

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 FFDCFA, 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 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).

#### XI. 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: May 30, 2008.

**Marty Monell,**

*Acting Director, 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 180.1283 is added to subpart D to read as follows:

#### § 180.1283 (Z)-7,8-epoxy-2-methyloctadecane (Disparlure); exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of (Z)-7,8-epoxy-2-methyloctadecane on all food and feed crops that occur when it is used to treat trees, shrubs, and pastures and such use results in unintentional spray and drift to non-target vegetation including non-food, food, and feed crops. This active ingredient is also known as Disparlure. [FR Doc. E8-13232 Filed 6-12-08; 8:45 am]

**BILLING CODE 6560-50-S**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[EPA-HQ-OPP-2007-1107; FRL-8366-6]

#### Fenoxaprop-ethyl; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of fenoxaprop-ethyl and its metabolites in or on grass hay and forage. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on grasses grown for seed. This regulation establishes a maximum permissible level for residues

of fenoxaprop-ethyl and its metabolites in these feed commodities. The time-limited tolerances expire and are revoked on December 31, 2010.

**DATES:** This regulation is effective June 13, 2008. Objections and requests for hearings must be received on or before August 12, 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-2007-1107. 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 either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are 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:** Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9356; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@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 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 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. 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 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 the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. 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–2007–1107 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 12, 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 your copies, identified by docket ID number EPA–HQ–OPP–2007–1107, 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. Background and Statutory Findings**

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of FFDCA, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for combined residues of the herbicide fenoxaprop-ethyl, [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate], and its metabolites [2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one) in or on grass forage and hay at 0.05 parts per million (ppm). These time-limited tolerances expire and are revoked on December 31, 2010. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the CFR.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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. . . .”

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that “emergency conditions exist which require such exemption.” EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## **III. Emergency Exemption for Fenoxaprop-ethyl on Grasses Grown for Seed and FFDCA Tolerances**

The Oregon Department of Agriculture (ODA) states that an emergency situation has arisen from weed problems that were once controlled with an older product, under Special Local Needs (SLN) registrations that were in effect from 1987 to 2002. Since 2002, the growers have been lacking a method to effectively control the problem weeds and the problem has continued to worsen since the SLNs were cancelled. The ODA states that none of the herbicides currently registered for use on grasses grown for seed are effective for controlling the weed species addressed by their request, or do not provide adequate control, due to timing of application, or spectrum of control. Cultural controls are not viable alternatives due to the soil type, steep terrain, density of grass stand; or adaptability of the weed species to various grass seed production systems, such as varying planting date, row spacing, or grass variety planted. In grass seed production, the presence of noxious weed seeds like wild oat, results in significant discounts to the sale prices, and certain states and countries completely prohibit sale of grass seed containing noxious weed species; thus, growers suffer losses of significant sales. Certain weed species can also cause yield losses of up to 50%

under moderate to high infestation levels. Therefore, ODA states that an urgent and non-routine situation has arisen, with significant economic losses expected. After having reviewed the submission, EPA determined that emergency conditions exist for this State, and that the criteria for an emergency exemption are met. EPA has authorized under FIFRA section 18 the use of fenoxaprop-ethyl on grasses grown for seed for control of grassy weeds in Oregon.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of fenoxaprop-ethyl in or on grass forage and hay. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire and are revoked on December 31, 2010, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on grass forage and hay after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether fenoxaprop-ethyl meets FIFRA's registration requirements for use on grasses grown for seed or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of fenoxaprop-ethyl by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for persons in any State other than Oregon to use this pesticide on these crops under FIFRA section 18 absent the issuance of an emergency exemption applicable

within that State. For additional information regarding the emergency exemption for fenoxaprop-ethyl, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

#### **IV. 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 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 expected as a result of this emergency exemption request and the time-limited tolerances for combined residues of fenoxaprop-ethyl on grass forage and hay at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

##### *A. Toxicological Endpoints*

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as 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) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD 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 dietary risks by comparing aggregate food and water 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 POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. 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/pesticides/factsheets/riskassess.htm>.

A summary of the toxicological endpoints for fenoxaprop-ethyl used for human risk assessment is discussed in Unit II. of the final rule published in the **Federal Register** of April 22, 1998 (63 FR 19829) (FRL-5782-1).

##### *B. Exposure Assessment*

EPA believes that no changes need to be made as a result of this section 18 emergency exemption use on grasses grown for seed, to the conclusions of the risk assessment discussed in the final rule published on April 22, 1998 in the **Federal Register** (63 FR 19829) (FRL-5782-1) which established tolerances in barley commodities. EPA has used barley data to estimate residues which could occur on the hay and forage from grasses grown for seed, and this section 18 use is not expected to change the aggregate exposure estimates from the 1998 barley assessment. This conclusion is based upon the position that this section 18 use will not contribute to human dietary exposure for the following reasons:

1. This section 18 use does not involve use on human foods; and
2. This section 18 use is unlikely to alter the dietary burden for livestock (and corresponding residues in livestock tissues) because the resulting feed commodities do not comprise a significant part of livestock diet.

Therefore, because EPA has reasonable certainty of no harm from dietary exposure from the existing uses, and, that this use on grasses grown for seed pursuant to the emergency exemption would not increase dietary exposure, EPA is establishing these time-limited tolerances for grass hay and forage.

Since the time of the 1998 risk assessment, there has been a shift to (+) fenoxaprop-ethyl (the r-isomer enriched (95%) formulation of fenoxaprop-ethyl) as the primary active ingredient (also referred to as fenoxaprop-P-ethyl to denote the direction in which it rotates polarized light), rather than a 50:50 mix of (±)fenoxaprop-ethyl (the racemic mixture of the r- and s- isomers) both referred to in this document as the parent, fenoxaprop-ethyl. The current tolerance action is for fenoxaprop-ethyl, which covers both the “+” and “-” isomers. The analytical method used to determine residues of fenoxaprop-ethyl and its metabolites, expressed as the parent, is unable to distinguish between stereochemical isomers. Further, adequate data was provided (for barley) to indicate that comparable residue results are obtained from application of either the 50:50 mixture, or the so-called “enriched” mixture. At the time of the change in formulation, EPA determined that the established tolerances would protect human health and that the existing toxicology data supported the continued registration with the enriched formulation. EPA determined that there was a reasonable certainty of no harm from the continued registrations of the enriched formulation. EPA has determined that, for the purposes of this section 18 use only, the residue data for barley may be relied on for grass hay and forage, since the use patterns are nearly identical. For these reasons, as well as those given in Unit IV.B.1. and 2., the agency believes that the existing data are adequate to support these tolerances.

EPA concludes that establishing the tolerances for grass hay and forage, as set forth in this document, will not change the estimated aggregate risks, as discussed in the April 22, 1998 **Federal Register**. Refer to the April 22, 1998 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon those risk assessments and the findings made in the **Federal Register** document in support of this action.

Based on the risk assessments discussed in the final rule published in the **Federal Register** of April 22, 1998, EPA concludes that there is a reasonable certainty that no harm will result to the

general population, and to infants and children from aggregate exposure to fenoxaprop-ethyl residues.

## V. Other Considerations

### A. Analytical Enforcement Methodology

Adequate enforcement methodology (electron capture gas chromatography) is available to enforce the tolerance expression. The method is available in the Pesticide Analytical Manual (PAM) II, and 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*.

### B. International Residue Limits

There are no established Codex tolerances for fenoxaprop-ethyl and its metabolites in or on grass forage or hay.

## VI. Conclusion

Therefore, time-limited tolerances are established for combined residues of fenoxaprop-ethyl [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid], and its metabolites (2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one), in or on grass hay and grass forage, both at 0.05 ppm. These tolerances expire and are revoked on December 31, 2010.

## VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under sections 408(e) and 408(l)(6) 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, *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 in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances 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).

## VIII. 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 4, 2008.

**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 180.430 is amended by adding text to paragraph (b) to read as follows:

**§ 180.430 Fenoxaprop-ethyl; tolerances for residues.**

(a) \* \* \*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the herbicide

fenoxaprop-ethyl, [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid], and its metabolites (2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one), each expressed as fenoxaprop-ethyl, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA, in or on the food commodities in the following table. The tolerances expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Grass, forage .....	0.05	12/31/10
Grass, hay .....	0.05	12/31/10

\* \* \* \* \*

[FR Doc. E8-13372 Filed 6-12-08; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-1989-0008, Notice 3; FRL-8578-7]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct Final Notice of deletion of the Double Eagle Refinery Co. Superfund site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the Double Eagle Refinery Co. Site (Site), located in Oklahoma City, Oklahoma County, Oklahoma from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed

However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion will be effective August 12, 2008 unless EPA receives adverse comments by July 14, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1989-0008, Notice 3, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.
- *E-mail:* [walters.donn@epa.gov](mailto:walters.donn@epa.gov).
- *Fax:* 214-665-6660.
- *Mail:* Donn Walters, Community Involvement, U.S. EPA Region 6 (6SF-TS), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-6483 or 1-800-533-3508.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-1989-0008, Notice 3. 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.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, 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 <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.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the following information repositories: U.S. EPA Online Library System at <http://www.epa.gov/natlibra/ols.htm>; U.S. EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, (214) 665-6617, by appointment only Monday through Friday 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Ralph Ellison Library, 2000 Northeast 23, Oklahoma City, OK 73111, (409) 643-5979, Monday through