

Commodity	Parts per million
Cotton, gin byproducts .....	4.0
Cotton, undelinted seed .....	0.6
Soybean, meal .....	1.2
Soybean, seed .....	1.0

\* \* \* \* \*

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of acetochlor, including its metabolites and degradates, in or on the raw agricultural commodities in the table to this paragraph when present therein as a result of application of acetochlor to the growing crops in the table to paragraph (a) of this section. Compliance with the tolerance levels specified below is to be determined by measuring only acetochlor, 2-chloro-2'-methyl-6-ethyl-N-ethoxymethylacetanilide, and its metabolites containing the ethyl methyl aniline (EMA) moiety and the hydroxyethyl methyl aniline (HEMA) moiety. Both parent and the named metabolites shall be determined as ethyl methyl aniline (EMA) and hydroxyethyl methyl aniline (HEMA), and calculated as the stoichiometric equivalents of acetochlor, in or on the following commodities.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2009-0251; FRL-8431-7]

**Ametryn, Amitraz, Ammonium Soap Salts of Higher Fatty Acids, Bitertanol, Coppers, et al.; Tolerance Actions**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is revoking 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 modifying certain tolerances for the fungicide bitertanol and the insecticide malathion. In addition, EPA is establishing new tolerances/tolerance exemptions for the fungicides coppers and pentachloronitrobenzene; the herbicide

prometryn; the insecticide malathion; and the defoliant/desiccant sodium chlorate; and revising the tolerance expression for the ammonium salts of higher fatty acids (ammonium soap salts). The regulatory actions finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408(q).

**DATES:** This regulation is effective September 16, 2009. Objections and requests for hearings must be received on or before November 16, 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-2009-0251. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Joseph Nevola, Pesticide Re-evaluation 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](mailto:nevola.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

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

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

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

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

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

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

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in

accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2009-0251 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2009.

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

## II. Background

### A. What Action is the Agency Taking?

In the **Federal Register** of May 13, 2009 (74 FR 22478) (FRL-8412-3), EPA issued a proposal to revoke, modify, and establish specific tolerances/tolerance exemptions for residues of the fungicides bitertanol, coppers, 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 to revise the tolerance expression for the ammonium salts of higher fatty acids (ammonium soap salts). Also, the proposal of May 13, 2009 (74 FR 22478) provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

In this final rule, EPA is revoking, modifying, and establishing specific tolerances/tolerance exemptions for residues of ametryn, amitraz, bitertanol, coppers, fluazifop-p-butyl, malathion, mineral oil, pentachloronitrobenzene, prometryn, sodium chlorate, and triadimenol in or on commodities listed in the regulatory text of this document, and revising the tolerance expression for the ammonium soap salts of higher fatty acids (C<sub>8</sub>-C<sub>18</sub> saturated; C<sub>8</sub>-C<sub>12</sub> unsaturated).

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

In this final rule, EPA is revoking certain tolerances and/or tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. The tolerances revoked by this final rule are

no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or legally treated domestic commodities.

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

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

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

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

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

In response to the proposal published in the **Federal Register** of May 13, 2009 (74 FR 22478), EPA received no comments during the 60-day public comment period.

EPA did not propose in a notice for comment to revise the tolerance nomenclature for malathion, in 40 CFR 180.111(a)(1) from alfalfa to alfalfa, forage and alfalfa, hay; bean to bean, dry seed and bean, succulent; corn, grain, postharvest to corn, field, grain, postharvest and corn, pop, grain, postharvest; salsify (including tops) to salsify, roots and salsify, tops; and turnip, tops to turnip, greens, as is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Consequently, for good cause, EPA is revising the tolerance terminology in 40 CFR 180.111(a)(1) from alfalfa to alfalfa,

forage and alfalfa, hay; bean to bean, dry seed and bean, succulent; corn, grain, postharvest to corn, field, grain, postharvest and corn, pop, grain, postharvest; salsify (including tops) to salsify, roots and salsify, tops; and turnip, tops to turnip, greens. Notice and comment are unnecessary because revising the terminology has no practical impact on the use of or exposure to malathion in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.

On June 3, 2009 (74 FR 26527) (FRL-8417-9), EPA published a final rule that made minor revisions to commodity terminologies throughout 40 CFR part 180, including revisions for exemptions from the requirement of a tolerance for sodium chlorate in 40 CFR 180.1020. Among these revisions in 40 CFR 180.1020, "corn, forage" was replaced by "corn, field, forage"; "corn, fodder" was replaced by "corn, field, stover" and "corn, pop, stover"; "peas, southern" was replaced by "cowpea, forage"; "cowpea, hay"; and "cowpea, seed"; "peppers, chili" was replaced by "pepper, chili." No revision had been made for "sorghum, forage." However, "peas, southern" should have been replaced by "pea, southern"; "pepper, chili" should have been replaced by "pepper, nonbell"; and revisions of "corn, forage" and "corn, fodder" should have included "corn, sweet, forage" and "corn, sweet, stover," respectively. In the *Federal Register* of May 13, 2009 (74 FR 22478), EPA proposed amendments to commodity terminology for sodium chlorate in 40 CFR 180.1020 and among them included "corn, forage" to "corn, field, forage" and "corn, sweet, forage"; "corn, fodder" to "corn, field, stover"; "corn, pop, stover"; and "corn, sweet, stover"; "peas, southern" to "pea, southern"; "pepper, chili" to "pepper, nonbell" "sorghum, forage" to "sorghum, grain, forage" and "sorghum, forage, forage"; "soybeans" to "soybean, seed"; as well as other commodity terminology revisions. As a result of the final rule of June 3, 2009 (74 FR 26527), EPA is revising the current commodity terminologies for sodium chlorate in 40 CFR 180.1020 in this final rule by removing "cowpea, forage"; "cowpea, hay"; and "cowpea, seed" and replacing them with "pea, southern"; replacing "pepper, chili" with "pepper, nonbell"; establishing "corn, sweet, forage" and "corn, sweet, stover"; and revising "sorghum, forage" to "sorghum, grain, forage" and "sorghum, forage, forage"; as proposed in the rule of May 13, 2009 (74 FR 22478). Also, consistent with

most of the commodity revisions for sodium chlorate proposed on May 13, 2009 (74 FR 22478), EPA is maintaining current commodity terminologies, finalized by the rule of June 3, 2009 (74 FR 26527), in 40 CFR 180.1020 for "bean, dry, seed"; "corn, field, forage"; "corn, field, grain"; "corn, field, stover"; "corn, pop, grain"; "corn, pop, stover"; "cotton, undelinted seed"; "flax, seed"; "grain, aspirated fractions"; "guar, seed"; "potato"; "rice, grain"; "safflower, seed"; "sorghum, grain, grain"; "sorghum, grain, stover"; "soybean, forage"; "soybean, hay"; "soybean, seed"; and "sunflower, seed."

The Agency did not receive any specific comments, during the 60-day comment period, on the following pesticide active ingredients: ametryn, amitraz, bitertanol, coppers, fluzifop-p-butyl, malathion, mineral oil, pentachloronitrobenzene, prometryn, sodium chlorate, triadimenol, and ammonium soap salts of higher fatty acids (C<sub>8</sub>-C<sub>18</sub> saturated; C<sub>8</sub>-C<sub>12</sub> unsaturated). Therefore, in addition to revising the tolerance nomenclature for specific tolerances for malathion as described in this final rule, and revising specific commodity terminologies for sodium chlorate as described in this final rule, EPA is finalizing the amendments proposed concerning the pesticide active ingredients in the *Federal Register* of May 13, 2009 (74 FR 22478). For a detailed discussion of the Agency's rationale for the establishments, revocations, and modifications to the tolerances, refer to the proposed rule of May 13, 2009 (74 FR 22478).

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

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

the REDs and TREDs are available as provided in Unit II.A.

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

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

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). If there is no reasonable expectation of finite pesticide residues

in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and 180.6 (c)).

*C. When Do These Actions Become Effective?*

With the exception of certain tolerances for ametryn and triadimenol for which EPA is revoking with specific expiration/revocation dates, the Agency is revoking, modifying, and establishing specific tolerances/tolerance exemptions, and revising specific tolerance terminologies effective on the date of publication of this final rule in the **Federal Register**. With the exception of the specific tolerances regarding ametryn and triadimenol for which EPA is revoking with specific expiration/revocation dates, specific copper tolerances associated with treated pear wrappers and potable water for which EPA is revoking because they are no longer needed or applicable, and tolerances/tolerance exemptions that are considered by EPA to no longer be significant food/feed items or whose commodity use is covered by another tolerance/tolerance exemption (including conversion of interim tolerances for pentachloronitrobenzene to permanent tolerances), the Agency believes that existing stocks of pesticide products labeled for the uses associated with the revoked tolerances/tolerance exemptions have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. EPA is revoking ametryn tolerances on banana; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; and corn, sweet, stover with expiration/revocation dates of June 16, 2010; and triadimenol tolerances on sorghum, grain, forage; sorghum, grain, grain; and sorghum, grain, stover with expiration/revocation dates of September 11, 2010. The Agency believes that these revocation dates allow users to exhaust stocks and allow sufficient time for passage of treated commodities through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide

at a time and in a manner that was lawful under FIFRA.

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

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

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

**IV. Statutory and Executive Order Reviews**

In this final rule, EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply,*

*Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL-5753-1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of the proposed rule, as mentioned in Unit

II.A.). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCFA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175.

Thus, Executive Order 13175 does not apply to this rule.

**V. Congressional Review Act**

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

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

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

Dated: September 2, 2009.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

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

**PART 180—[AMENDED]**

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

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

■ 2. Section 180.111 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, forage .....	135
Alfalfa, hay .....	135
Almond, hulls .....	50
Almond, postharvest .....	8
Apple .....	8
Apricot .....	8
Asparagus .....	8
Avocado .....	8
Barley, grain, postharvest .....	8
Bean, dry seed .....	8
Bean, succulent .....	8
Beet, garden, roots .....	8
Beet, garden, tops .....	8
Beet, sugar, roots .....	1

Commodity	Parts per million
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, field, grain, postharvest ..	8
Corn, pop, 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

Commodity	Parts per million
Raspberry	8
Rice, grain, postharvest	8
Rice, wild	8
Rutabaga	8
Rye, grain, postharvest	8
Safflower, seed	0.2
Salsify, roots	8
Salsify, 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, greens	8
Turnip, roots	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, malaosxon (*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 <sup>1</sup>	4

Commodity	Parts per million
Cattle, meat byproducts <sup>1</sup>	4
Egg	0.1
Goat, fat	4
Goat, meat <sup>1</sup>	4
Goat, meat byproducts <sup>1</sup>	4
Hog, fat	4
Hog, meat <sup>1</sup>	4
Hog, meat byproducts <sup>1</sup>	4
Horse, fat	4
Horse, meat <sup>1</sup>	4
Horse, meat byproducts <sup>1</sup>	4
Milk, fat	0.5
Poultry, fat	4
Poultry, meat <sup>1</sup>	4
Poultry, meat byproducts <sup>1</sup>	4
Sheep, fat	4
Sheep, meat <sup>1</sup>	4
Sheep, meat byproducts <sup>1</sup>	4

<sup>1</sup> 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 <sup>1</sup>	0.1
Celery	0.5
Cotton, gin byproducts	1.0
Cotton, undelinted seed	0.25
Pea, pigeon, seed	0.25

<sup>1</sup> 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

Commodity	Parts per million
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

Commodity	Parts per million
Brassica, head and stem, sub-group 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)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Banana <sup>1</sup> .....	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

Commodity	Parts per million	Expiration/Revocation Date
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

<sup>1</sup> 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) General. 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 <sup>1</sup> .....	0.5

<sup>1</sup> 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

Grain, aspirated fractions  
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, forage  
Soybean, hay  
Soybean, seed  
Sunflower, seed  
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 oxochloride .....	1332-65-6
Copper oxochloride 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<sub>8</sub>-C<sub>18</sub> saturated; C<sub>8</sub>-C<sub>12</sub> unsaturated); exemption from the requirement of a tolerance.**

Ammonium salts of C<sub>8</sub>-C<sub>18</sub> saturated and C<sub>8</sub>-C<sub>12</sub> 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.

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