

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Laura Yoshii,

Acting Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by revising paragraphs (a) (b), and (c) under Nevada to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nevada

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(a) Nevada Division of Environmental Protection:

(1) Submitted on February 8, 1995; interim approval effective on January 11, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on May 30, 2001. Full approval is effective on November 30, 2001.

(b) Washoe County District Health Department:

(1) Submitted on November 18, 1993; interim approval effective on March 6, 1995; interim approval expires December 1, 2001.

(2) Revisions submitted on May 8, 2001. Full approval is effective on November 30, 2001.

(c) Clark County Department of Air Quality Management:

(1) Submitted on January 12, 1994 and amended on July 18 and September 21, 1994; interim approval effective on August 14, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on June 1, 2001. Full approval is effective on November 30, 2001.

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[FR Doc. 01-30097 Filed 12-4-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300734A; FRL-6804-4]

RIN 2070-AB78

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], Dichlobenil, Diphenylamine, Sulprofos, Pendimethalin, and Terbacil; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule establishes, modifies, and revokes specific tolerances for residues of the herbicides dichlobenil, metribuzin, pendimethalin, and terbacil; the plant growth regulator diphenylamine, and the insecticide sulprofos. EPA is revoking certain tolerances because EPA has canceled the food uses associated with them. The regulatory actions proposed in this final rule are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. This final rule revokes 29 tolerances, but only one tolerance reassessment (sulprofos) is counted here toward the August, 2002 review deadline. The tolerances associated with the other 28 revocations were reassessed and counted previously through the Reregistration Eligibility Decision (RED) process.

DATES: This regulation is effective March 5, 2002. Objections and requests for hearings, identified by docket control number OPP-300734A, must be

received by EPA on or before February 4, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300734A in the subject line on the first page of your response.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this

document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-300734A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background

A. What Action is the Agency Taking?

This final rule establishes, modifies, and revokes the tolerances for residues of 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one, metribuzin, dichlobenil, diphenylamine, sulprofos, pendimethalin, and terbacil in or on certain specified commodities.

The tolerances revoked by this 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. These pesticides are no longer used on those specified commodities within the United States, and no one commented that there was a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods could potentially 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.

Today's final rule does not revoke or modify those tolerances for which EPA received comments demonstrating a need for the tolerance to remain as currently expressed. Generally, EPA will proceed with the revocation or modification of these tolerances on the grounds discussed above only if: (i) Prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a 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, (ii) EPA independently verifies that the tolerance is no longer needed or should be otherwise modified, or (iii) the tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

In the **Federal Register** of October 16, 1998 (63 FR 55565) (FRL-6035-7), EPA issued a proposed rule to establish, revise, or revoke the tolerances listed in this final rule. EPA proposed revocations pertaining to pesticides whose registrations were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled all registered uses associated with the tolerance revocations for these pesticides. Also, the October 16, 1998 proposal invited public comment for consideration and for support of tolerance retention under FFDCA standards.

The following comments were received by the Agency in response to the document published on October 16, 1998:

1. *Diphenylamine.* A comment was received from the European Union (EU) that expressed concern with EPA's proposed actions to establish 0.01 ppm (the limit of detection) for residues of diphenylamine in milk, meat, fat, and meat byproducts (excluding liver) of cattle, goats, horses, and sheep. The EU believed that EPA's evaluation appeared to consider the limit of detection as the only acceptable limit for all the commodities listed. The EU argued that an accurate study of animal metabolism has not been carried out by EPA before taking such action.

Also, the EU wrote that the European Community did an evaluation which led

to different proposed Maximum Residue Limits (MRLs) for diphenylamine about two years prior to the proposed rule. In addition, the EU believed that a clear import tolerance and pesticide policy had not been established by the Agency.

Agency response. A Reregistration Eligibility Decision (RED) for diphenylamine was approved on September 30, 1997. Through the RED process, EPA determined that the tolerances recommended in the RED document met the safety standards under FQPA. In particular, adequate data indicate that tolerances for residues in milk and meat could be increased from the current level of 0.0 ppm and established as separate tolerances set at 0.01 ppm. Both a 1996 study on edible tissues and milk from lactating dairy cows, and a 1996 study on milk and tissues from lactating goats are cited in the bibliography of the RED regarding tolerance recommendations for milk and meat, fat, and meat byproducts (excluding liver) of cattle, goats, horses, and sheep. The Agency believes that these data sufficiently support EPA's finding.

When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs, although EPA may establish a tolerance that is different. In this case, differences between Codex and U.S. tolerances on milk and meat at 0.01 ppm is justified by data. Further, no diphenylamine Codex MRLs are listed for milk or meat in the Food and Agriculture Organization of the United Nations Statistical (FAOSTAT) database for pesticide residues in food, as of the last update on September 2, 1999. Also, no diphenylamine MRLs are listed for milk or meat in the EU MRLs listed in EU's Food Safety database for pesticide residues, as of the last update on March 12, 2001.

Since the time when the EU comment on import tolerances was received, EPA published in the **Federal Register** on June 1, 2000 (65 FR 35069) (FRL-6559-3) an import tolerance guidance entitled "Pesticides; Guidance on Pesticide Import Tolerances and Residue Data for Imported Food; Request for Comment." In this document, EPA solicited comments on the approach reflected in the guidance on how to obtain an import tolerance, both for establishing new import tolerances and for modifying or maintaining existing U. S. tolerances for import purposes when U.S. uses or registrations are canceled.

Therefore, EPA is establishing tolerances in 40 CFR 180.190 for diphenylamine at 0.01 ppm for milk, meat, fat, and meat byproducts, except liver of cattle, goats, horses, and sheep. Also, EPA is establishing separate

tolerances at 0.1 ppm for liver of cattle, goats, horses, and sheep. In addition, EPA is establishing a tolerance at 30 ppm for "apple, wet pomace" because data from an adequate apple processing study indicate that it is needed. EPA is changing the name of the commodity tolerance "apple, preharvest or postharvest, including wraps" in 40 CFR 180.190 to "apple from preharvest or postharvest use, including use of impregnated wraps" to conform to current Agency practice.

2. *Terbacil.* Comment from DuPont Agricultural Products. A comment was received by the Agency from DuPont Agricultural Products agreeing with the proposed reassessment action for terbacil and the EPA Terbacil RED that the tolerance definition listed under 40 CFR 180.209(a) and (b) should be identical for all commodities, and all tolerances should be listed under one section. However, DuPont requested that the terbacil tolerance expression should be further simplified by including only the parent and metabolite A. DuPont claimed that analysis of all three minor metabolites for each commodity is not needed to assure compliance with the label directions since metabolites B and C are rarely detected. DuPont declared that the existing tolerance levels for terbacil are adequate to assure compliance with label directions, but that it would be appropriate to include the more conservative, higher levels as proposed in the October 16, 1998 document for those crops other than alfalfa forage and hay.

Agency response. The Agency believes the tolerances for terbacil must include all the metabolites. A tolerance is the maximum pesticide chemical residue allowable in or on a food from the use of a pesticide registered under FIFRA. The term "pesticide chemical residue" is defined under section 201(q)(2) of the FFDCA as "a pesticide chemical or any other substance that is present on or in the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical."

EPA has determined that the pesticide chemical residues in the tolerance expression for terbacil are the parent and its metabolites, labelled A, B, and C. The metabolites were included in the terbacil risk assessment as residues of toxic concern (i.e., all four chemicals contribute to the risk) and therefore, all four should be regulated in the tolerance expression. DuPont's comments regarding compliance with label directions do not offer any reason why metabolites B and C should not be regulated as pesticide chemical residues

of toxic concern. The reason for the tolerance is to limit the risk, not merely to ensure compliance with label directions, even though such compliance may be an important factor in limiting the risk. The Agency will maintain the proposed tolerance expression for terbacil.

Therefore, the tolerance expressions are unified to include terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil. In accordance, 40 CFR 180.209, paragraphs (a)(1) and (a)(2) are combined. To reflect the combined limit of detection for terbacil and its three regulated metabolites, EPA is increasing the tolerances for (i) peaches from 0.1 to 0.2 ppm and revising the name to "peach," (ii) blueberries from 0.1 to 0.2 ppm and revising the name to "blueberry," and (iii) caneberries (blackberries, boysenberries, dewberries, loganberries, raspberries, and youngberries) from 0.1 to 0.2 ppm and revising the name to "caneberry." Based upon available residue data, the Agency is increasing tolerances for (i) apples from 0.1 to 0.3 ppm and revising the name to "apple," (ii) asparagus from 0.2 to 0.4 ppm, and (iii) sugarcane from 0.1 to 0.4 ppm.

Also, available data support the establishment of lower alfalfa tolerances. Therefore, EPA is decreasing the tolerances for "alfalfa, forage" from 5.0 to 1.0 ppm, and "alfalfa, hay" from 5.0 to 2.0 ppm. The Agency has determined that once these tolerances on alfalfa are decreased, the tolerances for residues of terbacil and its metabolites on all animal commodities could be revoked because there is no reasonable expectation of finite residues in animal commodities 40 CFR 180.6(a)(3). Therefore, EPA is revoking the tolerances in 40 CFR 180.209 for residues of terbacil and its metabolites in or on cattle, fat; cattle, mby; cattle, meat; goats, fat; goats, mby; goats, meat; hogs, fat; hogs, mby; hogs, meat; horses, fat; horses, mby; horses, meat; milk, fat; sheep, fat; sheep, mby; and sheep, meat.

In addition, EPA is revoking the tolerances for residues of terbacil and its metabolites in or on pears; pecans; sainfoin, forage; and sainfoin hay in 40 CFR 180.209 because no registered uses exist.

Note, a tolerance for citrus fruits appeared in the table under 180.209 in the rule of October 16, 1998 (63 FR 55565) because it existed at that time.

However, that citrus fruits tolerance had been previously proposed for revocation on February 5, 1998 (63 FR 5907) (FRL-5743-9) and was later revoked in a final rule published on October 26, 1998 (63 FR 57067) (FRL-6035-6).

EPA is changing the name of the commodity tolerances "mint hay (peppermint and spearmint)" given on one line in 40 CFR 180.209 by listing the two tolerances on separate lines and revising their names to "peppermint, tops" and "spearmint, tops" to conform to current Agency practice. EPA is also revising the name "strawberries" to "strawberry."

No comments were received by the Agency concerning the following:

3. *Metribuzin*. In the codification section of the proposed rule (October 16, 1998, 63 FR 55565), EPA inadvertently listed the tolerance for metribuzin on lentil in error as 0.5 instead of the correct level of 0.05 ppm. That tolerance change was an unintended typographical error. No change concerning the lentil tolerance level was proposed for metribuzin. The name change from lentils (dried) to lentil was proposed as one of the "other terminology changes." Therefore, EPA is changing the tolerance name to "lentil," but the tolerance level will remain at 0.05 ppm.

In the proposed rule of October 16, 1998, the tolerance for sugarcane molasses in 40 CFR 180.332 was noted to be listed incorrectly as 0.3 ppm, and was proposed to be revised to reflect the correct tolerance of 2 ppm (August 24, 1978, 43 FR 35915), along with a terminology revision to "sugarcane, molasses." A final rule on May 24, 2000 (65 FR 33691) (FRL-6043-1) transferred the tolerance for sugarcane molasses at 2.0 ppm from 185.250 to 180.332(a), increased the existing tolerance in 40 CFR 180.332(a) for sugarcane molasses from 0.3 ppm to 2.0 ppm, and removed the duplicate entry for sugarcane molasses at 2.0 ppm created by the transfer. Therefore, no further action in this rule is required to implement the metribuzin RED regarding sugarcane molasses.

The metribuzin RED, approved on May 20, 1997, stated that the tolerance for sweet corn should be revoked because there were no registered uses. However, a registered use for sweet corn was approved in August, 1997. Therefore, the tolerance for corn, fresh (inc. sweet K + CWHR) is not revoked. EPA is revoking the tolerance in 40 CFR 180.332 for residues of metribuzin and its metabolites in or on lentils, vine hay because it is no longer considered a significant livestock feed commodity; therefore a tolerance is not necessary.

In 40 CFR 180.332, EPA is establishing tolerances for both barley, hay and wheat, hay at 7 parts per million (ppm). EPA is increasing tolerances for asparagus from 0.05 to 0.1 ppm and for soybeans from 0.1 to 0.3 ppm, and is revising the name from "soybeans" to "soybean, seed." The tolerance for peas, vine hay is increased from 0.05 to 4 ppm, and the name is revised to "pea, field, hay."

Other terminology changes are given in the regulatory text as follows: "Alfalfa, green" to "alfalfa, forage;" "barley, milled fractions (except flour)" to "barley, pearled barley;" "carrots" to "carrot;" "cattle, mby" to "cattle, meat byproducts;" "corn, fodder" to "corn, field, stover" and "corn, sweet, stover;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, fresh (inc. sweet K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "corn, grain (inc. popcorn)" to "corn, field, grain" and "corn, pop, grain;" "eggs" to "egg;" "goats, fat;" to "goat, fat;" "goats, mby;" to "goat, meat byproducts;" "goats, meat;" to "goat, meat;" "grass" to "grass, forage;" "hogs, fat;" to "hog, fat;" "hogs, mby;" to "hog, meat byproducts;" "hogs, meat;" to "hog, meat;" "horses, fat;" to "horse, fat;" "horses, mby;" to "horse, meat byproducts;" "horses, meat;" to "horse, meat;" "peas" to "pea, succulent;" "peas (dried)" to "pea, dry, seed;" "peas, forage" to "pea, field, vines;" "potatoes, processed (inc. potato chips)" to "potato, processed potato waste" and "potato, chips;" "poultry, mby;" to "poultry, meat byproducts;" "sainfoin" to "sainfoin, forage;" "sheep, mby;" to "sheep, meat byproducts;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" "sugarcane molasses" to "sugarcane, molasses;" "tomatoes" to "tomato;" and "wheat, milled fractions (except flour)" to "wheat, bran;" "wheat, middlings;" "wheat, shorts;" and "wheat, germ."

4. *Dichlobenil*. In 40 CFR 180.231, the metabolite 2,6-Dichlorobenzamide (BAM) is added to the tolerance expression of dichlobenil (2,6-dichlorobenzonitrile) and the metabolite 2,6-dichlorobenzoic acid (2,6-DCBA) is deleted from the tolerance expression. Based upon the available residue data and to reflect the combined residues of dichlobenil and BAM, tolerances for apples and pears are increased from 0.15 to 0.5 ppm, and tolerances for blackberries, cranberries, and raspberries are decreased from 0.15 to 0.10 ppm.

EPA is revoking the tolerances for residues of dichlobenil and its metabolite in or on almond hulls; avocados; citrus; figs; and mangoes in

40 CFR 180.231 because no registered uses exist. The Agency is revoking the tolerance for nuts in 40 CFR 180.231 and is establishing a tolerance for filbert at 0.1 ppm as a separate tolerance because no other tree nut uses are being supported by the registrant.

Terminology changes are given in the regulatory text as follows: "Apples" to "apple;" "blackberries" to "blackberry;" "blueberries" to "blueberry;" "cranberries" to "cranberry;" "grapes" to "grape;" "pears" to "pear;" "raspberries" to "raspberry" and "stone fruits" to "fruit, stone, group."

5. *Pendimethalin*. In 40 CFR 180.361, EPA is establishing a tolerance at 0.1 ppm for rice, straw; and is increasing the tolerance on rice grain from 0.05 to 0.1 ppm based on available field trial data and to reflect the analytical method's limit of quantitation for the combined residues of pendimethalin and its regulated metabolite. EPA also combines the tolerance for garlic, listed under § 180.361(c) "Tolerances with regional registrations," with § 180.361(a), which lists tolerances for registrations without regional restriction, since EPA has data that support a national registration and tolerance for garlic at the same level (0.1 ppm).

EPA is revoking the tolerance in 40 CFR 180.361 for residues of pendimethalin and its metabolite in or on peanut, forage because it is no longer considered a significant livestock feed commodity; therefore a tolerance is not necessary.

Terminology changes are given in the regulatory text as follows: "beans, lima (dry, snap)" to "bean, lima, seed" and "bean, lima, succulent;" "beans, forage" to "bean, forage" "beans, hay" to "bean, hay;" "corn, fodder" to "corn, field, stover" and "corn, sweet, stover;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, grain" to "corn, field, grain" and "corn, pop, grain;" "corn, fresh (including sweet, K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "cottonseed" to "cotton, undelinted seed;" "onions, dry bulb" to "onion, dry bulb;" "peanuts" to "peanut;" "peas (except field peas)" to "pea, succulent;" "potatoes" to "potato;" "sorghum, fodder" to "sorghum, grain, stover;" "sorghum, grain" to "sorghum, grain, grain;" "soybeans" to "soybean, seed;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" and "sunflower, seeds" to "sunflower, seed."

6. *Sulprofos*. EPA is revoking the tolerance in 40 CFR 180.542 for residues of sulprofos and its cholinesterase-inhibiting metabolites in cottonseed oil

because no registered use exists. In the proposed rule, the cottonseed oil tolerance was listed in 40 CFR 185.3000 (63 FR 55565); however, that tolerance was moved into 40 CFR 180.542 and § 185.3000 was removed (65 FR 33703, May 24, 2000) (FRL-6041-9).

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

EPA has issued Reregistration Eligibility Decisions (REDs) for the active ingredients listed in this final rule with the exception of sulprofos. During the reregistration process, EPA approved the registrant's request for voluntary cancellation of sulprofos registrations (61 FR 65218, December 11, 1996) (FRL-5573-6). No active registrations exist for sulprofos.

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration process. As part of the reregistration process, EPA is required to determine whether each of the amended tolerances meets the safety standards under the Food Quality Protection Act (FQPA). The safety finding determination is found in detail in each RED for the active ingredient. RED recommendations, such as establishing or modifying tolerances, require assessment under the FQPA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in those REDs because there are no registered uses may be revoked in this document without such assessment, because the tolerances are no longer necessary. REDs propose certain tolerance actions to be implemented to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of the REDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone 1-800-490-9198; fax 513-489-8695 and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 1-800-553-6847 or 703-605-6000. Electronic copies of the RED are available on the internet at <http://www.epa.gov/pesticides/reregistration/status.htm>.

It is EPA's general practice to revoke 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. 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.

C. When Do These Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days following publication of this final rule to ensure that all affected parties receive notice of EPA's actions. Consequently, the effective date is March 5, 2002. For this final rule, tolerances that were revoked because registered uses did not exist concerned uses which have been canceled for more than a year. Therefore, commodities containing these pesticide residues should have cleared 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 revocation or modification, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (i) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (ii) 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 a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August, 2006. As of November 27, 2001, EPA has reassessed over 3,830 tolerances. In this document, EPA revokes 29 tolerances of

which 28 were previously counted as reassessed via the RED process. Therefore, one tolerance revocation is counted here as a tolerance reassessment toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

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

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (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. The U.S. 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 Home Page select "Laws and Regulations," 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. Objections and Hearing Requests

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-300734A 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 February 4, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the

grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260-4865.

2. *Objection/hearing fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IV.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP-300734A, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

V. Regulatory Assessment Requirements

This final rule establishes, modifies, and revokes 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, *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 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 other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations of tolerances 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 these analyses, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present establishments, modifications, or revocations that would change EPA's previous analyses.

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 FFDCA section 408(n)(4). 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.

VI. Submission to Congress and the Comptroller General

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: November 20, 2001.

Marcia E. Mulkey,

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), 346(a) and 371.

2. Section 180.190 is amended by revising paragraph (a) to read as follows:

§ 180.190 Diphenylamine; tolerances for residues.

(a) *General.* Tolerances for residues of the plant regulator diphenylamine are established in or on the following commodities:

Commodity	Parts per million
Apple, wet pomace	30.0
Apple from preharvest or postharvest use, including use of impregnated wraps	10.0
Cattle, fat	0.01
Cattle, liver	0.1
Cattle, meat byproducts, except liver	0.01
Cattle, meat	0.01
Goat, fat	0.01
Goat, liver	0.1
Goat, meat byproducts, except liver	0.01
Goat, meat	0.01
Horse, fat	0.01
Horse, liver	0.1
Horse, meat byproducts, except liver	0.01
Horse, meat	0.01
Milk	0.01
Sheep, fat	0.01
Sheep, liver	0.1
Sheep, meat byproducts, except liver	0.01
Sheep, meat	0.01

* * * * *

3. Section 180.209 is amended by revising paragraph (a) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil, in or on raw agricultural commodities as follows:

Commodity	Parts per million
Alfalfa, forage	1.0
Alfalfa, hay	2.0
Apple	0.3
Asparagus	0.4
Blueberry	0.2
Caneberry	0.2
Peach	0.2
Peppermint, tops	2.0
Spearmint, tops	2.0
Strawberry	0.1
Sugarcane	0.4

* * * * *

4. Section 180.231 is amended by revising paragraph (a) to read as follows:

§ 180.231 Dichlobenil; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzamide in or on the following raw agricultural commodities:

Commodity	Parts per million
Apple	0.5
Blackberry	0.1
Blueberry	0.15
Cranberry	0.1
Filbert	0.1
Fruit, stone, group	0.15
Grape	0.15
Pear	0.5
Raspberry	0.1

* * * * *

5. Section 180.332 is amended by revising the table under paragraph (a) to read as follows:

§ 180.332 Metribuzin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Alfalfa, forage	2.0
Alfalfa, hay	7.0

Commodity	Parts per million
Asparagus	0.1
Barley, grain	0.75
Barley, hay	7.0
Barley, pearled barley	3.0
Barley, straw	1.0
Carrot	0.3
Cattle, fat	0.7
Cattle, meat	0.7
Cattle, meat byproducts	0.7
Corn, field, forage	0.1
Corn, field, grain	0.05
Corn, field, stover	0.1
Corn, pop, grain	0.05
Corn, sweet, forage	0.1
Corn, sweet, kernel plus cob with husks removed	0.05
Corn, sweet, stover	0.1
Egg	0.01
Goat, fat	0.7
Goat, meat	0.7
Goat, meat byproducts	0.7
Grass, forage	2.0
Grass, hay	7.0
Hog, fat	0.7
Hog, meat	0.7
Hog, meat byproducts	0.7
Horse, fat	0.7
Horse, meat	0.7
Horse, meat byproducts	0.7
Lentil	0.05
Milk	0.05
Pea, dry, seed	0.05
Pea, field, hay	4.0
Pea, field, vines	0.5
Pea, succulent	0.1
Potato	0.6
Potato, chips	3.0
Potato, processed potato waste	3.0
Potato waste, processed (dried)	3.0
Poultry, fat	0.7
Poultry, meat	0.7
Poultry, meat byproducts	0.7
Sainfoin, forage	2.0
Sainfoin, hay	7.0
Sheep, fat	0.7
Sheep, meat	0.7
Sheep, meat byproducts	0.7
Soybean, seed	0.3
Soybean, forage	4.0
Soybean, hay	4.0
Sugarcane	0.1
Sugarcane, molasses	2.0
Tomato	0.1
Wheat, bran	3.0
Wheat, forage	2.0
Wheat, germ	3.0
Wheat, grain	0.75
Wheat, hay	7.0
Wheat, middlings	3.0
Wheat, shorts	3.0
Wheat, straw	1.0

* * * * *

6. Section 180.361 is amended by alphabetically adding the commodity "garlic" in paragraph (c) to the table in paragraph (a), by revising paragraph (a), and removing the remaining text from paragraph (c) and reserving it to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Bean, lima, seed	0.1
Bean, lima, succulent	0.1
Bean, forage	0.1
Bean, hay	0.1
Corn, field, forage	0.1
Corn, field, grain	0.1
Corn, field, stover	0.1
Corn, pop, grain	0.1
Corn, sweet, forage	0.1
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	0.1
Cotton, undelinted seed	0.1
Garlic	0.1
Onion, dry bulb	0.1
Pea, succulent	0.1
Peanut	0.1
Peanut, hay	0.1
Potato	0.1
Rice, grain	0.1
Rice, straw	0.1
Sorghum, forage	0.1
Sorghum, grain, grain	0.1
Sorghum, grain, stover	0.1
Soybean, forage	0.1
Soybean, hay	0.1
Soybean, seed	0.1
Sugarcane	0.1
Sunflower, seed	0.1

* * * * *

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

* * * * *

§ 180.542 [Removed]

7. Section 180.542 is removed.

[FR Doc. 01-30103 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-2734; MM Docket No. 01-178; RM-10195]

Radio Broadcasting Services; Wadley, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 66 FR 42622 (August 14, 2001), this document allots Channel 227A to Wadley, Georgia, and provides Wadley with its first local aural transmission service. The coordinates for Channel 227A at Wadley are 32-52-00 North Latitude and 82-24-15 West Longitude.

DATES: Effective January 7, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-178, adopted November 14, 2001, and released November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 44512th Street, SW, Room CY-A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202 863-2893, facsimile 202 863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Wadley, Channel 227A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-30088 Filed 12-4-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367-0367-01; I.D. 111901C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustment for Dover Sole in the Limited Entry Trawl Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.