

significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission 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. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 11, 2005.

**J.I. Palmer, Jr.,**

*Regional Administrator, Region 4.*

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**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[OPP-2005-0081; FRL-7713-8]

#### **Aminopyridine, Ammonia, Chloropicrin, Diazinon, Dihydro-5-heptyl-2(3H)-furanone, Dihydro-5-pentyl-2(3H)-furanone, and Vinclozolin; Proposed Tolerance Actions**

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke specific tolerances and tolerance exemptions for residues of the bird repellent 4-aminopyridine, fungicides ammonia and vinclozolin, and insecticides chloropicrin, diazinon, dihydro-5-heptyl-2(3H)-furanone, and dihydro-5-pentyl-2(3H)-furanone. EPA canceled food use registrations or deleted food uses from registrations following requests for voluntary cancellation or use deletion by the registrants, or non-payment of registration maintenance fees. EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions proposed in this document contribute toward the Agency's tolerance reassessment requirements under 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 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory actions proposed in this document pertain to the proposed revocation of 39 tolerances and tolerance exemptions of which 33 would be counted as tolerance reassessments toward the August 2006 review deadline.

**DATES:** Comments must be received on or before July 18, 2005.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number OPP-2005-0081, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov/>. Follow the on-line instructions for submitting comments.

- *Agency Website:* <http://www.epa.gov/edocket/>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail:* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number OPP-2005-0081.

- *Mail:* Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2005-0081.

- *Hand Delivery:* Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP-2005-0081. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to docket ID number OPP-2005-0081. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the [regulations.gov](http://www.regulations.gov) websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in

the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL-7181-7).

Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460-0001; telephone number: (703) 308-8037; e-mail address: [nevola.joseph@epa.gov](mailto:nevola.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 28522)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to

certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit IIA. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

*C. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov, or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

*D. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?*

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

**II. Background**

*A. What Action is the Agency Taking?*

EPA is proposing to revoke certain specific tolerances and tolerance exemptions for residues of the bird repellent 4-aminopyridine, fungicides ammonia and vinclozolin, and insecticides chloropicrin, diazinon, dihydro-5-heptyl-2(3H)-furanone, and dihydro-5-pentyl-2(3H)-furanone because these specific tolerances and tolerance exemptions correspond to uses which are no longer current or registered under FIFRA in the United States. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the

proposal indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *4-Aminopyridine*. In the **Federal Register** notice of October 27, 2004 (69 FR 62666) (FRL-7683-7), EPA announced registration cancellations, including certain 4-aminopyridine (avtrotol) registrations, for non-payment of year 2004 registration maintenance fees. The cancellation orders permitted registrants to sell and distribute existing stocks of the canceled products until January 15, 2005, 1 year after the date on which the fee was due. Earlier, on December 17, 2003, the registrant had submitted a written request for voluntary cancellation of the food uses of 4-aminopyridine. The Agency believes that end users will have sufficient time to exhaust existing stocks and for treated commodities to have cleared the channels of trade by January 15, 2006. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.312 for residues of the bird repellent 4-aminopyridine in or on corn, forage; corn, field, grain; corn, pop, grain; corn, stover; corn, sweet, kernels plus cob with husks removed; and sunflower, seed with an expiration/revocation date of January 15, 2006.

Also, EPA is proposing to revise the commodity terminology in 40 CFR 180.312 to conform to current Agency practice as follows: "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, stover" to "corn, field, stover;" "corn, pop, stover;" and "corn, sweet, stover;" and "corn, sweet, kernels plus cob with husks removed" to "corn, sweet, kernel plus cob with husks removed." In addition, in 40 CFR 180.312, EPA is proposing to remove the "(N)" designation from all entries to conform to current Agency administrative practice ("(N)" designation means negligible residues).

2. *Ammonia*. Because there have been no active registered uses of ammonia on food since 1987, the associated tolerance exemptions are no longer needed. Therefore, EPA is proposing to revoke the tolerance exemptions in 40 CFR 180.1003 for residues of the fungicide ammonia when used after harvest on grapefruit, lemons, oranges, and corn grain for feed use only.

3. *Chloropicrin*. Because there have been no active registrations of chloropicrin concerning post-harvest uses on grain since 1991, the associated tolerance exemptions are no longer needed. Also, the Agency believes that chloropicrin is not found in the formulation of other fumigant pesticides with active registrations for post-harvest use on grains. In addition, the Agency

believes that it is unlikely that detectable residues of chloropicrin will be found in or on any raw agricultural commodity in formulations where it is used as a warning agent (2% or less) due to its volatility.

Therefore, EPA is proposing to revoke the tolerance exemptions in 40 CFR 180.1008 for residues of chloropicrin when used as a fumigant after harvest on barley, buckwheat, corn (including popcorn), oats, rice, rye, grain sorghum, and wheat.

4. *Diazinon*. In the **Federal Register** notice of May 30, 2001 (66 FR 29310) (FRL-6785-2), EPA announced the receipt of requests to voluntarily cancel and amend certain diazinon registrations. The Agency published the cancellation order in the **Federal Register** of July 19, 2001 (66 FR 37673)(FRL-6791-9) and made the registration cancellations and amendments effective on July 19, 2001, and registrant sale and distribution of existing stocks was permitted for 1 year; i.e., until July 19, 2002.

Also, in the **Federal Register** notice of September 13, 2001 (66 FR 47658) (FRL-6800-6), EPA announced the receipt of requests to voluntarily cancel and amend certain diazinon registrations. The Agency published the cancellation order in the **Federal Register** of November 15, 2001 (66 FR 57440)(FRL-6809-5) and made the registration cancellations and amendments effective on November 15, 2001, and registrant sale and distribution of existing stocks was permitted for one year; i.e., until November 15, 2002.

EPA believes that end users have had sufficient time, more than 2 years, to exhaust those existing stocks and for treated commodities to have cleared the channels of trade. Therefore, the Agency is proposing to revoke the tolerances in 40 CFR 180.153 for residues of the insecticide diazinon in or on alfalfa, fresh; alfalfa, hay; guar, seed; clover, forage; clover, hay; cotton, undelinted seed; cowpea; cowpea, forage; lespedeza; sorghum, forage; and sorghum, grain; and all revocations to be effective on the date of publication of the final rule in the **Federal Register**.

Further, EPA is proposing to revise commodity terminology in 40 CFR 180.153 to conform to current Agency practice as follows: "Banana (NMT 0.1 ppm shall be present in the pulp after peel is removed)" to "banana;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, kernel plus cob with husks" to "corn, sweet, kernel plus cob with husks removed;" "endive (escarole)" to "endive;" "ginseng, root" to "ginseng, roots;" "hop" to "hop,

dried cones;" "onion" to "onion, dry bulb" and "onion, green;" "peavine hay" to "pea, field, hay;" "peavines" to "pea, field, vines;" "pea with pods (determined on pea after removing any shell present when marketed)" to "pea, succulent;" and "rutabagas" to "rutabaga."

Additional information can be found in the 2002 diazinon Interim Reregistration Eligibility Decision (IRED). A printed copy of the diazinon IRED 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 1-513-489-8695; internet at <http://www.epa.gov/ncepihom/> and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 1-800-553-6847 or 703-605-6000; internet at <http://www.ntis.gov/>. An electronic copy of the diazinon IRED is available on the internet at <http://www.epa.gov/pesticides/reregistration/status.htm>.

On March 23, 2005 (70 FR 14618) (FRL-7701-4), EPA published in the **Federal Register** a proposed rule which included a proposal to revoke diazinon tolerances in 40 CFR 180.153 on coffee bean and dandelion, leaves effective on the date of final rule publication. Because EPA expects the final rule follow-up to the March 23, 2005 proposal to be published in the **Federal Register** prior to follow-up publication of a final rule action to this document, the Agency does not show either the coffee bean or dandelion, leaves tolerances in the codification table for diazinon in this document. However, if these two tolerances are not revoked prior to final action on this document, then the Agency will list them in the codification table for diazinon in that final rule.

5. *Dihydro-5-heptyl-2(3H)-furanone*. In the **Federal Register** notice of October 27, 2004 (69 FR 62666), EPA announced registration cancellations, including a certain dihydro-5-heptyl-2(3H)-furanone registration, for non-payment of year 2004 registration maintenance fees. The cancellation orders permitted registrants to sell and distribute existing stocks of the canceled products until January 15, 2005, one year after the date on which the fee was due. The Agency believes that end users have had sufficient time to exhaust existing stocks and for treated commodities to have cleared the channels of trade. Therefore, EPA is proposing to revoke the tolerance exemptions in 40 CFR 180.528 for residues of the insecticide dihydro-5-

heptyl-2(3H)-furanone in or on animal feed and processed food.

Also, EPA is proposing to revise paragraph (a)(1) in 40 CFR 180.539 and remove dihydro-5-heptyl-2(3H)-furanone from the tolerance exemption expression for d-Limonene.

6. *Dihydro-5-pentyl-2(3H)-furanone*. In the **Federal Register** notice of October 27, 2004 (69 FR 62666), EPA announced registration cancellations, including a certain dihydro-5-pentyl-2(3H)-furanone registration, for non-payment of year 2004 registration maintenance fees. The cancellation orders permitted registrants to sell and distribute existing stocks of the canceled products until January 15, 2005, one year after the date on which the fee was due. The Agency believes that end users have had sufficient time to exhaust existing stocks and for treated commodities to have cleared the channels of trade. Therefore, EPA is proposing to revoke the tolerance exemptions in 40 CFR 180.529 for residues of the insecticide dihydro-5-pentyl-2(3H)-furanone in or on animal feed and processed food.

Also, EPA is proposing to revise paragraph (a)(1) in 40 CFR 180.539 and remove dihydro-5-pentyl-2(3H)-furanone from the tolerance exemption expression for d-Limonene.

7. *Vinclozolin*. In the **Federal Register** notice of August 22, 2001 (66 FR 44134) (FRL-6795-7), EPA announced use cancellations for certain vinclozolin registrations, including uses of the fungicide vinclozolin on kiwi, chicory, lettuce, and succulent beans with a last date for legal use as January 30, 2004; January 30, 2004; November 30, 2005, and November 30, 2005, respectively. The Agency believes that end users will have had sufficient time to exhaust existing stocks and for treated kiwi and chicory commodities to have cleared the channels of trade. Further, pursuant to FFDCA section 408(l)(5), treated lettuce and succulent bean commodities that have been legally treated on or before November 30, 2005 and whose residues are within the tolerance set to expire on that date, will not be considered adulterated, even if they have not yet cleared channels of trade. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.380(a) for the combined residues of the fungicide vinclozolin and its metabolites containing the 3,5-dichloroaniline moiety in or on Belgian endive, tops and kiwifruit on the date of publication of the final rule, and also lettuce, head and lettuce, leaf; each with an expiration/revocation dates date of November 30, 2005.

Also, while the tolerance for vinclozolin residues of concern in or on bean, succulent currently has an expiration/revocation date of September 30, 2005 in 40 CFR 180.380(a), EPA is proposing to extend that date until November 30, 2005 in order to be consistent with the last date for legal use identified in the **Federal Register** Notice of August 22, 2001 (66 FR 44134).

Further, EPA is proposing to revise commodity terminology in the table in 40 CFR 180.380(a) to conform to current Agency practice as follows: "grape, (wine)" to "grape, wine."

On March 23, 2005 (70 FR 14618), EPA published in the **Federal Register** a rule which included a proposal to revoke vinclozolin tolerances in 40 CFR 180.380 on onion, dry bulb and raspberry effective on the date of final rule publication. Because EPA expects the final rule follow-up to the March 23, 2005 proposal to be published in the **Federal Register** prior to follow-up publication of a final rule action to this document, the Agency does not show either the onion, dry bulb or raspberry tolerances in the codification table for vinclozolin in this document. However, if these two tolerances are not revoked prior to final action on this document, then the Agency will list them in the codification table for vinclozolin in that final rule.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 et seq.). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. 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 import 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 an assessment 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 potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section

408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

### C. When do These Actions Become Effective?

With the exception of certain tolerances for 4-aminopyridine and vinclozolin, for which EPA is proposing specific expiration/revocation dates, the Agency is proposing that these tolerance and tolerance exemption revocations, tolerance commodity terminology revisions, and removal of dihydro-5-heptyl-2(3H)-furanone and dihydro-5-pentyl-2(3H)-furanone from the tolerance expression in 40 CFR 180.539 for d-limonene become effective on the date of publication of the final rule in the **Federal Register**. With the exception of 4-aminopyridine and vinclozolin, the Agency believes that existing stocks of pesticide products labeled for the uses associated with the tolerance actions proposed herein have been exhausted and that treated commodities have cleared the channels of trade. EPA is proposing expiration dates of January 15, 2006 for specific 4-aminopyridine tolerances and November 30, 2005 for tolerances of vinclozolin residues of concern on bean, succulent; lettuce, head; and lettuce, leaf. The Agency believes that these revocation dates allow users to exhaust stocks and allow sufficient time for passage of treated commodities through the channels of trade. However, if EPA is presented with other information and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that: (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 tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

### D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. As of May 6, 2005, EPA has reassessed over 7,190 tolerances. This document proposes to revoke a total of 39 tolerances of which 33 would be counted in a final rule as tolerance reassessments toward the August 2006 review deadline under FFDCA section 408(q), as amended by FQPA in 1996. For the purpose of tolerance reassessment, the commodity entry "corn (including popcorn)" in 40 CFR 180.1008 for chloropicrin represents two tolerances; i.e., corn (postharvest) and corn, pop, grain (postharvest). Therefore, it is counted herein as two proposed revocations and the Agency expects in a final rule to count this as two tolerance reassessments. In addition, while the corn, field, grain and corn, pop, grain tolerances for 4-aminopyridine are counted as two proposed revocations, EPA expects in a final rule to count them as one tolerance reassessment because the Agency counted them as one tolerance at the beginning of FQPA when these were listed in 40 CFR 180.312 as one tolerance; i.e., corn, grain. Finally, the vinclozolin tolerances were previously reassessed.

### III. Are the Proposed Actions Consistent With International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standard established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

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. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. 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, Regulations, and Dockets," then select "Regulations and Proposed Rules" and then look up the entry for this document under "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

### IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require

Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, 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 the pesticides listed in this rule, the Agency hereby certifies that this proposed 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, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. 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 proposed rule directly regulates growers, food processors, food handlers and food

retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed 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 proposed 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 proposed rule.

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 2005.

**James Jones,**

*Director, 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. 321(q), 346a and 371.

2. Section 180.153 is amended by revising the table in paragraph (a)(1) to read as follows:

**§ 180.153 Diazinon; tolerances for residues.**

(a) *General.* (1) \* \* \*

Commodity	Parts per million
Almond .....	0.5

Commodity	Parts per million
Almond, hulls .....	3.0
Apple .....	0.5
Apricot .....	0.5
Banana .....	0.2
Bean, lima .....	0.5
Bean, snap, succulent .....	0.5
Beet, garden, roots .....	0.75
Beet, garden, tops .....	0.7
Beet, sugar, roots .....	0.5
Beet, sugar, tops ..	10.0
Blackberry .....	0.5
Blueberry .....	0.5
Carrot, roots .....	0.75
Cattle, fat .....	0.7
Celery .....	0.7
Cherry .....	0.75
Citrus .....	0.7
Corn, field, forage .....	40.0
Corn, sweet, kernel plus cob with husks removed ..	0.7
Corn, sweet, forage .....	40.0
Cranberry .....	0.5
Cucumber .....	0.75
Endive .....	0.7
Fig .....	0.5
Filbert .....	0.5
Ginseng, roots .....	0.75
Grape .....	0.75
Hop, dried cones ..	0.75
Kiwifruit .....	0.75
Lettuce .....	0.7
Loganberry .....	0.75
Melon .....	0.75
Mushroom .....	0.75
Nectarine .....	0.5
Olive .....	1.0
Onion, dry bulb .....	0.75
Onion, green .....	0.75
Parsley, leaves .....	0.75
Parsnip .....	0.5
Peach .....	0.7
Pear .....	0.5
Pea, field, hay .....	10.0
Pea, field, vines .....	25.0
Pea, succulent .....	0.5
Pepper .....	0.5
Pineapple .....	0.5
Plum, prune, fresh .....	0.5
Potato .....	0.1
Potato, sweet .....	0.1
Radicchio .....	0.7
Radish .....	0.5
Raspberry .....	0.5
Rutabaga .....	0.75
Sheep, fat .....	0.7
Sheep, meat (fat basis) .....	0.7
Sheep, meat by-products (fat basis) .....	0.7
Spinach .....	0.7
Squash, summer ..	0.5
Squash, winter .....	0.75
Strawberry .....	0.5
Swiss chard .....	0.7
Tomato .....	0.75
Turnip, roots .....	0.5
Turnip, greens .....	0.75
Vegetable, brassica, leafy, group 5 .....	0.7

Commodity	Parts per million
Walnut .....	0.5
Watercress .....	0.7

3. Section 180.312 is amended by revising paragraph (a) to read as follows:

**§ 180.312 4-Aminopyridine; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the bird repellent 4-aminopyridine in or on the following food commodities:

Commodity	Parts per million	Expiration/Revocation Date
Corn, field, forage .....	0.1	1/15/06
Corn, field, grain .....	0.1	1/15/06
Corn, field, stover .....	0.1	1/15/06
Corn, pop, grain .....	0.1	1/15/06
Corn, pop, stover .....	0.1	1/15/06
Corn, sweet, forage .....	0.1	1/15/06
Corn, sweet, kernel plus cob with husks removed .....	0.1	1/15/06
Corn, sweet, stover .....	0.1	1/15/06
Sunflower, seed .....	0.1	1/15/06

\* \* \* \* \*

4. Section 180.380 is amended by revising paragraph (a) to read as follows:

**§ 180.380 Vinclozolin; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the fungicide vinclozolin (3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-

oxazolidinedione) and its metabolites containing the 3,5-dichloroaniline moiety in or on the food commodities in the table below. There are no U.S. registrations for grape (wine) as of July 30, 1997.

Commodity	Parts per million	Expiration/Revocation Date
Bean, succulent .....	2.0	11/30/05
Canola, seed .....	1.0	11/30/08
Cattle, fat .....	0.05	11/30/08
Cattle, meat .....	0.05	11/30/08
Cattle, meat byproducts .....	0.05	11/30/08
Egg .....	0.05	11/30/08
Goat, fat .....	0.05	11/30/08
Goat, meat .....	0.05	11/30/08
Goat, meat byproducts .....	0.05	11/30/08
Grape, wine .....	6.0	None
Hog, fat .....	0.05	11/30/08
Hog, meat .....	0.05	11/30/08
Hog, meat byproducts .....	0.05	11/30/08
Horse, fat .....	0.05	11/30/08
Horse, meat .....	0.05	11/30/08
Horse, meat byproducts .....	0.05	11/30/08
Lettuce, head .....	10.0	11/30/05
Lettuce, leaf .....	10.0	11/30/05
Milk .....	0.05	11/30/08
Poultry, fat .....	0.1	11/30/08
Poultry, meat .....	0.1	11/30/08
Poultry, meat byproducts .....	0.1	11/30/08
Sheep, fat .....	0.05	11/30/08
Sheep, meat .....	0.05	11/30/08
Sheep, meat byproducts .....	0.05	11/30/08

\* \* \* \* \*

**§ 180.528 [Removed]**

5. Section 180.528 is removed.

**§ 180.529 [Removed]**

6. Section 180.529 is removed.

7. Section 180.539 is amended by revising paragraph (a)(1) to read as follows:

**§ 180.539 d-Limonene; tolerances for residues.**

(a) *General.* (1) The insecticide d-limonene may be safely used in insect-

repellent tablecloths and in insect-repellent strips used in food- or feed-handling establishments.

\* \* \* \* \*

**§ 180.1003 [Removed]**

8. Section 180.1003 is removed.

**§ 180.1008 [Removed]**

9. Section 180.1008 is removed.

[FR Doc. 05-9776 Filed 5-17-05; 8:45 a.m.]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[ET Docket No. 05-182; FCC 05-94]

**Technical Standards for Satellite-Delivered Network Signals**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; Notice of inquiry.