

otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of NTTAA do not apply.

**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: June 8, 2000.

**Phyllis P. Harris,**

*Acting Regional Administrator, Region 4.*

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, 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 the entry for North Carolina to read as follows:

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

\* \* \* \* \*

North Carolina

(a)(1) Department of Environment and Natural Resources: submitted on November 12, 1993, and supplemented on December 17, 1993, May 31, 1994, and August 3, 1994, March 23, 1995, and August 9, 1995; interim approval effective on December 15, 1995; interim approval expires June 1, 2000.

(2) [Reserved]

(b)(1) Forsyth County Environmental Affairs Department: submitted on November 12, 1993, and supplemented on May 31, 1994 and November 28, 1994; interim approval effective on December 15, 1995; interim approval expires June 1, 2000.

(2) Forsyth County submitted program revisions on September 25, 1995, January 16, 1997, August 1, 1997, April 22, 1998, October 2, 1998, February 18, 1999, September 29, 1999, October 26, 1999, and February 24, 2000. The rule revisions contained in the September 25, 1995, August 1, 1997, and October 26, 1999 submittals adequately addressed the conditions of the interim approval which would expire on June 1, 2000. The County is hereby granted final full approval effective on August 21, 2000.

(3) [Reserved]

(c)(1) Mecklenburg County Department of Environmental Protection: submitted on November 12, 1993, and supplemented on June 5, 1995; interim approval effective on December 15, 1995; interim approval expires June 1, 2000.

(2) [Reserved]

(d)(1) Western North Carolina Regional Air Pollution Control Agency: submitted on

November 12, 1993, and supplemented on January 12, 1994, September 16, 1994, October 11, 1994, and May 17, 1995; interim approval effective on December 15, 1995; interim approval expires June 1, 2000.

(2) [Reserved]

\* \* \* \* \*

[FR Doc. 00-15290 Filed 6-21-00; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-301003; FRL-6557-9]

RIN 2070-AB78

**Azinphos-Methyl, Revocation and Lowering of Certain Tolerances; Tolerance Actions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the tolerances for azinphos-methyl by revoking specific tolerances and modifying specific other tolerances listed in the regulatory text for the insecticide azinphos-methyl (40 CFR 180.154). In the **Federal Register** on December 22, 1999 (FRL-6399-6), EPA issued a document which proposed to revoke and modify the tolerances addressed in this document. The regulatory actions in this document 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). By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. This document counts 22 tolerance reassessments made toward the August 2002 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

**DATES:** This final rule becomes effective September 20, 2000. Objections and requests for hearings, identified by docket control number OPP-301003, must be received by EPA on or before August 21, 2000.

**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" section of this document. To ensure

proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301003 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Barry O'Keefe, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8035; fax number: (703) 308-8041; e-mail address: okeefe.barry@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 categories and entities may include, but are not limited to:

Cat-egories	NAICS	Examples of poten-tially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufac-turing

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 table could also be affected. The North American Industrial Classification System (NAICS) codes are 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" 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/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301003. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, 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 revokes and modifies the FFDCA tolerances for residues of the insecticide azinphos-methyl in or on certain specified commodities, in accordance with a Memorandum of Agreement (MOA) of August 2, 1999, between registrants and EPA. In the **Federal Register** of December 22, 1999 (64 FR 71708) (FRL-6399-6), EPA issued a proposed rule to revoke the tolerances listed in this final rule. The December 22, 1999 proposal invited public comment for consideration. No comments were received by the Agency.

EPA is revoking and modifying certain tolerances for residues of the insecticide azinphos-methyl in 40 CFR 180.154. In particular, EPA is revoking the tolerance on sugarcane, with a revocation/expiration date of June 30, 2000, since by agreement this use has been deleted from active labels, because of surface water vulnerability and to prevent unreasonable risks to wildlife and contamination of water. EPA is setting the revocation/expiration date of June 30, 2000, in order to allow time for existing stocks in the hands of users to be used.

EPA is lowering tolerances found in 40 CFR 180.154(a) for residues of the insecticide azinphos-methyl in or on

apples, crabapples, pears, and quinces, each from 2.0 ppm to 1.5 ppm, in or on cranberries from 2.0 ppm to 0.5 ppm, and in or on grapes from 5.0 ppm to 4.0 ppm. These modifications will be effective 90 days after the publication of this final rule in the **Federal Register**.

Also, the Agency is revoking tolerances for residues of azinphos-methyl in or on commodities for which there are no registered uses; including: apricots; artichokes; barley, grain; barley, straw; beans (dry); gooseberries; grass, pasture (green); grass, pasture, hay; kiwi fruit; oats, grain; straw; peas, black-eyed; rye, grain; rye, straw; soybeans; wheat, grain; and wheat, straw in 40 CFR 180.154(a), and pomegranates in 40 CFR 180.154(b). These revocations concern uses that have not been on active labels since January 1999. The Agency believes that azinphos-methyl had not been used on these crops for some time.

Consequently, no treated commodities covered by these tolerances are expected to be in the channels of trade. Therefore, EPA is revoking these tolerances because they are not necessary to cover residues in or on domestically treated commodities or commodities treated outside but imported into the United States. Azinphos-methyl is no longer used on these specified commodities within the United States and no person has provided comment identifying 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 has the potential to 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. No such comments were received. Therefore, these revocations will be effective 90 days after the publication of this final rule in the **Federal Register**.

EPA is also removing 40 CFR 180.531, and is revoking the three tolerances found in that section for residues of azinphos-methyl; which are as follows: Sugarcane bagasse, since this commodity is not considered a significant livestock feed item; citrus pulp, dried, since an adequate orange processing study did not show concentration in dried orange pulp (in accordance with FFDCA section 408(a)(2), since residues in the

processed food will not exceed the raw food tolerance); and soybean oil, since there are no active registrations with soybean on the label. Therefore, these revocations will be effective 90 days after the publication of this final rule in the **Federal Register**.

Since the available data indicate that finite residues of azinphos-methyl are not expected in animal tissues or milk, in accordance with 40 CFR 180.6(a)(3) EPA is revoking tolerances found in 40 CFR 180.154(a) for cattle, fat; cattle, mby; cattle, meat; goat, fat; goat, mby; goat, meat; horse, fat; horse, mby; horse, meat; sheep, fat; sheep, mby; and sheep, meat; and EPA is revoking 40 CFR 180.154a, the tolerance for milk. The revocation of these 13 meat, milk, poultry and egg (MMPE) tolerances implements the Agency finding as published in the **Federal Register** on August 2, 1999 (64 FR 41933) (FRL-6097-3), which stated, under 40 CFR 180.6 there is no reasonable expectation of finite residues for azinphos-methyl on the MMPE commodities and, therefore, these tolerances were considered reassessed and could be revoked, because they are not needed.

EPA is removing the tolerance in 40 CFR 180.154(a) for residues of azinphos-methyl in or on nectarines, in accordance with 40 CFR 180.1(h), since the tolerance on nectarines (set at 2.0 ppm) is not necessary, because its use is covered by the tolerance for peaches (also set at 2.0 ppm).

This rule also lowers tolerances found in 40 CFR 180.154(a) for residues of azinphos-methyl in or on almond and potato, each from 0.3 to 0.2 ppm, and in or on almond hulls from 10.3 to 5.0 ppm, since the available data indicate that these tolerances can be lowered to achieve compatibility with the corresponding Codex MRLs. These reductions in tolerances are based on the most recent data that more accurately reflect residue levels that are likely to be detected.

Codex MRLs exist for the following tolerances, i.e. apricot at 2.0 ppm, cereal grains at 0.2 ppm, kiwi fruit at 4.0 ppm, and soya bean at 0.2 ppm.

Notwithstanding the existence of these MRLs, EPA is revoking the tolerances because retention would increase the chances of misuse and may result in unnecessary restriction on trade of pesticides and foods as well as inhibiting the retention and approval of tolerances, as discussed in greater detail in Unit II.B., below.

Additionally, in this final rule, EPA is changing commodity terminology and definitions for several commodities to conform to current Agency practice. These changes are in accordance with

the revised Crop Group Regulation (40 CFR 180.41) and the updated Table I "Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops" (August, 1996) in the Residue Chemistry Test Guidelines: OPPTS 860.1000 (EPA 721-C-96-169). Table I contains data on both crops and livestock diets, and lists feed commodities considered significant in livestock diets. Significant feedstuffs account for more than 99 percent of the available annual tonnage (on a dry-matter basis) of feedstuffs used in the domestic production of more than 95 percent of beef and dairy cattle, poultry, swine, milk, and eggs. The EPA has devised criteria to include or exclude feedstuffs from Table I and set tolerances for significant feedstuffs. Tolerances are not set for feedstuffs which are neither significant nor a human food. Pesticide residues on such feedstuffs are governed by tolerances on the commodity from which they are derived (62 FR 66020, December 17, 1997) (FRL-5753-1). These changes relate only to nomenclature and have no effect on the scope of the tolerance. The specific commodity terminology name changes are listed in the table as follows:

Old Commodity Name	New Commodity Name
Almonds .....	Almond
Almonds, hulls ....	Almond, hulls
Apples .....	Apple
Beans, snap .....	Bean, snap, succulent
Blackberries .....	Blackberry
Blueberries .....	Blueberry
Boysenberries ....	Boysenberry
Cherries .....	Cherry
Citrus fruits .....	Fruit, citrus, group
Crabapples .....	Crabapple
Cranberries .....	Cranberry
Cucumbers .....	Cucumber
Eggplants .....	Eggplant
Filberts .....	Filbert
Grapes .....	Grape
Loganberries .....	Loganberry
Melons (honeydew, muskmelon, cantaloupe, watermelon, and other melons).	Melon
Nuts, pistachio ....	Pistachio
Onions .....	Onion
Parsley, leaves ...	Parsley, leaf
Parsley, roots .....	Parsley, root
Peaches .....	Peach
Pears .....	Pear
Pecans .....	Pecan
Peppers .....	Pepper
Plums (fresh prunes).	Plum, prune
Potatoes .....	Potato
Quinces .....	Quince
Raspberries .....	Raspberry
Strawberries .....	Strawberry

Old Commodity Name	New Commodity Name
Tomatoes (PRE- and POST-H).	Tomato, postharvest
Walnuts .....	Walnut

Please note that a few typographical errors were made in the proposed rule that are corrected in this final rule. Unit II.F. should have read as Unit II.C. Also, the parts per million value for crabapple was listed incorrectly in the codification section as 2.0 parts per million, while it was listed correctly in the preamble as 1.5 parts per million.

The regulatory actions in this document 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).

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

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. 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.

Furthermore, as a general matter, the Agency believes that retention of tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then

every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid these trade-restricting situations, the Agency is revoking tolerances for residues on crop uses for which FIFRA registrations no longer exist. Through the proposed rule, the Agency invited individuals who may have needed these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities. No responses were received.

Under section 408(d) of the FFDCA, the Agency may issue a final or proposed regulation establishing, modifying, or revoking a tolerance in response to a petition filed with the Agency that proposes the issuance of such regulation. On August 2, 1999, EPA and the registrants holding Section 3 registrations for azinphos-methyl signed a Memorandum of Agreement (MOA), which specifically states that the registrants shall submit to EPA a petition requesting many of the tolerance modifications detailed in this proposal; i.e. lowering tolerances on apples, crabapples, cranberries, grapes, pears, and quinces, and revoking the tolerance on sugarcane. Such a petition has been received by the Agency, dated September 22, 1999. Thus, the Agency is authorized by section 408(d) of the FFDCA to issue a proposed regulation in response to that petition. The MOA was made to help mitigate acute dietary, agricultural worker, and environmental risks. During phase five of the Tolerance Reassessment Advisory Committee (TRAC) process, the Agency invited the registrants, and any other affected or interested parties, to submit to the Agency additional risk mitigation thoughts or measures, since the acute dietary risk estimates from the revised human health risk assessment remained above the Agency's level of concern. The revised human health risk assessment may be found at <http://www.epa.gov/pesticides/op>. In addition to the MOA, EPA is also revoking or lowering other tolerances, as well as changes in commodity nomenclature for various reasons as described in Unit II of this document.

*C. 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 11/1/99, EPA has assessed over 3,400 tolerances. This document revokes 35 tolerances and removes 1 tolerance, which is not considered a revocation nor considered reassessed at this time. Since 13 tolerances were previously counted as reassessed, 22 of the 35 revocations are counted as reassessed in this final rule. The 22 reassessments are being counted toward the August, 2002 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

#### *D. 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 a final rule to ensure that all affected parties receive notice of EPA's actions. Consequently, the effective date is September 20, 2000; except for the tolerance on sugarcane, which expires on June 30, 2000.

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(l)(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, (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, and (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 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.

### **III. Other Considerations**

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. This guidance will be made available to interested persons.

### **IV. Objections or Hearing Requests**

Under section 408(g) of the FFDCA, as amended by the 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. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

#### *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-301003 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 August 21, 2000.

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, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C-400, 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. *Tolerance 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](mailto: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, Ariel Rios Bldg., 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, Ariel Rios Bldg., 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-301003, to: Public Information and Records Integrity Branch, Information Resources and

Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 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 file format 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; 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. How Do the Regulatory Assessments Requirements Apply to this Final Action?**

This final rule will revoke tolerances established under FFDCa section 408. The Office of Management and Budget (OMB) has exempted this type of action, i.e., a 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). This action 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 prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); 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 require 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency previously assessed whether 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. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning azinphos-methyl, 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 the revoked pesticides, generally within the same countries from which the relevant commodities are currently imported. Furthermore, no extraordinary circumstances exist as to the present revocation 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 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).

**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 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: June 12, 2000.

**Susan B. Hazen,**

*Acting 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 180.154 is revised to read as follows:

**§ 180.154 O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate; tolerances for residues.**

(a) *General.* Tolerances for residues of the insecticide *O,O*-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/Revocation Date
Alfalfa .....	2.0	None
Alfalfa, hay .....	5.0	None
Almond .....	0.2	None

Commodity	Parts per million	Expiration/Revocation Date
Almond, hulls .....	5.0	None
Apple .....	1.5	None
Bean, snap, succulent ..	2.0	None
Birdfoot trefoil .....	2.0	None
Birdfoot trefoil, hay .....	5.0	None
Blackberry .....	2.0	None
Blueberry .....	5.0	None
Boysenberry .....	2.0	None
Broccoli .....	2.0	None
Brussels sprouts .....	2.0	None
Cabbage .....	2.0	None
Cauliflower .....	2.0	None
Celery .....	2.0	None
Cherry .....	2.0	None
Clover .....	2.0	None
Clover, hay .....	5.0	None
Cottonseed .....	0.5	None
Crabapple .....	1.5	None
Cranberry .....	0.5	None
Cucumber .....	2.0	None
Eggplant .....	0.3	None
Filbert .....	0.3	None
Fruit, citrus, group .....	2.0	None
Grape .....	4.0	None
Loganberry .....	2.0	None
Melon .....	2.0	None
Onion .....	2.0	None
Parsley, leaf .....	5.0	None
Parsley, root .....	2.0	None
Peach .....	2.0	None
Pear .....	1.5	None
Pecan .....	0.3	None
Pepper .....	0.3	None
Pistachio .....	0.3	None
Plum, prune .....	2.0	None
Potato .....	0.2	None
Quince .....	1.5	None
Raspberry .....	2.0	None
Spinach .....	2.0	None
Strawberry .....	2.0	None
Sugarcane .....	0.3	6/30/00
Tomato, postharvest ....	2.0	None
Walnut .....	0.3	None

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300924; FRL-6383-7]

RIN 2070-AB78

**Trichoderma Harzianum Rifai Strain T-39; Exemption from the Requirement of a Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of *Trichoderma harzianum* Rifai strain T-39 on all food commodities when applied/used as ground and certain foliar applications. Makhteshim Agan of North America submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Trichoderma harzianum* Rifai strain T-39.

**DATES:** This regulation is effective June 22, 2000. Objections and requests for hearings, identified by docket control number OPP-300924, must be received by EPA on or before August 21, 2000.

**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 VIII. of the "SUPPLEMENTARY INFORMATION" section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300924 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-8097; and e-mail address: bacchus.shanaz@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:

Cat-egories	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 in the "FOR FURTHER INFORMATION CONTACT" section.

*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" 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/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-300924. 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.

(b) *Section 18 emergency exemptions.*

[Reserved]

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

(d) *Indirect or inadvertent residues.*

[Reserved]

**§§ 180.154a and 180.531 [Removed]**

3. By removing § 180.154a and § 180.531.

[FR Doc. 00-15725 Filed 6-21-00; 8:45 am]

**BILLING CODE 6560-50-F**