

40 CFR Part 180

[OPP-300382; FRL-4945-5]

RIN 2070-AC18

Summer Squash; Definitions and Interpretations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended to expand EPA's interpretation for the application of tolerances and exemptions from the requirement of a tolerance established for pesticide chemicals in or on the raw agricultural commodity summer squash to include chayote fruit. The proposed amendment to 40 CFR 180.1(h) is based, in part, on recommendations of the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [OPP-300382], must be received on or before May 26, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment 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. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703)-308-8783; e-mail: Jamerson.Hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Paragraph (h) of 40 CFR 180.1 provides a listing of

general commodity terms and EPA's interpretation of those terms as they apply to tolerances and exemptions from the requirement of a tolerance for pesticide chemicals under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a. General commodities are listed in column A of 40 CFR 180.1(h), and the corresponding specific commodities, for which tolerances and exemptions from the requirement of a tolerance established for the general commodity apply, are listed in column B. The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has requested that 40 CFR 180.1(h) be amended by revising the current interpretation for the general commodity term "summer squash," which is listed in column A, by adding the specific commodity term "chayote" to column B. The revised column B would read as follows: "Fruits of the gourd (Cucurbitaceae) family that are consumed when immature, 100% of the fruit is edible either cooked or raw, once picked it cannot be stored, has a soft rind which is easily penetrated, and if seeds were harvested they would not germinate; e.g., *Cucurbita pepo* (i.e., crookneck squash, straightneck squash, scallop squash, and vegetable marrow); *Lagenaria* spp. (i.e., spaghetti squash, hyotan, cucuzza); *Luffa* spp. (i.e., hechima, Chinese okra); *Momordica* spp. (i.e., bitter melon, balsam pear, balsam apple, Chinese cucumber); *Sechium edule* (chayote); and other cultivars and/or hybrids of these."

EPA has completed an evaluation of the proposed amendment and concludes that the tolerances established for the raw agricultural commodity summer squash are adequate to cover pesticide residues in or on chayote fruit. Chayote is a member of the Cucurbitaceae family which includes squash, cucumbers, pumpkins, melons, and gourds. Chayote fruit is similar to summer squash, in that they are harvested at an immature stage. Like summer squash, the outside of the chayote fruit is hard while the inside is soft and pulpy. Cultural practices and pest problems associated with chayote production are also similar to those for summer squash production.

Based on the above information, the Agency concludes that it is appropriate that the general commodity "summer squash" should be interpreted for tolerance purposes to include the corresponding specific commodity chayote fruit. Therefore, it is proposed that the changes to 40 CFR 180.1(h) be made as set forth below.

Interested persons are invited to submit written comments on the

proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300382]. All written comments filed in response to this proposal will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Although this regulation does not establish or raise a tolerance level or establish an exemption from the requirement of a tolerance, the impact of the regulation would be the same as establishing new tolerances or exemptions from the requirement of a tolerance. Therefore, the Administrator concludes that this rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 180

Environmental protection,
Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 13, 1995.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1(h) by amending the table therein by revising the entry for summer squash, to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *
(h) * * *

A	B
* * * * *	* * * * *
Summer squash	Fruits of the gourd (Cucurbitaceae) family that are consumed when immature, 100% of the fruit is edible either cooked or raw, once picked it cannot be stored, has a soft rind which is easily penetrated, and if seeds were harvested they would not germinate; e.g., <i>Cucurbita pepo</i> (i.e., crookneck squash, straightneck squash, scallop squash, and vegetable marrow); <i>Lagenaria</i> , spp. (i.e., spaghetti squash, hyotan, cucuzza); <i>Luffa</i> spp. (i.e., hechima, Chinese okra); <i>Momordica</i> spp. (i.e., bitter melon, balsam pear, balsam apple, Chinese cucumber); <i>Sechium edule</i> (chayote); and other cultivars and/or hybrids of these.
* * * * *	* * * * *

* * * * *

[FR Doc. 95-10253 Filed 4-25-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 3E4249/P613; FRL-4949-2]

RIN 2070-AC18

Fenarimol; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a tolerance for the combined residues of the fungicide fenarimol in or on the imported raw agricultural commodity bananas at 0.5 part per million (ppm). Not more than 0.25 ppm shall be present in the pulp after the peel is removed. DowElanco petitioned for this regulation to establish a maximum permissible level for combined residues of the fungicide.

DATES: Comments, identified by the document control number [PP 3E4249/P613], must be received on or before May 26, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of the comments to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be

claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment 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. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is proposing to establish an import tolerance for the combined residues of the fungicide fenarimol, [*alpha*-(2-chlorophenyl)-*alpha*-(4-chlorophenyl)-5-pyrimidinemethanol] and its metabolites [*alpha*-(2-chlorophenyl)-*alpha*-(4-chlorophenyl)-1,4-dihydro-5-pyrimidinemethanol and 5-(2-chlorophenyl)-(4-chlorophenyl)methyl]-3,4-dihydro-4-pyrimidinol measured as the total of fenarimol and 5-[(2-chlorophenyl)-(4-chlorophenyl)methyl]pyrimidine (calculated as fenarimol)], in or on the

raw agricultural commodity bananas at 0.5 part per million (ppm). Not more than 0.25 ppm shall be present in the pulp after the peel is removed. The proposed regulation to establish a maximum permissible level of the fungicide pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, by amending 40 CFR 180.421 to include this commodity was requested in a pesticide petition, PP 3E4249, submitted by DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268-1189. The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include the following:

1. A 1-year dog-feeding study using doses of 0, 1.25, 12.5, and 125 milligrams/kilogram (mg/kg) body weight (bwt)/day. The no-observed-effects level (NOEL) is 12.5 mg/kg bwt/day. The 125 mg/kg bwt/day dose level caused increased serum alkaline phosphatase, increased liver weights, increased *p*-nitroanisole *o*-demethylase activity, and mild hepatic bile stasis.

2. An initial 2-year chronic feeding/ oncogenicity study in rats using dietary concentrations of 0, 50, 130, and 350 ppm (equivalent to doses of 0, 2.5, 6.5, and 17.5 mg/kg bwt/day). In a **Federal Register** document published in the issue of March 5, 1986 (51 FR 7567), the Agency indicated fenarimol to be oncogenic. In that document, the Agency's initial conclusion that fenarimol was oncogenic was based on a finding in the 2-year rat study of a statistically significant increase in hepatic lesions (adenomas and