

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 under 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 Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). 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. 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 FFDCA. 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 6, 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.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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 13, 2006.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 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 180.622 is added to read as follows:

§ 180.622 Ethaboxam; tolerances for residues.

(a) *General.* Tolerances are established for residues of ethaboxam, N-(cyano-2-thienylmethyl)-4-ethyl-2-(ethylamino)-5-thiazolecarboxamide in or on the following commodity:

Commodity	Parts per million
Grape ¹	6.0

¹ There is no U.S. registration as of September 27, 2006

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

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

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0036; FRL–8089–6]

p-Chlorophenoxyacetic acid, Glyphosate, Diflufenoxat, and Hexazinone; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking certain tolerances for the plant growth regulator *p*-chlorophenoxyacetic acid and the herbicide hexazinone. Also, EPA is modifying certain tolerances for the plant growth regulator *p*-chlorophenoxyacetic acid and the herbicides glyphosate, diflufenoxat, and hexazinone. In addition, EPA is establishing new tolerances for the herbicides diflufenoxat and hexazinone.

DATES: This regulation is effective September 27, 2006. Objections and requests for hearings must be received on or before November 27, 2006, 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–2006–0036. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business

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

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

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), 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 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 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 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, as amended by FQPA, 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-2006-0036 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 27, 2006.

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-2006-0036, 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. Background

A. What Action is the Agency Taking?

In the **Federal Register** of June 7, 2006 (71 FR 32899) (FRL-8062-7), EPA issued a proposed rule to revoke, remove, modify, and establish certain tolerances and/or tolerance exemptions for residues of the plant growth regulator *p*-chlorophenoxyacetic acid and the herbicides glyphosate, difenzoquat, and hexazinone. The proposal of June 7, 2006 also provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

EPA is revoking, removing, modifying, and establishing specific tolerances for residues of the plant growth regulator *p*-chlorophenoxyacetic acid and the herbicides glyphosate, difenzoquat, and hexazinone in or on commodities listed in the regulatory text.

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 reregistration and when taking action on tolerances and exemptions, EPA is required to determine whether each of the amended tolerances or exemptions meets the safety standards under FQPA. The safety finding determination of “reasonable certainty of no harm” is found in detail in each RED and TRED for the active ingredient. REDs and TREDs recommend certain tolerance actions to be implemented to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of 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 address: <http://www.epa.gov/ncepihom> and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1-800-553-6847 or (703) 605-6000; Internet address: <http://www.ntis.gov>. Electronic copies of REDs and TREDs are available on the internet at <http://www.epa.gov/pesticides/reregistration/status.htm>.

In this final rule, EPA is revoking certain tolerances and tolerance exemptions because these specific tolerances and exemptions correspond to uses no longer current or registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in the United States. 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 revoke 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 domestic commodities legally treated.

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. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

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:

- 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.

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

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

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of June 7, 2006, EPA received three comments during the 60-day public comment period, as follows:

- *Comment.* A comment was received from a private citizen that expressed concern with pesticide residues in general and that animals should eat

quality foods. The individual stated that pesticide residue levels should be zero.

- *Agency response.* The private citizen's comment did not take issue with the Agency's conclusion that certain tolerances should be revoked. It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. 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.

1. *Hexazinone.*

- *Comment.* A comment was received from DuPont Crop Protection who requested that the current regional tolerances on sugarcane, cane and sugarcane molasses in 40 CFR 180.396(c), which excludes use of hexazinone on sugarcane in Florida, be codified as general tolerances. The commenter stated that two of DuPont Crop Protection's registrations for use of hexazinone on sugarcane in Florida are currently active.

Also, the commenter requested that EPA not revoke the tolerances in 40 CFR 180.396 for fat of cattle, goats, hogs, horses, and sheep, and meat and meat byproducts of hogs because later this year it will submit grass residue data to support a revised zero-day forage/grazing restriction (current labels show a 60-day restriction which is not considered to be practical by the Agency). The commenter stated that it expects increased residues warranting a revision of existing tolerances for both grass and hay as livestock feed commodities.

In addition, the commenter stated that an analysis on current hexazinone registrations for use on cattle feed commodities conducted by the Florida Department of Agriculture and Consumer Services in 2005 may show that tolerances for hexazinone on meat, meat byproducts, and in milk may be exceeded based on a maximum theoretical dietary burden.

- *Agency response.* Since the time of the 2002 hexazinone TRED, EPA agrees that the Agency did approve two registrations submitted by DuPont Crop Protection for use of hexazinone on sugarcane in Florida. Based on these registrations, EPA believes that since there are no regional sugarcane registrations that specifically exclude hexazinone use in Florida; therefore, these tolerances need not be codified as regional. Since this regulatory action was not in the original **Federal Register** proposal, recodifying the sugarcane, cane and sugarcane molasses tolerances

from 40 CFR 180.396(c) to (a) as general tolerances will need to be proposed separately in a future action. Moreover, in its comment, DuPont Crop Protection did not take issue with the Agency's proposal to modify the sugarcane tolerances. Available data indicate combined residues of hexazinone and its regulated metabolites were <0.35 parts per million (ppm) in or on sugarcane. Based on the combined LOQs (0.55 ppm) of the enforcement method for parent plus metabolites, the Agency determined that the tolerance for sugarcane, cane should be increased to 0.6 ppm. Also, based on available sugarcane processing data, the Agency determined that residues of hexazinone and its metabolites concentrated 32-fold to final (blackstrap) molasses, the form of molasses typically fed to livestock. After adjusting for the 2.0x degree of exaggeration used in the processing study, the Agency determined that while the calculated residue was greater than the recommended tolerance for the raw agricultural commodity (sugarcane, cane), it was below the current tolerance level for sugarcane molasses and should be decreased to 4.0 ppm. Therefore, in 40 CFR 180.396(c) EPA is increasing the tolerance for combined hexazinone residues of concern in or on sugarcane, cane from 0.2 to 0.6 ppm and decreasing the tolerance in or on sugarcane molasses from 5.0 to 4.0 ppm, and revising sugarcane molasses to sugarcane, molasses. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

When EPA proposed to revoke the tolerances in 40 CFR 180.396 for fat of cattle, goats, hogs, horses, and sheep, and meat and meat byproducts of hogs, it did so based on available exaggerated feeding data from which the Agency determined that there is no reasonable expectation of finite hexazinone residues of concern in livestock from treated feed. However, because DuPont Crop Protection will submit new data later this year and information from the State of Florida may need to be considered by the Agency, EPA will not revoke these specific fat, meat, and meat byproduct tolerances at this time. When the information from the State of Florida and submitted data from DuPont Crop Protection have been reviewed, EPA will re-evaluate these tolerances under FFDCA. If data are not submitted in the near future or if data adequate to support a safety finding are lacking, EPA intends to revoke the tolerances on

cattle, fat; sheep, fat; hog, meat; and hog, meat byproducts in 40 CFR 180.396.

The TRED mentions the need for additional method validation of Method AMR 3783–6 for determining hexazinone (parent and metabolite) levels in milk and livestock tissues. The method has undergone successful independent validation and radiovalidation studies. Additional validation by EPA laboratories is not required. The method is considered adequate for enforcement purposes for residues of hexazinone (and metabolites) in milk and livestock tissues.

According to the TRED, the tolerance expression, which is currently expressed as hexazinone and its metabolites (calculated as hexazinone) in 40 CFR 180.396(a) for plant, animal, and milk commodities for general tolerances should be modified to include all the specific metabolites in plants, animal tissue and milk. Consequently, EPA is separating and recodifying plant, animal, and milk tolerances from 40 CFR 180.396(a) to (a)(1), (a)(2), and (a)(3), respectively. In the **Federal Register** proposal of June 7, 2006, the C-1 metabolite was inadvertently included in 40 CFR 180.396(a)(3).

After correction of the exaggerated feeding dose (62.5x) for cattle, goats, horses, and sheep, the Agency determined that residue levels of hexazinone and its metabolites ranged as high as 0.09 ppm (just below the sum of the LOQs or 0.1 ppm), and therefore meat and meat byproduct tolerances should be maintained in newly recodified 40 CFR 180.396(a)(2) at 0.1 ppm for cattle, goats, horses, and sheep.

In addition, after correction of the exaggerated feeding dose (62.5x) for cattle, the Agency determined that residue levels of hexazinone and its metabolites in whole milk ranged as high as 0.164 ppm. Based on the enforcement method, the sum of the combined LOQs for hexazinone and its metabolites, EPA is increasing the tolerance in the newly recodified 40 CFR 180.396(a)(3) for the combined hexazinone residues of concern in or on milk from 0.1 to 0.2 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Available data indicate combined residues of hexazinone and its regulated metabolites were <0.3 ppm in or on blueberries and <0.35 ppm in or on pineapples. Based on the combined LOQs (0.55 ppm) of the enforcement method for parent plus metabolites, EPA

is increasing the tolerances in newly recodified 40 CFR 180.396(a)(1) for combined hexazinone residues of concern in or on blueberry from 0.2 to 0.6 ppm and pineapple (whole fruit) from 0.5 to 0.6 ppm, and revising pineapple (whole fruit) to pineapple. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available data that indicate combined residues of hexazinone and its regulated metabolites as high as 1.46 ppm in or on alfalfa seed, the Agency determined that a tolerance should be established at 2.0 ppm. Therefore, EPA is establishing a tolerance in newly recodified 40 CFR 180.396(a)(1) for combined hexazinone residues of concern in or on alfalfa, seed at 2.0 ppm.

In addition, EPA is revising commodity terminology in 40 CFR 180.396(a) to conform to current Agency practice as follows: alfalfa green forage to alfalfa, forage; grass, range and grass, pasture to grass, forage, and grass, hay.

2. *Glyphosate.*

• *Comment.* A comment was received from Monsanto Company generally agreeing with the proposed tolerance changes to glyphosate in 40 CFR 180.364. Monsanto also wanted to alert the Agency of the recent changes in the CODEX Maximum Residue Limits (MRLs) for glyphosate finalized by the CODEX Alimentarius Commission in July of 2006. Monsanto provided a detailed list of suggested changes to the U.S. tolerance regulation for glyphosate (concerning cereal, grains, cotton seed, meat byproducts, kiwifruit, and rapeseed) to achieve better alignment with the newly established CODEX MRLs. Monsanto did note two modifications that should be made in 40 CFR 180.364:

—To alphabetize the commodity cacao beans.

—Add the term “except corn forage” to the Crop group 16 forage, fodder, and straw tolerance to eliminate a conflict with the individual tolerance for “corn, field, forage”.

• *Agency response.* The Agency appreciates the support of Monsanto and the alert concerning the changes in the CODEX MRLs. Since the CODEX MRLs were adopted during the comment period of the proposal, any tolerance modifications made in attempt to harmonize with CODEX will need to be proposed separately for comment. The Agency will address the CODEX harmonization in a future proposal and consider Monsanto’s detailed recommendations for CODEX

harmonization of tolerances for glyphosate at that time. Consequently, the Agency is not taking action on the tolerances in 40 CFR 180.364 on kiwifruit, and cattle and hog liver as proposed. EPA agrees with alphabetizing cacao bean and revising the crop group 16 to include the term “except corn forage” in 40 CFR 180.364.

EPA is revising commodity terminology in 40 CFR 180.364 to conform to current Agency practice as follows: Hop, dried cone to hop, dried cones; wheat, milling fractions, (except flour) to wheat, bran; wheat, middlings; and wheat, shorts; grain, cereal, stover and straw, group to grain, cereal, forage, fodder and straw, group 16, except corn forage; vegetable, bulb, group to vegetable, bulb, group 3; vegetable, foliage of legume except soybean, subgroup 7A to vegetable, foliage of legume, subgroup 7A, except soybean; vegetable, fruiting, group to vegetable, fruiting, group 8; vegetable, leafy, group to vegetable, leafy, group 4; and vegetable, leaves of root and tuber, group (except sugar beet tops) to vegetable, leaves of root and tuber, group 2, except sugar beet tops.

The RED recommended that alfalfa (fresh and hay), clover and other non-grass animal feeds be consolidated in the corresponding crop group “animal feed, nongrass, group 18” at 100 ppm. Since the RED was published, the “animal feed, nongrass, group 18” was established; however, due to changes in the use patterns and grazing intervals the corresponding tolerance level is 400 ppm. Also, the existing and conflicting tolerances for “alfalfa, hay” (400 ppm) and “alfalfa, forage” (175 ppm), respectively, should be removed since the existing tolerance on “animal feed, nongrass, group 18” (400 ppm) covers these animal feed items. This was originally proposed by the EPA June 18, 2003 (68 FR 36472) (FRL–7308–8).

Therefore, EPA is removing the tolerances in 40 CFR 180.364 on alfalfa, forage at 175 ppm and alfalfa, hay at 400 ppm, because they are no longer needed and their commodity uses are covered by the existing group tolerance.

No comments were received by the Agency concerning the following.

3. *p-Chlorophenoxyacetic acid.* The Agency canceled the last registered use for *p*-chlorophenoxyacetic acid on tomato in May 1995. Therefore, the Agency is revoking the tolerance in 40 CFR 180.202(a)(1) for combined residues of the plant regulator *p*-chlorophenoxyacetic acid and its metabolite *p*-chlorophenol in or on tomato, removing paragraph (a)(1), and recodifying existing paragraph (a)(2) as paragraph (a).

Based on the available data that indicate combined residues of *p*-chlorophenoxyacetic acid and its metabolite *p*-chlorophenol in or on mung bean sprouts will not exceed 0.2 ppm, the Agency determined that the tolerance should be lowered to 0.2 ppm. Therefore, EPA is decreasing the tolerance for combined residues of the plant regulator *p*-chlorophenoxyacetic acid and its metabolite *p*-chlorophenol to inhibit embryonic root development in or on bean, mung, sprouts from 2.0 to 0.2 ppm in newly recodified 40 CFR 180.202(a).

4. *Difenzoquat*. Based on available field trial data that indicate residues of difenzoquat were non-detectable (<0.05 ppm) in or on barley grain, as high as 4.0 ppm in or on barley straw, and as high as 4.2 ppm in or on wheat straw, the Agency determined that these tolerances should be decreased to 0.05 ppm, 5.0 ppm, and 5.0 ppm, respectively. Therefore, EPA is decreasing the tolerance in 40 CFR 180.369 for residues of difenzoquat in or on barley, grain from 0.2 to 0.05 ppm; barley straw from 20.0 to 5.0 ppm; and wheat, straw from 20.0 to 5.0 ppm.

Processing data for wheat grain and aspirated grain fractions indicate that residues of difenzoquat concentrated 4-fold in wheat bran and 4.6-fold in shorts, and minimal concentration occurred in middlings. Residues did not concentrate in flour. The wheat processing data are also applicable to barley. Based on those concentration factors and the reassessed tolerance of 0.05 ppm for wheat grain, the Agency determined that tolerances for both wheat bran and shorts should be established at 0.25 ppm. Therefore, EPA is establishing tolerances in 40 CFR 180.369 at 0.25 ppm for residues of difenzoquat in or on wheat, bran and wheat, shorts. In addition, because the wheat processing data are translated to barley, EPA is establishing a tolerance in 40 CFR 180.369 for residues of difenzoquat in or on barley, bran at 0.25 ppm.

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 FQPA. The safety finding determination is found in detail in each 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 TREDs for *p*-chlorophenoxyacetic acid, difenzoquat, and hexazinone. Glyphosate tolerances were reassessed post-FQPA as part of the Agency's determinations on April 11, 1997 (62 FR 17723) to establish new glyphosate uses and therefore a TRED to reassess its tolerances was not needed. All of these active ingredients had REDs which were completed prior to FQPA. REDs and TREDs contain the Agency's evaluation of the data base 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 FQPA 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. 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?

These actions become effective on the date of publication of this final rule in the **Federal Register** because their associated uses have been canceled for several years. The Agency believes that treated commodities have had sufficient time for passage 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 section, 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 both:

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?

EPA considers CODEX MRLs in setting U.S. tolerances and in reassessing them. MRLs are established by the CODEX Committee on Pesticide Residues, a committee within the CODEX Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with CODEX MRLs. EPA may establish a tolerance that is different from a CODEX MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the CODEX level. EPA's effort to harmonize with CODEX MRLs is summarized in

the tolerance reassessment section of individual REDs. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the Internet at <http://www.epa.gov>. On the EPA Home Page select "Laws, Regulations & Dockets," then select "Regulations and Proposed Rules" and then look up the entry for this document under "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>.

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), 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 final 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 for this final rule). 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 FFDCA. 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 6, 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.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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 20, 2006.

James J. Jones,

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. In § 180.202, paragraph (a) is revised to read as follows:

§ 180.202 *p*-Chlorophenoxyacetic acid; tolerances for residues.

(a) *General.* A tolerance is established for the combined residues of the plant regulator *p*-chlorophenoxyacetic acid and its metabolite *p*-chlorophenol to inhibit embryonic root development in or on the following food commodity:

Commodity	Parts per million
Bean, mung, sprouts	0.2

* * * * *

■ 3. In § 180.364, the table in paragraph (a) is revised to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodity	Parts per million
Acerola	0.2
Alfalfa, seed	0.5
Almond, hulls	25
Aloe vera	0.5
Ambarella	0.2
Animal feed, nongrass, group 18	400
Artichoke, globe	0.2
Asparagus	0.5
Atemoya	0.2
Avocado	0.2
Bamboo, shoots	0.2
Banana	0.2
Barley, bran	30
Barley, grain	20
Beet, sugar, dried pulp	25
Beet, sugar, roots	10
Beet, sugar, tops	10
Berry, group 13	0.2
Betelnut	1.0
Biriba	0.2
Blimbe	0.2
Borage, seed	0.1
Breadfruit	0.2
Cacao bean	0.2
Cactus, fruit	0.5
Cactus, pads	0.5
Canistel	0.2
Canola, meal	15
Canola, seed	10
Cattle, kidney	4.0
Cattle, liver	0.5
Chaya	1.0
Cherimoya	0.2

Commodity	Parts per million	Commodity	Parts per million
Citrus, dried pulp	1.5	Olive	0.2
Coconut	0.1	Oregano, Mexican, leaves	2.0
Coffee, bean	1.0	Palm heart	0.2
Corn, field, forage	6.0	Palm heart, leaves	0.2
Corn, field, grain	1.0	Palm, oil	0.1
Cotton, gin byproducts	175	Papaya	0.2
Cotton, undelinted seed	35	Papaya, mountain	0.2
Cranberry	0.2	Passionfruit	0.2
Crambe, seed	0.1	Pawpaw	0.2
Custard apple	0.2	Peanut	0.1
Date	0.2	Peanut, forage	0.5
Dokudami	2.0	Peanut, hay	0.5
Durian	0.2	Pepper leaf, fresh leaves	0.2
Egg	0.05	Peppermint, tops	200
Epazote	1.3	Perilla, tops	1.8
Feijoa	0.2	Persimmon	0.2
Fig	0.2	Pineapple	0.1
Fish	0.25	Pistachio	1.0
Flax, meal	8.0	Pomegranate	0.2
Flax, seed	4.0	Poultry, meat	0.1
Fruit, citrus, group 10	0.5	Poultry, meat byproducts	1.0
Fruit, pome, group 11	0.2	Pulasan	0.2
Fruit, stone, group 12	0.2	Quinoa, grain	5.0
Galangal, root	0.2	Rambutan	0.2
Ginger, white, flower	0.2	Rapeseed, meal	15
Goat, kidney	4.0	Rapeseed, seed	10
Goat, liver	0.5	Rose apple	0.2
Gourd, buffalo, seed	0.1	Safflower, seed	0.1
Governor's plum	0.2	Salal	0.2
Gow kee, leaves	0.2	Sapodilla	0.2
Grain, aspirated fractions	100	Sapote, black	0.2
Grain, cereal, forage, fodder and straw, group 16, except corn forage	100	Sapote, mamey	0.2
Grain, cereal, group 15, except barley, field corn, grain sorghum, oat and wheat	0.1	Sapote, white	0.2
Grape	0.2	Sesame, seed	0.1
Grass, forage, fodder and hay, group 17	300	Sheep, kidney	4.0
Guava	0.2	Sheep, liver	0.5
Herbs subgroup 19A	0.2	Shellfish	3.0
Hog, kidney	4.0	Sorghum, grain, grain	15
Hog, liver	0.5	Soursop	0.2
Hop, dried cones	7.0	Soybean, forage	100
Horse, kidney	4.0	Soybean, hay	200
Horse, liver	0.5	Soybean, hulls	100
Ilama	0.2	Soybean, seed	20
Imbe	0.2	Spanish lime	0.2
Imbu	0.2	Spearmint, tops	200
Jackfruit	0.2	Spice subgroup 19B	7.0
Jaboticaba	0.2	Star apple	0.2
Jojoba, seed	0.1	Starfruit	0.2
Juneberry	0.2	Stevia, dried leaves	1.0
Kava, roots	0.2	Strawberry	0.2
Kenaf, forage	200	Sugar apple	0.2
Kiwifruit	0.2	Sugarcane, cane	2.0
Lesquerella, seed	0.1	Sugarcane, molasses	30
Leucaena, forage	200	Sunflower, seed	0.1
Lingonberry	0.2	Surinam cherry	0.2
Longan	0.2	Tamarind	0.2
Lychee	0.2	Tea, dried	1.0
Mamey apple	0.2	Tea, instant	7.0
Mango	0.2	Teff, grain	5.0
Mangosteen	0.2	Ti, leaves	0.2
Marmaladebox	0.2	Ti, roots	0.2
Meadowfoam, seed	0.1	Ugli fruit	0.5
Mioga, flower	0.2	Vegetable, leafy, brassica, group 5	0.2
Mustard, seed	0.1	Vegetable, bulb, group 3	0.2
Nut, pine	1.0	Vegetable, cucurbit, group 9	0.5
Nut, tree, group 14	1.0	Vegetable, foliage of legume, subgroup 7A, except soybean	0.2
Oat, grain	20	Vegetable, fruiting, group 8	0.1
Okra	0.5	Vegetable, leafy, group 4	0.2
		Vegetable, leaves of root and tuber, group 2, except sugar beet tops	0.2

Commodity	Parts per million
Vegetable, legume, group 6, except soybean	5.0
Vegetable, root and tuber, group 1, except sugar beet ...	0.2
Wasabi, roots	0.2
Water spinach, tops	0.2
Watercress, upland	0.2
Wax jambu	0.2
Wheat, bran	20
Wheat, grain	5.0
Wheat, middlings	20
Wheat, shorts	20
Yacon, tuber	0.2

* * * * *

■ 4. Section 180.369 is revised as follows:

§ 180.369 Difenzoquat; tolerances for residues.

(a) *General.* Tolerances are established for residues of difenzoquat (1,2-dimethyl-3,5-diphenyl-1*H*-pyrazolium ion), derived from application of the methyl sulfate salt and calculated as the cation, in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, bran	0.25
Barley, grain	0.05
Barley, straw	5.0
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, meat byproducts	0.05
Goat, fat	0.05
Goat, meat	0.05
Goat, meat byproducts	0.05
Hog, fat	0.05
Hog, meat	0.05
Hog, meat byproducts	0.05
Horse, fat	0.05
Horse, meat	0.05
Horse, meat byproducts	0.05
Poultry, fat	0.05
Poultry, meat	0.05
Poultry, meat byproducts	0.05
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, meat byproducts	0.05
Wheat, bran	0.25
Wheat, grain	0.05
Wheat, shorts	0.25
Wheat, straw	5.0

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

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

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

■ 5. In § 180.396, paragraphs (a) and (c) are revised to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of

hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione) and its plant metabolites; A [3-(4-hydroxycyclohexyl)-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], B [3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], C [3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], D [3-cyclohexyl-1-methyl-1,3,5-triazine-2,4,6-(1*H*,3*H*,5*H*)-trione], and E [3-(4-hydroxycyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1*H*,3*H*,5*H*)-trione] (calculated as hexazinone) in the following commodities:

Commodity	Parts per million
Alfalfa, forage	2.0
Alfalfa, hay	8.0
Alfalfa, seed	2.0
Blueberry	0.6
Grass, forage	10.0
Pineapple	0.6

(2) Tolerances are established for the combined residues of hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione) and its animal tissue metabolites; B [3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], and F [3-cyclohexyl-6-amino-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione] (calculated as hexazinone) in the following food commodities:

Commodity	Parts per million
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Hog, fat	0.1
Hog, meat	0.1
Hog, meat byproducts	0.1
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, meat byproducts	0.1

(3) Tolerances are established for the combined residues of hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione) and its metabolites; B [3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], C-2 [3-(3-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione] and F [3-cyclohexyl-6-amino-1-methyl-1,3,5-triazine-2,4-

(1*H*,3*H*)-dione] (calculated as hexazinone) in milk:

Commodity	Parts per million
Milk	0.2

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(n) and which excludes use of hexazinone on sugarcane in Florida, are established for the combined residues of hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione) and its plant metabolites; A [3-(4-hydroxycyclohexyl)-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], B [3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], C [3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], D [(3-cyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1*H*,3*H*,5*H*)-trione], and E [3-(4-hydroxycyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1*H*,3*H*,5*H*)-trione] (calculated as hexazinone) in the following commodities:

Commodity	Parts per million
Sugarcane, cane	0.6
Sugarcane, molasses	4.0

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BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2006-0255, EPA-HQ-SFUND-2006-0252, EPA-HQ-SFUND-2006-0247, EPA-HQ-SFUND-2006-0250, EPA-HQ-SFUND-2004-0012; FRL-8223-3]

RIN 2050-AD75

National Priorities List, Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is