Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number does not apply.)

List of Subjects in 34 CFR Part 8

Courts, Government employees, Reporting and recordkeeping requirements.

Dated: May 8, 2008.

Margaret Spellings,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends part 8 of title 34 of the Code of Federal Regulations as follows:

PART 8—DEMANDS FOR TESTIMONY OR RECORDS IN LEGAL PROCEEDINGS

■ 1. The authority citation for part 8 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 552; 20 U.S.C. 3474, unless otherwise noted.

§ 8.1 [Amended]

■ 2. The introductory text of § 8.1(a) is amended by removing the words ''if the Department or any departmental employee'' and adding, in their place, the words ''when the Department or any employee of the Department''.

§ 8.2 [Amended]

■ 3. The definition of ''Employee'' in § 8.2 is amended by adding the words ''or former'' between the words ''current'' and ''employee''.

§ 8.3 [Amended]

■ 4. Section 8.3 is amended by:

■ A. In the introductory text of paragraph (a), removing the words ''or former employee,''.

■ B. In paragraph (a)(2), removing the words ''and why the information sought is unavailable by any other means'' and adding, in their place, the words '', why the information sought is unavailable by any other means, and the reason why the release of the information would not be contrary to an interest of the Department or the United States''.

■ C. In paragraph (b), removing the words ''or former employee'' each time they appear.

■ D. In paragraph (b), removing the words ''room 4083, FOB–6,'' and adding, in their place, the words ''room 6E300, Lyndon Baines Johnson Building,''.

■ E. In paragraph (c), removing the words ''or former employee''.

■ F. In paragraph (c), removing the words ''Records Management Branch Chief, Office of Information Resources Management, U.S. Department of Education, 7th and D Streets, SW., ROB–3'' and adding, in their place, the words ''Records Officer, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., room 9161, PCP''.

[FR Doc. E8–10775 Filed 5–13–08; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0097; FRL–8364–6]

Tebuconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of tebuconazole in or on wheat, barley, and tree nuts. Bayer CropScience LP requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 14, 2008. Objections and requests for hearings must be received on or before July 14, 2008, 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–2005–0097. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in 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: Tracy Keigwin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6605; e-mail address: *keigwin.tracy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 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–2005–0097 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 July 14, 2008.

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–2005–0097, 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'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 May 18, 2005 (70 FR 28257) (FRL–7708–5), 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 7F4895) by Bayer CropScience LP, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.474 be amended by establishing tolerances for residues of the fungicide tebuconazole, alpha-[2-(4-Chlorophenyl)ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, in or on food commodities nut, tree, group 14 at 0.05 ppm; almond, hulls at 5.0 ppm; pistachio at 0.05 ppm; barley, hay at 6.0 ppm; barley, straw at 1.4 ppm; wheat, forage at 3.0 ppm; wheat, hay at 6.0 ppm; wheat, straw at 1.4 ppm. That notice referenced a summary of the petition prepared by Bayer CropScience LP, 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.

Based upon review of the data supporting the petition, EPA has modified the proposed tolerances as follows: Almond, hulls at 6.0 ppm; barley, grain at 0.15 ppm, barley, hay at 7.0 ppm; barley, straw at 3.5 ppm; wheat grain at 0.05 ppm, wheat, hay at 7.0 ppm; wheat, straw at 1.5 ppm; and a separate pistachio tolerance is not needed. The reason for these changes is 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 residues of tebuconazole. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

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

Tebuconazole has low acute toxicity by the oral or dermal route of exposure, and moderate toxicity by the inhalation route. It is not a dermal sensitizer or a dermal irritant; however, it is slightly to mildly irritating to the eye. The main target organs are the liver, the adrenals, the hematopoetic system and the nervous system. Effects on these target organs were seen in both rodent and non-rodent species. In addition, ocular lesions are seen in dogs (including lenticular degeneration and increased cataract formation) following subchronic or chronic exposure.

Oral administration of tebuconazole caused developmental toxicity in all species evaluated (rat, rabbit, and mouse), with the most prominent effects seen in the developing nervous system. In the available toxicity studies on tebuconazole, there was no toxicologically significant evidence of endocrine disruptor effects. Tebuconazole was classified as a Group C - possible human carcinogen, based on an increase in the incidence of hepatocellular adenomas, carcinomas and combined adenomas/carcinomas in male and female mice. Submitted mutagenicity studies did not demonstrate any evidence of mutagenic potential for tebuconazole. Tebuconazole shares common metabolites with other triazole-derivative chemicals, including free triazole (1,2,4-triazole) and triazole-conjugated plant metabolites (such as triazole alanine). These common metabolites have been the subject of separate risk assessments.

Specific information on the studies received and the nature of the adverse effects caused by tebuconazole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document entitled *Tebuconazole: Human Health Risk Assessment to support tolerances in/on Asparagus, Barley, Beans, Beets, Brassica leafy greens, Bulb Vegetables, Coffee (import), Commercial Ornamentals, Corn, Cotton, Cucurbits, Hops, Lychee, Mango, Okra, Pome fruit, Soybean, Stone fruit, Sunflower, Tree Nut Crop Group, Turf, Turnips and Wheat*, pages 79–107 in docket ID number EPA–HQ–OPP–2005-0097.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure

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

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

A summary of the toxicological endpoints for tebuconazole used for human risk assessment is shown in Table 1 of this unit.

TABLE 1. — SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TEBUCONAZOLE FOR USE IN DIETARY AND NON-OCCUPATIONAL HUMAN HEALTH RISK ASSESSMENTS

Exposure/Scenario	Point of Departure	Uncertainty/FQPA Safety Factors	RfD, PAD, Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (General Population, including Infants and Children)	LOAEL = 8.8 mg/kg/day UF = 300	UF_A= 10x UF_H=10x FQPA(UF_L)= 3x	Acute RfD = 0.029 mg/kg/day aPAD = 0.029 mg/kg/day	Developmental Neurotoxicity Study - Rat. LOAEL = 8.8 mg/kg/day based on decreases in body weights, absolute brain weights, brain measurements and motor activity in offspring.
Chronic Dietary (All Populations)	LOAEL = 8.8 mg/kg/day UF = 300	UF_A= 10x UF_H=10x FQPA(UF_L)= 3x	Chronic RfD = 0.029mg/kg/day cPAD =0.029 mg/kg/day	Developmental Neurotoxicity Study - Rat. LOAEL = 8.8 mg/kg/day based on decreases in body weights, absolute brain weights, brain measurements and motor activity in offspring.
Incidental Oral Short-/Intermediate-Term (1-30 days/1-6 months)	LOAEL = 8.8 mg/kg/day UF = 300	UF_A= 10x UF_H=10x FQPA(UF_L)= 3x	Residential LOC for MOE = 300	Developmental Neurotoxicity Study - Rat. LOAEL = 8.8 mg/kg/day based on decreases in body weights, absolute brain weights, brain measurements and motor activity in offspring.
Dermal Short-/Intermediate-Term (1-30 days/1-6 months)	LOAEL = 8.8 mg/kg/day UF = 300	UF_A= 10x UF_H=10x FQPA (UF_L)= 3x DAF = 23.1%	Residential LOC for MOE = 300	Developmental Neurotoxicity Study - Rat. LOAEL = 8.8 mg/kg/day based on decreases in body weights, absolute brain weights, brain measurements and motor activity in offspring.
Inhalation Short-/Intermediate-Term (1-30 days/1-6 months)	LOAEL = 8.8 mg/kg/day UF = 300	UF_A= 10x UF_H=10x FQPA (UF_L)= 3x Inhalation and oral toxicity are assumed to be equivalent	Residential LOC for MOE = 300	Developmental Neurotoxicity Study - Rat. LOAEL = 8.8 mg/kg/day based on decreases in body weights, absolute brain weights, brain measurements and motor activity in offspring.

TABLE 1. — SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TEBUCONAZOLE FOR USE IN DIETARY AND NON-OCCUPATIONAL HUMAN HEALTH RISK ASSESSMENTS—Continued

Exposure/Scenario	Point of Departure	Uncertainty/FQPA Safety Factors	RfD, PAD, Level of Concern for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Classification: Group C- possible human carcinogen based on statistically significant increase in the incidence of hepatocellular adenoma, carcinoma, and combined adenoma/carcinomas in both sexes of NMRI mice. Considering that there was no evidence of carcinogenicity in rats, there was no evidence of genotoxicity for tebuconazole, and tumors were only seen at a high and excessively toxic dose in mice, EPA concluded that the chronic RfD would be protective of any potential carcinogenic effect. The chronic RfD value is 0.029 mg/kg/day which is approximately 9600 fold lower than the dose that would induce liver tumors (279 mg/kg/day).			

Point of Departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = no observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL. FQPA SF = FQPA Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern. N/A = not applicable. DAF = dermal absorption factor.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to tebuconazole, EPA considered exposure under the petitioned-for tolerances, including other pending petitions, as well as all existing tebuconazole tolerances in (40 CFR 180.474). EPA assessed dietary exposures from tebuconazole in food as follows:

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

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, anticipated residues for bananas, grapes, raisins, nectarines, peaches and peanut butter were derived using the latest USDA Pesticide Data Program (PDP) monitoring data from 2002- 2006. Anticipated residues for all other registered and proposed food commodities were based on field trial data. For uses associated with PP 7F4895, 100% Crop treated was assumed. DEEM (ver. 7.81) default processing factors were assumed for processed commodities associated with petition 7F4895. For several other uses EPA used percent crop treated (PCT) data as specified in Unit III.C.1.iv.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the same assumptions as stated in Unit III. C.1.i. for acute exposure.

iii. *Cancer*. As explained in Unit III.B., the chronic risk assessment is considered to be protective of any cancer effects; therefore, a separate quantitative cancer dietary risk assessment was not conducted.

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.

Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.

Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information for tebuconazole on grapes, grape, raisin, nectarine, oats, peach, and peanuts. The PCT for each crop is as follows: Grapes: 25%; grape, raisin: 25%; nectarine 25%; oats 2.5%; peach: 20%; and peanuts 45%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency used projected percent crop treated (PPCT) information for tebuconazole on cherries (pre-harvest) and cherries (post-harvest). The PCT for each crop is as follows: Cherries, pre-harvest: acute assessment 42%, chronic assessment 37%; Cherries, post-harvest: acute assessment 100%, chronic assessment 66%. EPA estimates PPCT for a new pesticide use by assuming that its actual PCT during the initial five years of use on a specific use site will not exceed the recent PCT of the market leader (i.e., the one with the greatest PCT) on that site. An average market leader PCT, based on three recent surveys of pesticide usage, if available, is used for chronic risk assessment,

while the maximum PCT from the same three recent surveys, if available, is used for acute risk assessment. The average and maximum market leader PCTs may each be based on one or two surveys if three are not available. Comparisons are only made among pesticides of the same pesticide types (i.e., the leading fungicide on the use site is selected for comparison with the new fungicide). The market leader PCTs used to determine the average and the maximum may be each for the same pesticide or for different pesticides since the same or different pesticides may dominate for each year. Typically, EPA uses USDA/NASS as the source for raw PCT data because it is publicly available. When a specific use site is not surveyed by USDA/NASS, EPA uses other sources including proprietary data.

An estimated PPCT, based on the average PCT of the market leaders, is appropriate for use in chronic dietary risk assessment, and an estimated PPCT, based on the maximum PCT of the market leaders, is appropriate for use in acute dietary risk assessment. This method of estimating PPCTs for a new use of a registered pesticide or a new pesticide produces high-end estimates that are unlikely, in most cases, to be exceeded during the initial five years of actual use. Predominant factors that bear on whether the PPCTs could be exceeded may include PCTs of similar chemistries, pests controlled by alternatives, pest prevalence in the market and other factors. All relevant information currently available for predominant factors have been considered for tebuconazole on cherries, resulting in adjustments to the initial estimates for three crops to account for lack of confidence in projections based on less than three observations, old data and/or data based on expert opinion.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis, or conservative estimates based on information from agricultural experts. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which tebuconazole may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for tebuconazole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of tebuconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of tebuconazole for acute exposures are estimated to be 78.5 parts per billion (ppb) for surface water and 1.56 ppb for ground water. The EDWCs for chronic, non-cancer are estimated to be 44.9 ppb for surface water and 1.56 ppb for ground water. The EDWCs for chronic, cancer exposures are estimated to be 32.3 ppb for surface water and 1.56 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration value of 78.5 ppb was used to assess the contribution to drinking water. For the chronic dietary risk assessment (which is protective of any possible cancer effects), the water concentration value of 44.9 ppb was used to assess the contribution to drinking water.

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

Tebuconazole is currently registered for uses that could result in residential exposures. Short-term dermal and inhalation exposures are possible for residential adult handlers mixing, loading, and applying tebuconazole products outdoors to ornamental plants. Short- and intermediate-term dermal postapplication exposures to adults during golfing and children playing on treated wood structures are also possible. Children may also be exposed via the incidental oral route when playing on treated wood structures. Long-term exposure is not expected. As a result, risk assessments have been completed for residential handler scenarios as well as residential postapplication scenarios.

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

Tebuconazole is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events. In conazoles, however, a variable pattern of toxicological responses is found. Some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

Triazole-derived pesticides can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazole alanine and triazole acetic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including tebuconazole, EPA conducted a human health risk assessment for exposure to

1,2,4-triazole, triazole alanine, and triazole acetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide as of September 1, 2005. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (i.e., high end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X FQPA safety factor for the protection of infants and children. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's September 1, 2005 risk assessment can be found in the propiconazole reregistration docket at *http://www.regulations.gov* (Docket ID EPA–HQ–OPP–2005–0497). An addendum to the risk assessment, *Dietary Exposure Assessments for the Common Triazole Metabolites 1,2,4-triazole, Triazolylalanine, Triazolylacetic Acid and Triazolylypyruvic Acid; Updated to Include New Uses of Fenbuconazole, Ipconazole, Metconazole, Tebuconazole, and Uniconazole* can be found at *http://www.regulations.gov* in docket ID EPA–HQ–OPP–2005–0097.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* The toxicity database for tebuconazole is complete, and includes prenatal developmental toxicity studies in three species (mouse, rat, and rabbit), a reproductive toxicity study in rats, acute and subchronic neurotoxicity studies in rats, and a developmental neurotoxicity study in rats. The data from prenatal developmental toxicity studies in mice and a developmental neurotoxicity (DNT) study in rats indicated an increased quantitative and qualitative susceptibility following *in utero* exposure to tebuconazole. The NOAELs/LOAELs for developmental toxicity in the mouse study were found at dose levels less than those that induces maternal toxicity or in the presence of slight maternal toxicity. In the DNT study, the LOAEL at which developmental toxicity was seen was below the NOAEL for maternal animals. No NOAEL was identified for the offspring in this study. There was no indication of increased quantitative susceptibility in the rat and rabbit developmental toxicity studies, the NOAELs for developmental toxicity were comparable to or higher than the NOAELs for maternal toxicity. In all three species, however, there was indication of increased qualitative susceptibility. For most studies, minimal maternal toxicity was seen at the LOAEL (consisting of increases in hematological findings in mice, increased liver weights in rabbits and rats, and decreased body weight gain/food consumption in rats) and did not increase substantially in severity at higher doses; however, there was more concern for the developmental effects at each LOAEL which included increases in runts, increased fetal loss, and malformations in mice, increased skeletal variations in rats, and increased fetal loss and frank malformations in rabbits. Additionally, more severe developmental effects (including frank malformations) were seen at higher doses in mice, rats and rabbits. In the developmental neurotoxicity study, maternal toxicity was seen only at the high dose (decreased body weights, body weight gains, and food consumption, prolonged gestation with mortality, and increased number of dead fetuses), while offspring toxicity (including decreases in body weight, brain weight, brain measurements and functional activities) was seen at all doses.

Available data indicated greater sensitivity of the developing organism to exposure to tebuconazole, with the exception of the effects seen in the DNT study, the degree of concern is low and there are no residual uncertainties because the toxic endpoints in the pre- and post-natal developmental toxicity studies were well characterized with clear NOAELs established and the endpoint used for all risk assessments is protective of the effects seen in these studies.

There is concern with regard to the DNT study because of the failure to achieve a NOAEL in that study. This concern is addressed by a retention of FQPA SF in the form of UF_L of 3X. Reduction of the FQPA safety factor from 10 to 3X is based on a Benchmark Dose (BMD) analysis of the datasets relevant to the adverse offspring effects (decreased body weight and brain weight) seen at the LOAEL in the DNT study. All of the BMDLs (the lower limit of a one-sided 95% confidence interval on the BMD) modeled successfully on statistically significant effects are 1-2X lower than the LOAEL. The results indicate that an extrapolated NOAEL is not likely to be 10X lower than the LOAEL and that use of a FQPA safety factor of 3X would not underestimate risk. Using a 3X FQPA safety factor in the risk assessment (8.8 mg/kg/day ÷ 3x = 2.9 mg/kg/day) is further supported by other studies in the tebuconazole toxicity database (with the lowest NOAELs being 3 and 2.9 mg/kg/day, from a developmental toxicity study in mice and a chronic toxicity study in dogs, respectively [respective LOAELs 10 and 4.5 mg/kg/day]).

3. *Conclusion.* The Agency has determined that reliable data show that it would be safe for infants and children to reduce the FQPA SF to 3x for all potential exposure scenarios. That decision is based on the following findings:

i. The toxicity database for tebuconazole is complete and includes an acceptable rat developmental neurotoxicity study.

ii. Although there is qualitative evidence of increased susceptibility in the prenatal developmental studies in rats, mice, and rabbits, and in the 2-generation reproduction study in rats, EPA did not identify any residual uncertainties or concerns with regard to these studies after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of tebuconazole.

iii. A concern was identified with regard to the failure to identify a NOAEL for the development effects found in the DNT study. A FQPA safety factor of 3X was found sufficient to protect infants and children based on the BMD analysis summarized in Unit III.D.2.

iv. There are no residual uncertainties identified in the exposure databases. Although the acute and chronic food exposure assessments are refined, EPA believes that the assessments are based on reliable data and will not underestimate exposure/risk. The drinking water estimates were derived from conservative screening models. The residential exposure assessment utilizes reasonable high-end variables set out in EPA's Occupational/Residential Exposure SOPs (Standard Operating Procedures). The aggregate assessment is based upon reasonable worst-case residential assumptions, and

is also not likely to underestimate exposure/risk to any subpopulation, including those comprised of infants and children.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to tebuconazole will occupy 53% of the aPAD for the population group (all infants less than 1 year old) receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to tebuconazole from food and water will utilize 4% of the cPAD for the U.S. population and 11% of the cPAD for the most highly exposed population group (infants less than 1 year old).

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Tebuconazole is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to tebuconazole.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the short-term aggregate MOE from dietary exposure (food + drinking water) and non-occupational/residential handler exposure for adults using a hose-end sprayer on ornamentals is 400. The short-term aggregate MOE from dietary exposure and exposure from golfing is 1,800. The short-term aggregate MOE to children from dietary exposure and exposure from wood surfaces treated at the above ground use rate is 530. The short-term aggregate MOE to children from dietary exposure and exposure to wood surfaces treated at the below ground use rate is 230. The combined and aggregate MOEs for wood treated for below ground uses exceed the Agency's LOC of 300, and indicate a potential risk of concern. However, the MOE of 230 is based on the assumption that 100% of a child's exposure is to below ground wood. In reality, the probability and frequency of children contacting wood intended for below ground use is reasonably assumed to be small and incidental compared to wood intended for above ground uses. Treated wood intended for below ground use is the 4 inch X 4 inch support beams for decks and playsets, while treated wood intended for above ground use is the decking and connecting wood. Therefore, the majority of contact is reasonably assumed to be to wood intended for above ground uses. The combined/aggregate MOEs for wood treated for above ground uses does not exceed the LOC, and exposure to above ground wood is expected to more closely represent actual exposures to children. Therefore, the Agency considers this assessment to be a conservative screening level assessment.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Tebuconazole is currently registered for uses that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to tebuconazole.

Since the POD, relevant exposure scenarios and exposure assumptions used for intermediate-term aggregate risk assessments are the same as those used for short-term aggregate risk assessments, the short-term aggregate risk assessments represent and are protective of both short- and intermediate-term exposure durations.

5. *Aggregate cancer risk for U.S. population*. Tebuconazole is classified as a Group C Carcinogen-Possible Human Carcinogen based on statistically significant increase in the incidence of hepatocellular adenoma, carcinoma, and combined adenoma/carcinomas in both sexes of NMRI mice. The Agency believes that the chronic RfD is protective of the cancer effects because the increased incidences of hepatocellular adenoma, carcinomas, and combined adenoma/carcinoma were seen only at the highest dose 1,500 ppm (279 mg/kg/day for males and 365.5 mg/kg/day for females) in the mouse carcinogenicity study. The dose was considered excessive. There was no evidence of carcinogenicity in rats, and no evidence of genotoxicity for tebuconazole. The chronic RfD value is 0.029 mg/kg/day which is approximately 9,600 fold lower than the dose that would induce liver tumors (279 mg/kg/day).

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate GC/NPD and LC/MS/MS methods are available for both collecting and enforcing tolerances for tebuconazole and its metabolites in plant commodities, livestock matrices and processing studies. The methods have been adequately validated by an independent laboratory in conjunction with a previous petition. 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 currently Codex, Canadian and Mexican maximum residue limits (MRLs) for residues of tebuconazole in/on a variety of plant and livestock commodities. The tolerance definition for residues in plants is tebuconazole, *per se*, for Codex, Canada, and Mexico. For livestock commodities, the tolerance expression is for the combined residues of tebuconazole and HWG 2061 in the U.S. and Canada, and tebuconazole, *per se*, for Codex. Where possible, the proposed tolerances levels have been harmonized with the MRLs from Canada, Mexico, and Codex

C. Response to Comments

The Agency received a comment from a citizen of New Jersey. The commenter questioned the necessity of using taxpayer money through the agency of the Interregional Research Project No. 4 to develop pesticides, challenged the appropriateness of conducting some of the tebuconazole field trials outside of the United States, expressed concern over whether specific warnings were given to residents of New Jersey prior to conducting field trials in that State, and

worried that students at Rutgers University may have been injured in the tebuconazole toxicological tests on animals that were performed at that facility.

In response, EPA notes that although IR-4 has petitioned for other tebuconazole tolerances it was not a petitioner as to the tolerances being established today. The notice cited by the commenter contained petitions from both IR-4 and a pesticide manufacturer. EPA is only acting today on the petition from the pesticide manufacturer. IR-4 was established by the U.S. Department of Agriculture to help minor acreage, specialty crop producers obtain EPA tolerances and new registered uses of pesticides. As to the commenter's concern with field trials that were conducted in countries other than the United States, the field trials that are referenced do not involve the tolerances being acted on in this rulemaking. EPA notes, however, that frequently field trials are conducted in other countries as well as in the United States so that EPA can understand the range of pesticide residues that may be present on a food. Similarly, the field trial conducted in New Jersey was for a tolerance that is not involved in today's action. EPA's regulations governing use of pesticides under experimental use permits can be found at 40 CFR part 172. EPA also has regulations governing the toxicological data testing laboratories that are designed to insure data quality (40 CFR part 160). Federal jurisdiction concerning the safety of workers in testing laboratories would be under the Occupational Safety and Health Administration in the U.S. Department of Labor. EPA has responded to similar comments from this commenter on previous occasions. Refer to 70 FR 37686 (June 30, 2005), 70 FR 1354 (January 7, 2005), and 69 FR 63083 (October 29, 2004).

D. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting the petition, EPA determined that the proposed tolerances should be revised as follows: Almond, hulls increased from 5.0 ppm to 6.0 ppm; barley, hay increased from 6.0 ppm to 7.0 ppm; barley, straw increased from 1.4 ppm to 3.5 ppm; wheat, hay increased from 6.0 to 7.0 ppm; and wheat, straw increased from 1.4 ppm to 1.5 ppm. EPA revised these tolerance levels based on analysis of the residue field trial data using the Agency's Tolerance Spreadsheet in accordance with the Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data Standard Operating Procedure (SOP). Additionally, tolerances were not proposed, but are required for barley, grain at 0.15 ppm based on detectable residues using the Agency's Tolerance Spreadsheet and wheat, grain at 0.05 ppm, because tolerances are needed even with residues are non-detectable. Also, a separate tolerance is not needed for pistachios, as they are considered under the nut, tree, group 14.

V. Conclusion

Therefore, tolerances are established for residues of the fungicide tebuconazole, alpha-[2-(4-Chlorophenyl)ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, in or on food commodities nut, tree, group 14 at 0.05 ppm; almond, hulls at 6.0 ppm; barley, grain at 0.15 ppm; barley, hay at 7.0 ppm; barley, straw at 3.5 ppm; wheat, forage at 3.0 ppm; wheat, grain at 0.05 ppm; wheat, hay at 7.0 ppm; and wheat, straw at 1.5 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, *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: May 2, 2008.

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 180.474 is amended in paragraph (a)(1) in the table by alphabetically adding the commodities Almond, hulls and Nut, tree, group 14 and by revising the following commodities to read as follows:

§ 180.474 Tebuconazole; tolerances for residues.

(a) * * *

Commodity	Parts per million
Almond, hulls	6.0
* * * * *	
Barley, grain	0.15
Barley, hay	7.0
Barley, straw	3.5
* * * * *	
Nut, tree, group 14	0.05
* * * * *	
Wheat, forage	3.0
Wheat, grain	0.05
Wheat, hay	7.0
Wheat, straw	1.5

* * * * *

[FR Doc. E8–10506 Filed 5–13–08; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0149; [FRL–8362–9]

Cyproconazole; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the free and conjugated residues of cyproconazole, α-(4-chlorophenyl)-α-(1-cyclopropylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on aspirated grain fractions; field corn, forage, grain and stover; soybean, seed, forage, hay and oil; wheat, forage, hay, straw, grain, grain, milled by products; fat of cattle, goat, horse and sheep; and meat byproducts (except liver) of cattle, goat, horse and sheep. Additionally, this regulation establishes tolerances for cyproconazole and its metabolite, δ-(4-chlorophenyl)-β,δ-dihydroxy-γ-methyl-1*H*-1,2,4-triazole-1-hexenoic acid in or on milk and for cyproconazole and its metabolite, 2-(4-chlorophenyl)-3-cyclopropyl-1-[1,2,4]triazol-1-yl-butane-2,3-diol in or on liver of cattle, goat, hog, horse, and sheep. Syngenta Crop Protection, Inc., requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective May 14, 2008. Objections and requests for hearings must be received on or before July 14, 2008, 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–2008–0149. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in 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: Mary L. Waller, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9354; e-mail address: *waller.mary@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), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 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–2008–0149 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 July 14, 2008.