

aggregate gross receipts from the operations were the greatest) and September (the month that the aggregate gross receipts from the operations were the least). In January, operation A was open 31 days with 2,500 hours worked, operation B was open 20 days with 1,000 hours worked, and operation C was open 24 days with 1,500 hours worked. The average number of days such employer's food or beverage operations were open for business in January is 25 days (75 days/3 operations) and the average number of employee hours worked per business day during January is 200 (5,000 hours/25 days). If the average number of employee hours worked per business day during September is 60, this employer would be considered to have normally employed more than 10 employees on a typical business day as 260/2 is 130 which is greater than 80 hours. The result would be the same if the employer at each of the three food or beverage operations were a different corporation, but all three corporate employers were members of the same controlled group of corporations.

(10) *Food or beverage employee.* A "food or beverage employee" is an employee who provides services in connection with the provision of food or beverages. Such employees include, but are not limited to, waiters, waitresses, busboys, bartenders, persons in charge of seating (such as a hostess, maitre d' or dining room captain), wine stewards, cooks, and kitchen help. Examples of employees who are not food or beverage employees include, but are not limited to, coat check persons, bellhops, and doormen.

(11) *Tipped employee.* A "tipped employee" of a food or beverage operation is an employee who is a food or beverage employee that customarily receives tip income from employment at that operation. An employee who occasionally receives small amounts of tip income is not a tipped employee. Generally, an employee who receives less than \$20 per month in tip income would not be considered as customarily receiving tip income.

(12) *Directly tipped employee.* A "directly tipped employee" is any tipped employee who receives tips directly from customers, including an employee who after receiving tips directly from customers turns all the tips over to a tip pool. Examples of directly tipped employees are waiters, waitresses, and bartenders.

(13) *Indirectly tipped employee.* An "indirectly tipped employee" is a tipped employee who does not normally receive tips directly from customers. Examples of indirectly tipped employees are busboys, service bartenders and cooks. An employee, such as a maitre d', who receives tips both directly from customers and indirectly through tip splitting or tip pooling shall be treated as a directly tipped employee.

(14) *Calendar year.* The term "calendar year" shall mean either the period from January 1 through December 31 or the period that begins with the first day of the first payroll period ending on or after January 1 and ends with the last day of the last payroll period ending in December of the same year. An employer shall choose one of these two descriptions and apply it to all of such employer's food or beverage operations.

(15) *Tips reported for a specified period.* Tips reported to an employer for a specified period under section 6053 (a) are those tips actually received by an employee during such period without regard to the time when the tips are reported to the employer. Thus, if an employee reports to the employer in calendar year 1984 tips the employee actually received in calendar year 1983, the amount of tips actually received in calendar year 1983 must be included by the employer when making such information returns, statements and allocations required under section 6053 (c) and this section for calendar year 1983.

(k) *Permission to submit information on magnetic tape.* For rules relating to permission to submit the information required by section 6053 (c) and this section on magnetic tape or other media, see § 301.6011 (a)-8 of this chapter (Regulations on Procedure and Administration).

(l) *Recordkeeping requirements.* An employer shall keep records sufficient to substantiate any information returns, employer statements to employees, applications, or tip allocations made pursuant to section 6053 (c) and this section. The records required by this paragraph shall be retained so long as the contents thereof may become material in the administration of section 6053 (c) or in connection with the income tax liability of any employee.

(m) *Effective date.* This section is effective for calendar year 1983 and thereafter.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 6053 (c) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 603, 26 U.S.C. 6053 (c); 68A Stat. 917, 26 U.S.C. 7805) and in

section 314 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 603).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 3, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-33458 Filed 12-3-82; 4:52 pm]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1F2429/R491; PH-FRL-2260-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Carboxin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide carboxin and its metabolite in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for the combined residues of carboxin in or on the commodities was requested, pursuant to a petition, by the Uniroyal Chemical.

EFFECTIVE DATE: December 8, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of December 16, 1980 (45 FR 82705) which announced that Uniroyal Chemical, 74 Amity Road, Bethany, CT 06525, had submitted a pesticide petition (PP 1F2429) proposing that 40 CFR 180.301 be amended by the establishment of tolerances for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1, 4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1, 4-oxathiin-4-oxide (calculated as carboxin) in or on the raw agricultural commodities dry and succulent beans at 0.2 part per

million (ppm) and bean forage, hay, and straw at 0.5 ppm.

There were no comments received in response to the notice of filing.

The data submitted in this petition and other relevant material have been evaluated. The scientific data considered in support of these tolerances included a 2-year dog feeding study with no-observed-effect level (NOEL) of 600 ppm, a 2-year rat feeding study with NOEL of 200 ppm, a 3-generation rat reproduction study with NOEL of 200 ppm, and a rat teratology study which had negative teratogenic potential at 40 mg/kg (highest dose tested). The following studies are currently lacking and are required to be submitted: mouse oncogenicity, teratology in a second species, and multi-test mutagenicity data. Based on the rat feeding study with a NOEL of 200 ppm and using a 100-fold safety factor, the allowable daily intake (ADI) is 0.1000 mg/kg/day and the maximum permissible intake (MPI) is 6.0000 mg/day for a 60-kg person. These tolerances and all other established tolerances for carboxin utilize 1.72 percent of the ADI. Tolerances have previously been established for residues of carboxin in or on a variety of raw agricultural commodities ranging from .010 to .50 ppm.

The metabolism of carboxin is adequately understood, and an adequate analytical method, gas chromatography with microcoulometric nitrogen detector, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the

Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))

Dated: November 29, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.301, is revised to read as follows:

§ 180.301 Carboxin, tolerances for residues.

Tolerances are established for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) (from treatment of seed prior to planting) in or on raw agricultural commodities as follows:

Commodities	Parts per million
Barley, forage	0.5
Barley, grain	0.2
Barley, straw	0.2
Beans, dry	0.2
Beans, forage	0.5
Beans, hay	0.5
Beans, straw	0.5
Beans, succulent	0.2
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mby	0.1
Corn, fodder	0.2
Corn, forage	0.2
Corn, fresh, including sweet corn (K+CWHF)	0.2
Corn, grain	0.2
Cottonseed	0.2
Eggs	0.01
Goats, fat	0.1
Goats, meat	0.1
Goat, mby	0.1
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mby	0.1
Horses, fat	0.1
Horses, meat	0.1
Horses, mby	0.1
Milk	0.01
Oats, forage	0.5
Oats, seed	0.2
Oats, straw	0.2
Peanuts	0.2
Peanut, hay	0.2
Peanut, hulls	0.2
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, mby	0.1
Rice	0.2
Rice, straw	0.2
Sheep, fat	0.1
Sheep, meat	0.1

Commodities	Parts per million
Sheep, mby	0.1
Sorghum, fodder	0.2
Sorghum, forage	0.2
Sorghum, grain	0.2
Soybeans	0.2
Wheat, forage	0.5
Wheat, grain	0.2
Wheat, straw	0.2

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BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2510/R477; PH-FRL-2260-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2,2-Dichlorovinyl Dimethyl Phosphate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on the raw agricultural commodity figs. This regulation to establish a maximum permissible level for residues of the insecticide in or on figs was requested pursuant to a petition by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: December 8, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-577-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the *Federal Register* of October 20, 1982 (47 FR 46719) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2510 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR 180.235 by establishing a tolerance for residues of

the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on the raw agricultural commodity figs at 0.1 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

An accompanying document [FAP 1H5309/R120] establishing a feed additive regulation for dried figs appears elsewhere in this issue of the *Federal Register*.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. It is concluded that establishment of this tolerance will protect the public health. Therefore, 40 CFR 180.235 is amended as set forth below.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the establishment of the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: November 29, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.235 is revised by reformatting the text and alphabetically inserting the raw agricultural commodity figs. As revised § 180.235 reads as follows:

§ 180.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.

(a) Tolerances for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate are established as follows:

Commodities	Parts per million
Cattle, fat.....	0.02(N)
Cattle, meat.....	0.02(N)
Cattle, mby.....	0.02(N)
Cucumbers (residues expressed as naled).....	0.5
Eggs.....	0.05(N)
Figs.....	0.1
Goats, fat.....	0.02(N)
Goats, meat.....	0.02(N)
Goats, mby.....	0.02(N)
Horses, fat.....	0.02(N)
Horses, meat.....	0.02(N)
Horses, mby.....	0.02(N)
Lettuce (residues expressed as naled).....	1
Milk.....	0.02(N)
Mushrooms (residues expressed as naled).....	0.5
Poultry, fat.....	0.05(N)
Poultry, meat.....	0.05(N)
Poultry, mby.....	0.05(N)
Radishes.....	0.5
Raw agricultural commodities, nonperishable, bulk stored regardless of fat content (post-H).....	0.5
Raw agricultural commodities nonperishable, packaged or bagged, containing 6 percent fat or less (post-H).....	0.5
Raw agricultural commodities, nonperishable, packaged or bagged, containing more than 6 percent fat (post-H).....	2
Sheep, fat.....	0.02(N)
Sheep, meat.....	0.02(N)
Sheep, mby.....	0.02(N)
Tomatoes (pre- and post-H) (residues expressed as naled).....	0.05

(b) The tolerance of 0.1 part per million prescribed by 21 CFR 561.180 for negligible residues of 2,2-dichlorovinyl dimethyl phosphate in the edible tissue of swine covers both its use as an anthelmintic in swine feed and as an insecticide applied directly to swine.

[FR Doc. 82-33399 Filed 12-7-82; 8:45 am]

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40 CFR Part 180

[PP 2E2701/R502; PH-FRL-2262-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of

the insecticide permethrin and its metabolites in or on the raw agricultural commodity spinach. This regulation establishes the maximum permissible level for the combined residues of the insecticide in or on spinach.

EFFECTIVE DATE: December 8, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2890).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the *Federal Register* of October 27, 1982 (47 FR 47610) which announced that the Agency proposed to amend 40 CFR 180.378 by establishing a tolerance for residues of the insecticide permethrin ((3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on spinach at 20 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to this proposed rule.

The toxicological data considered in support of this chemical was discussed in a related document [PP 8F2099, 9F2196, 9F2243, 9F2192, OF2425, OF2307, 9F2207, 1F2562, 1F2564/R422] published in the *Federal Register* of October 13, 1982 (47 FR 45008).

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on residue data on spinach and other leafy vegetables, it is concluded that a level of 20 parts per million (ppm) is adequate to cover residues of the parent compound and its metabolites, 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) (3-phenoxyphenyl)methanol (3-PBA) and that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the