

Executive Order 12866, this final 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) 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).

## X. 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: March 31, 2008.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention 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 180.1220 is revised to read as follows:

#### **§ 180.1220 1-Methylcyclopropene; exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of the 1-Methylcyclopropene in or on fruits and vegetables when:

(a) Used as a post harvest plant growth regulator, i.e., for the purpose of inhibiting the effects of ethylene.

(b) Applied or used outdoors for pre-harvest treatments.

[FR Doc. E8-7458 Filed 4-8-08; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0303; FRL-8357-2]

#### Fenhexamid; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of fenhexamid in or on asparagus. Interregional Research Project Number 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective April 9, 2008. Objections and requests for hearings must be received on or before June 9, 2008, 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-2007-0303. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in 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:** Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3194; e-mail address: [brothers.shaja@epa.gov](mailto:brothers.shaja@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), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.

- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.

- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.

- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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 an electronic copy of this **Federal Register** document through the electronic docket 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 pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

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

Under section 408(g) of FFDCA, 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–2007–0303 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 June 9, 2008.

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–2007–0303, 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’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 June 27, 2007 (72 FR 35237) (FRL–8133–4), 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 7E7187) by IR-4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.553 be amended by establishing a tolerance for residues of the fungicide, fenhexamid, (N-2,3-dichloro-4-hydroxyphenyl)-1-methyl cyclohexanecarboxamide), in or on asparagus at 0.02 parts per million (ppm). This notice referenced a summary of the petition prepared by Arysta LifeScience, the registrant, which is available to the public in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

## **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.” These provisions were added to FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), 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 tolerance for residues of fenhexamid on asparagus at 0.02 ppm. EPA’s assessment of exposures and risks associated with establishing the tolerance 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. In general, the toxicology studies conducted on fenhexamid demonstrated that it has few or no biologically significant toxic effects at relatively low dose levels in many animal studies and only mild or no toxic effects at high dose levels which often approach or exceed the limit dose. In subchronic and chronic oral studies, the most toxicologically significant effects were anemia in dogs, and decreased body weights, increased food consumption and mild liver and/or kidney effects in rats and mice. Fenhexamid is not acutely toxic, neurotoxic, carcinogenic, or mutagenic and is not a developmental or reproductive toxicant. Although no increased susceptibility of fetuses was demonstrated in developmental toxicity studies in rats and rabbits, equivocal results, with respect to evaluating potentially increased sensitivity of pups, were observed in the reproduction study in rats. Specific information on the studies received and the nature of

the adverse effects caused by fenhexamid 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 final rule published in the **Federal Register** of April 13, 2000 (65 FR 19842) (FRL-6553-7) <http://www.epa.gov/fedrgstr/EPA-PEST/2000/April/Day-13/p9144.htm>.

#### B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. Short, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm>.

A summary of the toxicological endpoints for fenhexamid used for human risk assessment can be found at <http://www.regulations.gov> in document *Fenhexamid Human Health Risk Assessment for a Proposed Section 3 Registration for Use on Asparagus* on pages 25-26 in docket ID number EPA-HQ-OPP-2007-0303.

#### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fenhexamid, EPA considered exposure under the petitioned-for tolerances as well as all existing fenhexamid tolerances in (40 CFR 180.553). EPA assessed dietary exposures from fenhexamid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for fenhexamid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996, and 1998 CSFII. As to residue levels in food, EPA assumed tolerance level residues for all commodities with existing and proposed tolerances, DEEM default processing factors, and assumed 100% crop treated.

iii. *Cancer.* Based on the studies of carcinogenicity studies in rats and mice, EPA has concluded that fenhexamid is “not likely to be carcinogenic to humans.” Consequently, a quantitative cancer exposure and risk assessment is not appropriate for fenhexamid.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for fenhexamid in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of fenhexamid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <http://www.epa.gov/oppefed1/models/water/index.htm>.

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentrations (EECs) of fenhexamid for surface water are estimated to be 29 parts per billion (ppb) for acute and 1.1 ppb for chronic exposure. The EECs for groundwater are estimated to be 0.0007 ppb for acute and chronic exposure.

Modeled estimates of drinking water concentrations were directly entered

into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 1.1 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fenhexamid is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fenhexamid and any other substances and fenhexamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fenhexamid has a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <http://www.epa.gov/pesticides/cumulative>.

#### D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional tenfold (“10X”) margin of safety for infants and children in the case of threshold effects to account for pre-natal and post-natal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Pre-natal and post-natal sensitivity.* In the rat and the rabbit developmental toxicity studies, neither quantitative nor qualitative evidence of increased susceptibility of fetuses to *in utero* exposure to fenhexamid was observed. In the rat reproduction study, qualitative susceptibility was evidenced as significantly decreased pup body weights in both generations during the lactation period (on lactation days 7, 14, and 21 in the F2 generation and lactation days 14 and 21 in the F1 generation offspring) in the presence of lesser maternal toxicity (alterations in clinical chemistry parameters and decreased organ weights without collaborative histopathology). Considering the overall toxicity profile and the doses and endpoints selected for risk assessment for fenhexamid, the degree of concern for the effects observed in this study was characterized as low, noting that there is a clear NOAEL and well-characterized dose response for the offspring effects observed and that these effects occurred in the presence of parental toxicity. No residual uncertainties were identified. The NOAEL of 17 milligrams/kilograms day (mg/kg/day) from the chronic dog study used to establish the chronic Reference Dose (cRfD) for the General Population is lower than the NOAEL of 38.2 mg/kg/day in the reproduction study in which the offspring effects of concern were observed (LOAEL = 406 mg/kg/day), and is therefore protective of any potential offspring effects.

3. *Conclusion.* EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

- i. The toxicology data base is complete; there are no residual uncertainties in the expose database.
- ii. Developmental neurotoxicity studies are not required for fenhexamid, and no additional uncertainty factors are needed based on the following weight-of-the-evidence considerations:  
The lack of evidence of abnormalities in the development of the fetal nervous system in the pre/post natal studies; and  
Neither brain weight nor histopathological examination of the nervous system was affected in the subchronic and chronic studies. Decreased body temperatures observed in male rats in the acute neurotoxicity study were also not considered to be toxicologically significant.
- iii. As discussed above in Unit III D., there are no residual uncertainties for pre and/or post natal sensitivity.
- iv. The dietary (food) exposure assessment utilizes existing and

proposed tolerance level residues and assumes 100% of crops treated with fenhexamid. The assessment is based on reliable data and is not expected to underestimate exposure/risk. Fenhexamid is not registered for use sites that would result in residential exposure. Conservative assumptions are used in the drinking water models. The drinking water exposure assessment is not expected to underestimate exposure/risk.

#### *E. Aggregate Risks and Determination of Safety*

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk.* No toxicological endpoint attributable to a single (acute) dietary exposure was identified.

Therefore, acute risk from exposure to fenhexamid is not expected.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fenhexamid from food and water will utilize 27% of the cPAD for children 1-2 years old, the subpopulation at the greatest exposure. There are no residential uses for fenhexamid that result in chronic residential exposure to fenhexamid.

3. *Aggregate cancer risk for U.S. population.* The Agency has classified fenhexamid as a "not likely" human carcinogen based on lack of evidence of carcinogenicity in male and female rats as well as in male and female mice, and on the lack of genotoxicity in an acceptable battery of mutagenicity studies. Therefore, fenhexamid is not expected to pose a cancer risk.

4. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to fenhexamid residues.

#### **IV. Other Considerations**

##### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (high performance liquid chromatography (HPLC) method using electrochemical detection (ECD)) is available to enforce the tolerance

expression. The method 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 established or proposed Canadian, Mexican or Codex MRLs for fenhexamid on asparagus, therefore there are no issues for international harmonization for this current petition.

#### **V. Conclusion**

Therefore, the tolerance is established for residues of fenhexamid, (N-2,3-dichloro-4-hydroxyphenyl)-1-methyl cyclohexanecarboxamide, in or on asparagus at 0.02 ppm.

#### **VI. Statutory and Executive Order Reviews**

This final rule establishes a tolerance 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 rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) 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 FFDCFA. 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 6, 2000) do not apply to this rule. In addition, This 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: March 26, 2008.

**Daniel C. Kenny,**

*Acting 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 180.553 is amended by alphabetically adding the following commodities to/in the table in paragraph (a) to read as follows:

**§180.553 Fenhexamid; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * *	* *
Asparagus .....	0.02
* * *	* *

[FR Doc. E8-7038 Filed 4-8-08; 8:45 am]

**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2007-0426; FRL-8356-9]

**Buprofezin; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of buprofezin in or on berry, low growing , subgroup 13-07G; okra; olive; olive, oil; pepper, nonbell; radicchio; vegetable, fruiting, group 8, except nonbell pepper; and vegetable, leafy, except *Brassica*, group 4, except head lettuce and radicchio; and increases the existing tolerance for residues of buprofezin in or on head lettuce. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also removes existing tolerances for residues of buprofezin in or on leaf lettuce and tomato and modifies 40 CFR 180.511 by removing the third column (Expiration/Revocation Date) from the table in paragraph (a), since it is no longer applicable.

**DATES:** This regulation is effective April 9, 2008. Objections and requests for hearings must be received on or before June 9, 2008, 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-2007-0426. To access the electronic docket, go to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](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:** Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@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), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be