

and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not 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).

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).

#### VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

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

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

Dated: June 12, 2009.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

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

**Authority:** 21 U.S.C. 321(q), 346a and 371.  
■ 2. Paragraph (a) of §180.314 is revised to read as follows:

#### §180.314 Triallate; tolerances for residues.

(a) *General.* Tolerances are established for residues of triallate, S-2,3,4-trichloroallyl diisopropylthiocarbamate and its metabolite 2,3,3-trichloroprop-2-enesulfonic acid (TCPSA) in or on the following food commodity:

| Commodity               | Parts per million |
|-------------------------|-------------------|
| Bermudagrass, hay ..... | 0.3               |

\* \* \* \* \*

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**BILLING CODE 6560-50-S**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[EPA-HQ-OPP-2009-0007; FRL-8417-5]

#### Glyphosate; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation increases the tolerance for residues of glyphosate in or on cotton, gin byproducts. Cheminova, Inc requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2009-0007. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.),

2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5704; e-mail address: [walters.vickie@epa.gov](mailto:walters.vickie@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 those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at <http://www.gpoaccess.gov/ecfr>.

##### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation

and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2009-0007 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 as required by 40 CFR part 178 on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2009-0007, by one of the following methods:

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

- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

## II. Petition for Tolerance

In the **Federal Register** of March 25, 2009 (74 FR 12857) (FRL-8399-4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7451) by Cheminova, One Park Drive, Research Triangle Park, NC 27707. The petition requested that 40 CFR 180.364 be amended by establishing tolerances for residues of the herbicide glyphosate, *N*-(phosphonomethyl)glycine, resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate in or on cotton, gin byproducts at 210 parts per million (ppm). That notice referenced a

summary of the petition prepared by Cheminova, Inc. the registrant, which is available to the public in the docket, <http://www.regulations.gov>. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Cheminova, Inc has requested a Section 3 registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for application of glyphosate to glyphosate tolerant cotton including Bayer GHB614 cotton (GlyTol cotton), a genetically modified cotton being commercialized by Bayer Crop Science. As a result, the petitioner has requested that the current tolerance for cotton, gin byproducts be increased to 210 ppm. This petition was filed in conjunction with Cheminova's requested change to its FIFRA registration.

Based upon review of the data supporting the petition, EPA has determined that the proposed tolerance in this petition should remain in 40CFR180.364 (a)(1) which reads: Tolerances are established for residues of the herbicide glyphosate, *N*-(phosphonomethyl)glycine, resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the following food commodities. The proposed numerical value for the proposed tolerance on cotton, gin byproducts remains 210 ppm.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of glyphosate on cotton, gin byproducts at 210 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

### A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by glyphosate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the rule making document referenced in this unit. A summary of the toxicological endpoints and current risk assessments for glyphosate can be found in the same rule making document.

In amending the glyphosate cotton, gin byproducts tolerance, EPA relies on the risk assessment and safety finding made in the final rule published in the **Federal Register** of December 20, 2006 (71 FR 73586) (FRL-8385-7) which established tolerances for residues of glyphosate in or on noni at 0.20 ppm and various other commodities. For the reasons explained in this unit, increasing the cotton, gin byproducts tolerance to 210 ppm does not change the human exposure and risk to glyphosate as set forth in that 2006 rulemaking. Accordingly, EPA herein adopts the safety findings in that rulemaking.

Increasing the current glyphosate tolerance for cotton, gin byproducts to 210 ppm does not result in changes in the exposure or risk estimates reported in the previous risk assessments for the reasons listed in this unit and discussed in the Agency review entitled *Glyphosate Label Amendment to Permit Application of Glyphosate to Bayer's Glyphosate-Tolerant Cotton GHB614*, available at [www.regulations.gov](http://www.regulations.gov) in Docket ID number EPA-HQ-OPP-2009-0007 and identified as EPA-HQ-OPP-2009-0007-0002.

1. Glyphosate is currently registered for application to cotton genetically modified to express the Agrobacterium EPSPS gene. Available information indicate that Bayer GHB614 cotton (GlyTol Cotton) has been genetically modified to produce the 2mEPSPS protein which is not inhibited by glyphosate. The 2mEPSPS gene was generated by introducing mutations into the wild maize gene. The 2mEPSPS protein differs from the wild maize EPSPS protein by two amino acids. Based on the current metabolism data and because tolerance to glyphosate in GHB614 cotton is conferred via modification of an endogenous plant EPSPS gene so that the plant is no longer sensitive (i.e. tolerance is not conveyed via metabolism of the herbicide), the Agency concludes that previous conclusions concerning the residues of concern for tolerance expression and risk assessment are applicable to GHB614 cotton (i.e. the residues of concern for tolerance expression and risk assessment are glyphosate *per se*).

2. The numerical value of all but one feed tolerance will remain the same.

3. The most recent dietary analysis assumed tolerance level residues and 100% crop treated.

4. The estimate of glyphosate levels in drinking water is based on a glyphosate use involving direct application to water at 3.75 pounds active ingredient per acre. The proposed use pattern is the same as the currently registered use pattern on glyphosate tolerant cotton. Use of glyphosate on GlyTol Cotton will not result in higher levels in drinking water.

5. Previously calculated dietary burden to beef and dairy cattle were based on alfalfa hay (400 ppm tolerance) being the significant contributor to the diet. Because cotton, gin byproducts constitute a minor feed commodity (5% of the beef cattle and not feed to dairy cattle), the Agency concludes that the increase in cotton, gin byproducts tolerance to 210 ppm will not significantly affect the magnitude of the residue in livestock. Therefore, no increase in currently established livestock tolerances is necessary.

6. Previously calculated dietary burden to poultry were based on alfalfa meal (400 ppm). The previously calculated dietary burden to hog was based on alfalfa meal and barley grain (20 ppm). The numerical values for these commodities remain unchanged. Cotton, gin byproducts are not feed to poultry and hog. Therefore, the Agency concludes that the increase in the cotton, gin byproducts tolerance to 210 ppm will not significantly affect the

magnitude of the residue in poultry or hog, and no increases in tolerance for these commodities are necessary.

Therefore, based on the risk assessments discussed in the notices referenced above, EPA concludes that no harm will result to the general population or to infants and children from aggregate exposure to glyphosate residues.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography (HPLC) with fluorometric detection and gas chromatography with mass spectrometry (GC/MS)) are available to enforce the tolerance expression. The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

##### B. International Residue Limits

There are no Codex MRLs for glyphosate on cotton, gin byproducts. MRLs are not set for cotton, gin byproduct, as it is not considered a major item in international trade. No Canadian or Mexican MRLs exist for glyphosate on cotton, gin byproducts.

##### C. Response to Comments

One comment was received from a private citizen objecting to the establishment of tolerances. The Agency has received similar comments from this commenter on numerous previous occasions. Refer to the **Federal Register** of March 14, 2007 (72 FR 11784; FRL-8117-2) for the Agency response to these objections.

#### V. Conclusion

Therefore, tolerances are established for residues of glyphosate, *N*-(phosphonomethyl)glycine, resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on cotton, gin byproducts at 210 ppm.

#### VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735,

October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not 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).

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).

**VII. Congressional Review Act**

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**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 11, 2009.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

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

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.364 is amended by revising the following entry in the table in paragraph (a)(1) to read as follows:

**§ 180.364 Glyphosate; tolerances for residues.**

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

| Commodity                  | Parts per million |
|----------------------------|-------------------|
| * * *                      | * *               |
| Cotton, gin byproducts ... | 210               |
| * * *                      | * *               |

\* \* \* \* \*

[FR Doc. E9-14594 Filed 6-23-09; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2008-0384; FRL-8417-8]

**Acetochlor; Pesticide Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation modifies tolerances for residues of acetochlor and its metabolites in or on the commodities corn, field, forage; corn, field, stover; and corn, pop, stover. The modifications are detailed in Unit II. of this document. Monsanto Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0384. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5704; e-mail address: [walters.vickie@epa.gov](mailto:walters.vickie@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 those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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*C. Can I File an Objection or Hearing Request?*

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2008-0384 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 as required by 40 CFR part 178 on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2008-0384 by one of the following methods:

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