revoking the tolerances in 40 CFR 180.149(a)(2) on corn, grain, postharvest and sorghum, grain, grain, postharvest because there are currently no active U.S. registrations for mineral oil use as an active ingredient on stored grain and none have existed since 1987; and therefore, the tolerances are no longer needed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.149(a)(2) on corn, grain, postharvest and sorghum, grain, grain, postharvest. However, as per the RED, the current exemption from the requirement of a tolerance in 40 CFR 180.905 for petroleum oils, when applied to growing crops, in accordance with good agricultural practice, is being maintained. The Agency has no concerns for food uses of these mineral oils and aliphatic petroleum hydrocarbons, as a result of their use as an active ingredient. The acute and chronic oral toxicity of these materials is extremely low.

Also, given the proposed revocations in 40 CFR 180.149(a)(2), described herein, there is no longer a need for the list of characteristics for mineral oil in 40 CFR 180.149(a)(1). Therefore, EPA is proposing to remove 40 CFR 180.149 in its entirety.

There are no Codex MRLs for mineral oil.

9. *Pentachloronitrobenzene*. Currently, tolerances for pentachloronitrobenzene (PCNB) in 40 CFR 180.291(a) are established for PCNB and tolerances in 40 CFR 180.291(b) are established for combined residues of PCNB and its metabolites pentachloroaniline (PCA) and methyl pentachlorophenyl sulfide (MPCPS). While there are currently 80 identified metabolites of PCNB, the Agency determined that for enforcement purposes that the residues of concern in primary and rotational crops and livestock are PCNB, PCA, and pentachlorothioanisole (PCTA, the IUPAC name for MPCPS). Therefore, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.291(a) to read as follows: ''Tolerances are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities.''

In accordance with current Agency practice, EPA is proposing to redesignate the regional tolerances from 40 CFR 180.291(b) as § 180.291(c), and revise the commodity terminology ''mustard greens'' to read ''mustard, greens.'' In addition, EPA is proposing to revise the introductory text containing the tolerance expression in newly designated 40 CFR 180.291(c) to read as follows: ''Tolerances with regional registrations, as defined in § 180.1(m), are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities.''

Also, in accordance with current Agency practice, EPA is proposing to amend 40 CFR 180.291 by adding paragraphs (b) and (d), and reserving those paragraphs for tolerances with section 18 emergency exemptions, and indirect or inadvertent residues, respectively.

Based on available field trial data for seed treatment use that showed combined PCNB residues of concern as high as <0.015 ppm on soybean seed and forage, and <0.016 ppm for soybean hay, the Agency determined that tolerances should be established on soybean, seed; soybean, forage; and soybean, hay; each at 0.02 ppm. Therefore, EPA is proposing to establish tolerances in 40 CFR 180.291(a) on soybean, seed; soybean, forage; and soybean, hay; each at 0.02 ppm.

In addition, the Agency determined that the interim tolerances in 40 CFR 180.319 for PCNB on bean, broccoli, Brussels sprouts, cabbage, cauliflower, garlic, pepper, potato, and tomato at 0.1 ppm and peanut at 1.0 ppm should be converted to permanent tolerances for combined PCNB residues of concern in 40 CFR 180.291(a). Also, the Agency determined that the tolerances at 0.1 ppm on broccoli, Brussels sprouts, cabbage, and cauliflower should be combined into a crop subgroup tolerance (Brassica, head and stem, subgroup 5A at 0.1 ppm) and the tolerances at 0.1 ppm on pepper and tomato should be combined into a crop group tolerance (vegetable, fruiting, group 8 at 0.1 ppm). Therefore, EPA is proposing to revoke the interim tolerances in 180.319 on bean, broccoli, Brussels sprouts, cabbage, cauliflower, garlic, pepper, potato, and tomato at 0.1 ppm and peanut at 1.0 ppm. In addition, EPA is proposing to establish permanent tolerances in 180.291(a) at 0.1 ppm on bean; Brassica, head and stem, subgroup 5A; garlic, bulb; potato; and vegetable, fruiting, group 8, and at 1.0 ppm on peanut.

There are no Codex MRLs for PCNB.

10. *Prometryn*. There have been no active registrations for use of prometryn on corn since 1989, and therefore, the tolerance is no longer needed and should be revoked. Consequently, EPA

is proposing to revoke the tolerance in 40 CFR 180.222(a) on corn, grain.

Although no prometryn residue data are available for cotton gin byproducts, based on available prometryn residue data for cotton forage showing residues as high as 0.84 ppm for applications up to 1.5X and a cotton metabolism study, EPA determined that the tolerance on cotton, gin byproducts should be established at 1.0 ppm. Therefore, the Agency is proposing to establish a tolerance in 40 CFR 180.222(a) on cotton, gin byproducts at 1.0 ppm.

Available rotational field trials, where wheat and barley were rotated with prometryn-treated cotton (1X treatment), showed residues of prometryn as high as 0.13 ppm in five samples of forage and 0.09 ppm in two samples of straw from the rotated crops. The other 23 forage and 16 straw samples, and all 18 grain samples had non-detectable (<0.05 ppm) residues of prometryn. Based on the available rotational data, the Agency determined that a tolerance on small grains, forage and straw should be established at 0.3 ppm, with a 3–month plant back interval (PBI), under indirect or inadvertent residues because small grains are rotated with prometryn treated cotton and recommended it in the 1995 RED. However, the Agency's current practice is to list small grains with separate tolerances. Therefore, EPA is proposing to establish tolerances for indirect and inadvertent residues in a revised 40 CFR 180.222(d) on barley, forage; barley, straw; oat, forage; oat, straw; rye, forage, rye, straw; triticale, forage; triticale, straw; wheat, forage; and wheat, straw; each at 0.3 ppm. Also, because 40 CFR 180.222(d) is currently reserved, EPA is proposing to establish the introductory text as follows: ''Tolerances are established for indirect or inadvertent residues of the herbicide prometryn, 2,4-bis(isopropylamino)-6-methylthio-s-triazine, in or on the following food commodities.''

The Agency determined that the available rotational data on small grain forage could be translated to hay by using a dry-matter conversion; i.e., using a concentration factor of 2.9X based on the percentage of dry matter in barley hay to barley forage (88% to 30%). Based on the concentration factor of 2.9X, the Agency determined that a tolerance on small grains, hay should be established at 1.0 ppm under indirect or inadvertent residues because small grains are rotated with prometryn treated cotton and recommended it in the 1995 RED. However, the Agency's current practice is to list small grains with separate tolerances. Therefore, EPA is proposing to establish tolerances for indirect and inadvertent residues in proposed 40 CFR 180.222(d) on barley, hay; oat, hay; rye, hay; triticale, hay; and wheat, hay; each at 1.0 ppm.

There are no Codex MRLs for prometryn.

11. *Sodium chlorate.* Flax straw is no longer considered to be a significant food/feed item by the Agency, and therefore is no longer regulated as a commodity in accordance with ''Table 1. Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops,'' which is found in Residue Chemistry Test Guidelines OPPTS 860.1000, dated August 1996, available at *http://www.epa.gov/opptsfrs/home/guidelin.htm.* Consequently, the Agency has determined that a flax, straw exemption from a tolerance is no longer needed. Therefore, EPA is proposing to revoke the exemption from a tolerance in 40 CFR 180.1020(a) on flax, straw.

Because the only time-limited exemption from a tolerance in 40 CFR 180.1020(b) for section 18 emergency exemptions for use of sodium chlorate on wheat expired on December 31, 2006, EPA is proposing to remove § 180.1020(b) in it entirey and to redesignate 180.1020(a) as § 180.1020.

According to current Agency practice, EPA is proposing to revise the commodity terminology in newly designated § 180.1020 as follows: ''beans, dry, edible'' to ''bean, dry, seed,'' ''corn, fodder'' to ''corn, field, stover,'' ''corn, pop, stover,'' and ''corn, sweet, stover,'' ''corn, forage'' to ''corn, field, forage,'' and ''corn, sweet, forage,'' ''corn, grain'' to ''corn, field, grain'' and ''corn, pop, grain,'' ''cottonseed'' to ''cotton, undelinted seed,'' ''flaxseed'' to ''flax, seed,'' ''guar beans'' to ''guar, seed,'' ''peas, southern'' to ''pea, southern,'' ''peppers, chili'' to ''pepper, nonbell,'' ''potatoes'' to ''potato,'' ''rice'' to ''rice, grain,'' safflower, grain'' to ''safflower, seed,'' ''sorghum, grain'' to ''sorghum, grain, grain,'' ''sorghum, fodder'' to '' sorghum, grain, stover,'' ''sorghum, forage'' to ''sorghum, grain, forage'' and ''sorghum, forage, forage,'' ''soybeans'' to ''soybean, seed,'' and ''sunflower seed'' to ''sunflower, seed.''

Based on available wheat field trial data that showed residues of sodium chlorate as high as <2 ppm on the surface of their outer hulls and rice without hulls data that showed no detectable residues (<1 ppm), EPA determined that registrations should specify for wheat use a maximum of one application per season at 6 pounds active ingredient per acre per application with a 3–day PHI and that no detectable residues (<1 ppm) are expected once the hulls are removed from wheat grain (either at harvest or during processing). Therefore, the Agency believes that an exemption from the requirement of a tolerance is appropriate for wheat, grain. Consequently, EPA is proposing to establish an exemption from a tolerance in newly designated 40 CFR 180.1020 on wheat, grain.

In addition, the Agency believes that the introductory text in newly designated 40 CFR 180.1020 should be revised to specify defoliant and desiccant use only and use on crops rather than raw agricultural commodities since it is registered for preharvest and foliar applications as a defoliant or desiccant. Consequently, EPA is proposing to revise the introductory text in newly designated 40 CFR 180.1020 to read as follows: ''Sodium chlorate is exempted from the requirement of a tolerance for residues when used as a defoliant or desiccant in accordance with good agricultural practice on the following crops:''

There are no Codex MRLs for sodium chlorate.

12. *Triadimenol, Beta-(4-chlorophenoxy)-a-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol.* In the **Federal Register** notice of September 12, 2008 (73 FR 53007) (FRL–8380–7), EPA issued a notice regarding EPA's announcement on the receipt of requests from the registrant to voluntarily cancel specific triadimenol registrations and therefore terminate the last triadimenol uses for sorghum. EPA approved cancellation of the registrations by issuing letters as the final cancellation order with the close of the comment period, and made the last one for sorghum effective on March 11, 2009, and permitted the registrants for the canceled registrations to sell and distribute existing stocks until September 11, 2009. Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing triadimenol pesticide stocks on sorghum until they are exhausted. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for triadimenol treated sorghum commodities to have cleared the channels of trade by September 11, 2010. Therefore, EPA is proposing to revise the terminology in 40 CFR 180.450(a) for the term ''sorghum, forage'' to read ''sorghum, grain, forage'' and revoke the tolerances in 40 CFR 180.450 on ''sorghum, grain, forage,'' ''sorghum, grain, grain,'' and ''sorghum, grain, stover,'' each with an ''expiration/revocation'' date of September 11, 2010. With these changes EPA is proposing to revise the commodity table in 40 CFR 180.450(a).

There are no Codex MRLs for triadimenol on sorghum.

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

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

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FQPA. The safety finding determination is discussed in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued REDs for ametryn, coppers, malathion, aliphatic solvents (mineral oil), pentachloronitrobenzene, prometryn, inorganic chlorates (sodium chlorate), and soap salts (includes ammonium salts of higher fatty acids), and TREDs for amitraz, bitertanol, fluazifop-P-butyl, and triadimenol. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

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

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

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

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

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

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

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

C. When Do These Actions Become Effective?

With the exception of certain tolerances for ametryn and triadimenol for which EPA is proposing specific expiration/revocation dates, the Agency is proposing that these revocations, modifications, establishments of tolerances/tolerance exemptions, and revisions of tolerance nomenclature become effective on the date of publication of the final rule in the **Federal Register**. With the exception of the proposed revocation of specific tolerances for ametryn and triadimenol, the Agency believes that existing stocks of pesticide products labeled for the

uses associated with the tolerances/tolerance exemptions proposed for revocation have been completely exhausted and that treated commodities have cleared the channels of trade. EPA is proposing expiration/revocation dates of June 16, 2010 for ametryn tolerances on banana; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; and corn, sweet, stover; and September 11, 2010 for triadimenol tolerances on sorghum, grain, forage; sorghum, grain, grain; and sorghum, grain, stover. 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. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the proposed effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

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

III. Are the Proposed Actions Consistent with International Obligations?

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

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

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: May 6, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

2. Section 180.111 is amended by revising the table in paragraph (a)(1), redesignating paragraphs (a)(2) through (a)(5) as paragraphs (a)(4) through (a)(7), respectively, and adding new paragraphs (a)(2) and (a)(3), and by revising newly designated paragraph (a)(6) to read as follows:

§180.111 Malathion; tolerances for residues.

(a) * * * (1) * * *

Commodity	Parts per million
Alfalfa	135
Almond, hulls	50
Almond, postharvest	8
Apple	8
Apricot	8
Asparagus	8
Avocado	8
Barley, grain, postharvest	8
Bean	8
Beet, garden, roots	8
Beet, garden, tops	8
Beet, sugar, roots	1
Beet, sugar, tops	8
Blackberry	8
Blueberry	8
Boysenberry	8
Carrot, roots	8
Chayote, fruit	8
Chayote, roots	8
Cherry	8
Chestnut	1
Clover, forage	135
Clover, hay	135
Corn, field, forage	8
Corn, grain, postharvest	8
Corn, sweet, forage	8
Corn, sweet, kernel plus cob with husks removed	2
Cowpea, forage	135
Cowpea, hay	135
Cranberry	8
Cucumber	8
Currant	8
Date, dried fruit	8
Dewberry	8
Eggplant	8
Fig	8
Flax, seed	0.1
Garlic, bulb	8
Gooseberry	8
Grape	8
Grapefruit	8
Guava	8
Hazelnut	1
Hop, dried cones	1
Horseradish	8
Kumquat	8
Leek	8
Lemon	8
Lentil, seed	8
Lespedeza, hay	135
Lime	8
Loganberry	8
Lupin, seed	8
Mango	8
Melon	8
Mushroom	8
Nectarine	8
Nut, macadamia	1
Oat, grain, postharvest	8
Okra	8
Onion, bulb	8
Onion, green	8
Orange	8
Papaya	1
Parsnip	8
Passionfruit	8
Pea	8
Pea, field, hay	8
Pea, field, vines	8
Peach	8
Peanut, hay	135
Peanut, postharvest	8
Pear	8
Pecan	8
Pepper	8
Peppermint, tops	8
Pineapple	8
Plum	8
Plum, prune	8
Potato	8
Pumpkin	8
Quince	8
Radish	8
Raspberry	8
Rice, grain, postharvest	8
Rice, wild	8
Rutabaga	8
Rye, grain, postharvest	8
Safflower, seed	0.2
Salsify (including tops)	8
Shallot, bulb	8
Sorghum, grain, forage	8
Sorghum, grain, grain, postharvest	8
Soybean, forage	135
Soybean, hay	135
Soybean, seed	8
Soybean, vegetable, succulent	8
Spearmint, tops	8
Squash, summer	8
Squash, winter	8
Strawberry	8
Sunflower, seed, postharvest	8
Sweet potato, roots	1
Tangerine	8
Tomato	8
Trefoil, forage	135
Trefoil, hay	135
Turnip, roots	8
Turnip, tops	8
Vegetable, brassica, leafy, group 5	8
Vegetable, leafy, except brassica, group 4	8
Vetch, hay	135
Walnut	8
Wheat, grain, postharvest	8

(2) Tolerances are established for the combined residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) and its metabolite, malaoxon (*O,O*-dimethyl thiophosphate of diethyl mercaptosuccinate), in or on the following food commodities:

Commodity	Parts per million
Barley, straw	50
Corn, field, stover	30.0
Cotton, undelinted seed	20.0
Grass, forage	200
Grass, hay	270
Oat, forage	4.0
Oat straw	50
Rye, forage	4.0
Rye, straw	50
Watercress	0.2
Wheat, forage	4.0
Wheat, straw	50

(3) Tolerances are established for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate), in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	4
Cattle, meat[1]	4
Cattle, meat byproducts[1]	4
Egg	0.1
Goat, fat	4
Goat, meat[1]	4
Goat, meat byproducts[1]	4
Hog, fat	4
Hog, meat[1]	4
Hog, meat byproducts[1]	4
Horse, fat	4
Horse, meat[1]	4
Horse, meat byproducts[1]	4
Milk, fat	0.5
Poultry, fat	4
Poultry, meat[1]	4
Poultry, meat byproducts[1]	4
Sheep, fat	4
Sheep, meat[1]	4
Sheep, meat byproducts[1]	4

[1]The tolerance level shall not be exceeded in any cut of meat or in any meat byproducts from cattle, goat, hog, horse, poultry, or sheep.

* * * * *

(6) Malathion may be safely used for the control of insects during the drying of grape (raisins) in compliance with paragraph (a)(4) of this section by incorporation into paper trays in amounts not exceeding 100 milligrams per square foot.

* * * * *

§180.136 [Removed]

3. Section 180.136 is removed.

§ 180.149 [Removed]

4. Section 180.149 is removed.

5. Section 180.222 is amended by revising the table in paragraph (a), and by revising paragraph (d) to read as follows:

§180.222 Prometryn; tolerances for residues.

(a) * * *

Commodity	Parts per million
Carrot, roots[1]	0.1
Celery	0.5
Cotton, gin byproducts	1.0
Cotton, undelinted seed	0.25
Pea, pigeon, seed	0.25

[1] There are no U.S. registrations as of April 10, 1998 for use on carrots.

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the herbicide prometryn, 2,4-bis(isopropylamino)-6-methylthio-s-triazine, in or on the following food commodities:

Commodity	Parts per million
Barley, forage	0.3
Barley, hay	1.0
Barley, straw	0.3
Oat, forage	0.3
Oat, hay	1.0
Oat, straw	0.3
Rye, forage	0.3
Rye, hay	1.0
Rye, straw	0.3
Triticale, forage	0.3
Triticale, hay	1.0
Triticale, straw	0.3
Wheat, forage	0.3
Wheat, hay	1.0
Wheat, straw	0.3

6. Section 180.258 is amended by revising the table in paragraph (a) to read as follows:

§180.258 Ametryn; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
Banana	0.25	6/16/10
Corn, field, forage	0.1	None
Corn, field, grain	0.05	None
Corn, field, stover	0.05	None
Corn, pop, grain	0.05	None
Corn, pop, stover	0.05	None
Corn, sweet, forage	0.5	6/16/10
Corn, sweet, kernel plus cob with husks removed	0.25	6/16/10
Corn, sweet, stover	0.5	6/16/10
Pineapple	0.05	None
Sugarcane, cane	0.05	None

* * * * *

§ 180.287 [Amended]

7. Section 180.287 is amended by removing the entry for ''pear'' from the table in paragraph (a).

8. Section 180.291 is revised to read as follows:

§180.291 Pentachloronitrobenzene; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities:

Commodity	Parts per million
Bean	0.1
Brassica, head and stem, subgroup 5A	0.1
Cotton, undelinted seed	0.1
Garlic, bulb	0.1
Peanut	1.0
Potato	0.1
Soybean, forage	0.02
Soybean, hay	0.02
Soybean, seed	0.02
Vegetable, fruiting, group 8	0.1

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

(c) *Tolerances with regional registrations.* Tolerances with regional registrations, as defined in § 180.1(m), are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities:

Commodity	Parts per million
Collards	0.2
Kale	0.2
Mustard, greens	0.2

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

§ 180.319 [Amended]

9. Section 180.319 is amended by removing the entire entry for ''pentachloronitrobenzene'' from the table.

§ 180.411 [Amended]

10. Section 180.411 is amended by removing the entry for ''spinach'' from the table in paragraph (a).

11. Section 180.450 is amended by revising the table in paragraph (a) to read as follows:

§180.450 Beta-(4-Chlorophenoxy)-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Banana [1]	0.2	None
Barley, grain	0.05	None
Barley, straw	0.2	None
Corn, field, forage	0.05	None
Corn, field, grain	0.05	None
Corn, field, stover	0.05	None
Corn, pop, grain	0.05	None
Corn, pop, stover	0.05	None
Corn, sweet, forage	0.05	None
Corn, sweet, kernel plus cob with husks removed	0.05	None
Corn, sweet, stover	0.05	None
Cotton, undelinted seed	0.02	None
Oat, forage	2.5	None
Oat grain	0.05	None
Oat, straw	0.2	None
Rye, forage	2.5	None
Rye, grain	0.05	None
Rye, straw	0.1	None
Sorghum, grain, forage	0.05	9/11/10
Sorghum, grain, grain	0.01	9/11/10
Sorghum, grain, stover	0.01	9/11/10
Wheat, forage	2.5	None
Wheat, grain	0.05	None
Wheat, straw	0.2	None

[1] There are no U.S. registrations for banana (whole) as of September 22, 1993.

* * * * *

12. Section 180.457 is revised to read as follows:

§180.457 Bitertanol, tolerances for residues.

(a) A tolerance is established for the residues of the fungicide bitertanol, β-([1,1'-biphenyl]-4-yloxy)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol in or on the following raw agricultural commodity:

Commodity	Parts per million
Banana	0.5

There are no U.S. registrations as of April 1, 1992.

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

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

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

§ 180.538 [Removed]

13. Section 180.538 is removed.

14. Section 180.1020 is revised to read as follows:

§180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues when used as a defoliant or desiccant in accordance with good agricultural practice on the following crops: bean, dry, seed; corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, stover; cotton, undelinted seed; flax, seed; guar, seed; pea, southern; pepper, nonbell; potato; rice, grain; rice, straw; safflower, seed; sorghum, forage, forage; sorghum, grain, forage; sorghum, grain, grain; sorghum, grain, stover; soybean, seed; sunflower, seed; and wheat, grain.

15. Section 180.1021 is amended by revising paragraph (b) to read as follows:

§180.1021 Copper; exemption from the requirement of a tolerance.

* * * * *

(b) The following copper compounds are exempt from the requirement of a tolerance when applied (primarily) as a fungicide to growing crops using good agricultural practices:

Copper compounds	CAS Reg. No.
Basic copper carbonate (malachite)	1184–64–1
Copper ammonia complex	16828–95–8
Copper ethylenediamine complex	13426–91–0
Copper hydroxide	20427–59–2
Copper octanoate	20543–04–8
Copper oxychloride	1332–65–6
Copper oxychloride sulfate	8012–69–9
Copper salts of fatty and rosin acids	9007–39–0
Copper sulfate basic	1344–73–6
Copper sulfate pentahydrate	7758–99–8
Cuprous oxide	1317–19–1

* * * * *

16. Section 180.1284 is revised to read as follows:

§180.1284 Ammonium salts of higher fatty acids (C_8-C_{18} saturated; C_8-C_{12} unsaturated); exemption from the requirement of a tolerance.

Ammonium salts of C_8-C_{18} saturated and C_8-C_{12} unsaturated higher fatty acids are exempted from the requirement of a tolerance for residues in or on all food commodities when used in accordance with good agricultural practice.

[FR Doc. E9–11172 Filed 5–12–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2008–0755; FRL–8900–9]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Texas has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to the State of Texas. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by June 12, 2009.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, (6PD–O), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Texas during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533; Texas