

methyl-2-[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl) methylamino] carbonyl] amino] sulfonyl] benzoate, in or on the following commodities:

Commodity	Parts per million
Corn, field, forage	0.15
Corn, field, grain	0.01
Corn, field, stover	1.1
Grain, aspirated fractions	1.5
Soybean, forage	0.07
Soybean, hay	0.35
Soybean, hulls	0.04
Soybean, seed	0.01

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2008-0385; FRL-8408-1]

Glyphosate; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a new tolerance for a plant commodity, and revises other tolerances for glyphosate and its metabolite *N*-acetyl-glyphosate and revises one tolerance for glyphosate *per se*. These changes are detailed in Unit II. of this document. E.I. DuPont de Nemours and Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 18, 2009. Objections and requests for hearings must be received on or before February 16, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the

SUPPLEMENTARY INFORMATION).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0385. 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: Dan Kenny, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7546; e-mail address: kenny.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at <http://www.gpoaccess.gov/ecfr>.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2008-0385 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before February 16, 2010.

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

submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2008-0385, by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Petition for Tolerance

In the **Federal Register** of June 13, 2008 (73 FR 33817) (FRL-8367-3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F7307) by E.I. DuPont de Nemours and Company, DuPont Crop Protection, Laurel Run Plaza, P. O. Box 80038, Wilmington, DE 19880-0038. The petition requested that 40 CFR 180.364 be amended by establishing tolerances for combined residues of the herbicide, glyphosate, *N*-(phosphonomethyl)glycine and its metabolite *N*-acetyl-glyphosate (*N*-acetyl-*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate to Optimum™ GAT™ field corn, in or on the food commodities field, corn, grain; field, corn, forage, aspirated grain fractions at levels already established alone. That notice referenced a summary of the petition prepared by E.I. DuPont de Nemours and Company, the registrant, which is available to the public in the docket, <http://www.regulations.gov>. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C. DuPont has requested a Section 3 registration under Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA) for the preplant application of the herbicides glyphosate and pyriithiobac sodium to glyphosate tolerant field corn. The petitioner is also working to commercialize a genetically modified field corn designated as Optimum™ GAT™ corn. *N*-acetyl glyphosate is produced when glyphosate is applied to Optimum GAT corn. As a result the petitioner is requesting that the currently established tolerances on field corn commodities be modified accordingly.

Based upon review of the data supporting the petition, EPA has reassigned the currently established tolerances for corn, field, grain at 5.0 parts per million (ppm) and corn, field, forage at 6.0 ppm in paragraph 40 CFR 180.364 (a)(1) to paragraph 40 CFR 180.364 (a)(2). The tolerance expression for paragraph (a)(2) reads "Tolerances are established for the combined residues of glyphosate, *N*-(phosphonomethyl)glycine and its metabolite *N*-acetyl-glyphosate (expressed as glyphosate) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the food commodities:". The Agency is also establishing a tolerance for corn, field, stover at 100 ppm and assigning it to paragraph (a)(2). The Agency is also changing the current commodity definition for the currently established grain, cereal, forage, fodder and straw, group 16, except field corn, forage in paragraph (a)(1) to read: Grain, cereal, forage, fodder, and straw, group 16, except field corn, forage and field corn, stover. The currently established tolerance for grain, aspirated fractions at 310 ppm in paragraph (a)(2) will remain unchanged. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for combined residues of glyphosate, *N*-(phosphonomethyl)glycine and its metabolite *N*-acetyl-glyphosate (expressed as glyphosate) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the food commodities: corn, field, forage at 6.0 ppm; corn, field, grain at 5.0 ppm; corn, field, stover at 100 ppm; and for the combined residues glyphosate, phosphonomethyl)glycine resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the food commodity grain, cereal, forage, fodder, and straw, group 16, except field corn, forage and field corn, stover at 100 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by glyphosate *per se* and glyphosate and its metabolite *N*-acetyl-glyphosate as well as no-observed-effect-level (NOEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the documents in this unit.

The toxicological profile of glyphosate *per se* can be found in the risk

assessments referenced in the final rule published in the **Federal Register** of December 3, 2008 (73 FR 73586) (FRL-8385-7) which establishes tolerances for glyphosate and its metabolite *N*-acetyl-glyphosate in or on cattle, meat byproducts and various other commodities and in the risk assessment referred to in the final rule published in the **Federal Register** of December 20, 2006 (71 FR 76180) (FRL-8105-9) which established tolerances for residues of glyphosate in or on noni at 0.20 ppm and various other commodities. The toxicological profile for the metabolite *N*-acetyl-glyphosate and *N*-acetyl aminomethylphosphonic acid (*N*-acetyl-AMPA), one of the metabolites formed following oral administration of *N*-acetyl-glyphosate can be found in the same rule making documents.

Amendment of the glyphosate corn tolerances to include *N*-acetyl-glyphosate in the tolerance expression does not result in changes in the exposure or risk estimates reported in the previous risk assessments for the reasons listed in this unit and discussed in the Agency review entitled *Glyphosate and Pyriithiobac Sodium. Amended Section 3 Registration to Permit the Rotation to Glyphosate-Tolerant Field Corn and Glyphosate-Tolerant Soybean following Application to Glyphosate-Tolerant Cotton and Revision of the Field Corn Tolerance Expression. Summary of Analytical Chemistry and Residue Data.*, available at www.regulations.gov in Docket ID number EPA-HQ-OPP-2008-0385 and identified as document EPA-HQ-OPP-2008-0385-005.

1. The Agency has determined that *N*-acetyl-glyphosate has no greater toxicity than glyphosate and probably is of lower toxicity.

2. The numerical value of the currently-established tolerances for field corn commodities, livestock and poultry commodities, and feed commodities will remain unchanged.

3. The most recent dietary analysis assumed tolerance level residues and 100 percent crop treated.

4. The estimate of glyphosate in drinking water is based on a glyphosate use involving direct application to water at 3.75 pounds active ingredient per acre. Use of glyphosate on glyphosate-resistant corn will not result in higher levels in drinking water.

Accordingly, based on the risk assessments and findings discussed in the notices referenced in this unit, EPA concludes that no harm will result to the general population and to infants and children from aggregate exposure to the combined residues of glyphosate

and its metabolite *N*-acetyl-glyphosate (expressed as glyphosate).

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography (HPLC) with tandem mass spectrometry (MS/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: residuemethods@epa.gov.

B. International Residue Limits

There are Codex Maximum Residue Levels (MRLs) established for glyphosate (sum of glyphosate and AMPA) on maize at 5 mg/kg and maize fodder (dry) at 150 mg/kg. A Canadian MRL is established for glyphosate including the metabolite aminomethylphosphonic acid (AMPA) on corn at 3 mg/kg. A Mexican MRL is established for corn at 0.1 mg/kg for glyphosate. The glyphosate tolerances EPA is establishing in this action differ from the tolerance expression for the CODEX, Canadian, or Mexican MRLs, because of the inclusion of *N*-acetyl-glyphosate in the expression. Additionally, the EPA tolerances differ from the CODEX or Canadian MRLs in that the EPA tolerances do not include AMPA in the tolerance expression. At this time, harmonization between the U.S. tolerances and the CODEX, Canadian, or Mexican MRLs can not be achieved because the inclusion of *N*-acetyl-glyphosate in the EPA tolerance expression is necessary to support use patterns in the United States and because EPA has concluded that AMPA is not toxicologically significant and therefore, should not be included in the tolerance expression.

C. Response to Comments

One commenter submitted two comments opposing the use of glyphosate and glyphosate resistant plants which have resulted in the increased use of glyphosate. The commenter also questions the effect of glyphosate on bee colonies. A similar comment concerning effect on bees was received previously and addressed in the notice published in the **Federal Register** on December 3, 2008. EPA does not regulate the effect of herbicide resistant plants on the environment. That function is handled by the United States Department of Agriculture (USDA) Animal and Plant Inspection

Service (APHIS). The effect of herbicide resistant plants on the environment is not relevant to EPA's determination of safety of the pesticide glyphosate under section 408 of the FFDCA. The Agency's database on the chemical glyphosate indicates that no harm will result to the general population and to infants and children from aggregate exposure to glyphosate *per se* or from glyphosate and its metabolite *N*-acetyl-glyphosate as discussed in the final rules and risk assessments referenced in this document. The commenter did not submit any information to support a revision of Agency conclusions.

D. Revisions to Petitioned-For Tolerances

Because the tolerance expression for field corn changes as a result of the inclusion of the metabolite *N*-acetyl-glyphosate into the expression, the Agency is deleting the currently established tolerances for corn, field, grain (5.0 ppm) and corn, field forage (6.0 ppm) from 40 CFR 180.364 (a)(1) and reestablishing them in 40 CFR 180.364(a)(2) and establishing a tolerance for corn, field, stover at 100 ppm and assigning it to paragraph (a)(2). Because a separate tolerance for corn, field, stover is being established under paragraph (a)(2), the commodity definition for the currently-established grain, cereal, forage, fodder, and straw, group 16, except field corn, forage in paragraph (a)(1) is being changed to read grain, cereal, forage, fodder and straw, group 16, except field corn, forage and field corn, stover. As discussed in the final rule published in the **Federal Register** of December 3, 2008, this change to the tolerance expression for glyphosate as it applies to these field corn commodities will not have any impact on these field corn tolerances in terms of how they apply to glyphosate applied to non-genetically modified field corn.

V. Conclusion

Therefore, tolerances are established for combined residues of glyphosate, *N*-(phosphonomethyl)glycine and its metabolite *N*-acetyl-glyphosate (expressed as glyphosate) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the food commodities: Corn, field, forage at 6.0 ppm; corn, field, grain at 5.0 ppm; corn, field, stover at 100 ppm; and for the combined residues glyphosate, phosphonomethyl)glycine resulting from the application of glyphosate, the

isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the food commodity grain, cereal, forage, fodder, and straw, group 16, except field corn, forage and field corn, stover at 100 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

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

1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: December 8, 2009.

Lois Rossi,
Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.364 is amended in paragraph (a)(1), in the table, by removing the commodities corn, field, forage; corn, field, grain; and grain, cereal, forage, fodder and straw, group 16, except field corn, forage; and adding the commodity grain, cereal, forage, fodder and straw, group 16, except field corn, forage and field corn, stover; and in paragraph (a)(2), in the table, by alphabetically adding the commodities

§ 180.364 Glyphosate; tolerance for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Grain, cereal, forage, fodder and straw, group 16, except field corn, forage and field corn, stover	100

(2) * * *

Commodity	Parts per million
Corn, field, forage	6.0
Corn field, grain	5.0
Corn, field, stover	100

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2009-0004; FRL-8796-9]

Rimsulfuron; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends tolerances for residues of rimsulfuron in or on corn, field, forage and corn, field, stover and establishes tolerances in or on grain, aspirated fractions; soybean, forage; soybean, hay; soybean, hulls; and soybean, seed. E.I du Pont de Nemours and Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 18, 2009. Objections and requests for hearings must be received on or before February 16, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket