

that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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 24, 2006.

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 180.361 is amended by alphabetically adding a commodity to the table in paragraph (a) to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) * * *

| Commodity | | | | Parts per million | |
|-----------|---|---|-----|-------------------|---|
| * | * | * | | * | * |
| Pistachio | | | 0.1 | * | * |
| * | * | * | * | * | * |

[FR Doc. E6-8830 Filed 6-6-06; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2006-0404; FRL-8069-5]

Methoxyfenozide; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of methoxyfenozide in or on soybean aspirated grain fractions, soybean forage, soybean hay, soybean hulls, and soybean seed. Dow AgroSciences requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). **DATES:** This regulation is effective June 7, 2006. Objections and requests for hearings must be received on or before August 7, 2006, 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-2006-0404. All documents in the docket are listed in the index for the docket. 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 Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Mark Suarez, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0120; e-mail address: suarez.mark@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 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 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 FFDCFA, as amended by the 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-2006-0404 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 7, 2006.

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-2006-0404, 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 Building), 2777 S. Crystal Drive, 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 telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of August 13, 2004 (69 FR 50192) (FRL-7364-9), EPA issued a notice pursuant to section 408(d)(3) of FFDCFA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3F6794) by Dow AgroSciences, 9330 Zionsville Road 308-2E225, Indianapolis, IN 46268-1054. The petition requested that 40 CFR 180.544 be amended by establishing a tolerance for residues of

the insecticide methoxyfenozide per se; benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide, in or on soybean aspirated grain at 200 parts per million (ppm), soybean forage at 45 ppm, soybean hay at 65 ppm, soybean hulls at 3.0 ppm, soybean meal at 0.1 ppm, soybean oil at 1.0 ppm, and soybean seed at 2.0 ppm. That notice included a summary of the petition prepared by Dow AgroSciences, the registrant. There were no comments received in response to the notice of filing.

The registrant subsequently revised Section F of the petition to concur with the tolerances found to be supported by the Agency based on the available data used for the risk assessment. In the revised Section F, Dow AgroSciences requested that 40 CFR 180.544 be amended by establishing a tolerance for residues of the insecticide methoxyfenozide per se; benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide, in or on soybean aspirated grain at 160 ppm, soybean forage at 30 ppm, soybean hay at 80 ppm, soybean hulls at 2.0 ppm, and soybean seed at 1.0 ppm.

Section 408(b)(2)(A)(i) of FFDCFA 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 FFDCFA 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 FFDCFA 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. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCFA and a complete description of the risk assessment process, see <http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm>.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCFA, 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, consistent with section 408(b)(2) of FFDCFA, for a tolerance for residues of methoxyfenozide on soybean aspirated grain at 160 ppm, soybean forage at 30 ppm, soybean hay at 80 ppm, soybean hulls at 2.0 ppm, and soybean seed at 1.0 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. Specific information on the studies received and the nature of the toxic effects caused by methoxyfenozide as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies can be found at <http://www.epa.gov/EPA-PEST/2002/September/Day-20/p23996.htm>.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect 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.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk, estimates risk in terms of the probability of occurrence of

additional cancer cases. More information can be found on the general principles EPA uses in risk

characterization at <http://www.epa.gov/pesticides/health/human.htm>.

A summary of the toxicological endpoints for methoxyfenozide used for

human risk assessment is shown in Table 1 of this unit:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR METHOXYFENOZIDE FOR USE IN HUMAN RISK ASSESSMENT

| Exposure/Scenario | Dose (mg/kg/day) | Endpoint | Study |
|---|------------------------|--|---|
| Acute dietary | None | No appropriate endpoint was identified in the oral toxicity studies including the acute neurotoxicity study in rats and the developmental toxicity studies in rats and rabbits | None |
| | UF = N/A | Acute RfD = Not Applicable | |
| Chronic dietary (Non cancer) | NOAEL = 10.2 mg/kg/day | Hematological changes (decreased RBC, hemoglobin and/or hematocrit), liver toxicity (increased weights, hypertrophy), histopathological changes in thyroid (increased follicular cell hypertrophy, altered colloid), possible adrenal toxicity (increased weights). | 2—Year combined chronic feeding/carcinogenicity, rats |
| All population subgroups | UF =100 FQPA = 1X | Chronic RfD = 0.10 mg/kg/day Chronic Population Adjusted Dose (cPAD) = 0.10 mg/kg/day This cPAD applies to All population subgroups. | |
| Short-Term, Intermediate-Term, and Long-Term (Dermal) | None | No systemic toxicity was seen at the limit dose following repeated dermal application to rats | None |
| Short-Term, Intermediate-Term, and Long-Term (Inhalation) | None | Based on low vapor pressure, the low acute toxicity of both the technical and formulated products as well as the application rate and application method, there is minimal concern for inhalation exposure. | None |
| Cancer | None | Methoxyfenozide has been classified as “not likely to be a human carcinogen.” The classification is based on the 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 | None |

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.544) for the residues of methoxyfenozide, in or on a variety of raw agricultural commodities, animal (cattle, goat, hog, horse, poultry, and sheep) meats and fats, and milk. Risk assessments were conducted by EPA to assess dietary exposures from methoxyfenozide 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 appropriate endpoint was identified in the oral toxicity studies including the acute neurotoxicity study

in rats and the developmental toxicity studies in rats and rabbits. Therefore, acute dietary exposure assessments were not conducted.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Drinking water will contain the highest estimate drinking water concentration

(EDWC), 100% of all existing and proposed crops are treated, and all resulting residues are at tolerance levels.

iii. *Cancer.* Because methoxyfenozide has been classified as “not likely to be a human carcinogen,” an exposure assessment for the purpose of assessing cancer risk is not needed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for methoxyfenozide 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 physical characteristics of methoxyfenozide. Further information

regarding EPA drinking water models used in pesticide exposure assessment is discussed in Unit III.C.2 of the final rule previously published in the **Federal Register** of July 5, 2000 (65 FR 41355) (FRL-6496-5).

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System and Screening Concentrations in Groundwater models, the estimated environmental concentrations (EECs) of methoxyfenozide for acute exposures are estimated to be 43 parts per billion (ppb) for surface water and 3.5 ppb for ground water. The EECs for chronic exposures are estimated to be 30 ppb, based on surface 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).

Methoxyfenozide 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 the 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 methoxyfenozide and any other substances and methoxyfenozide 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 methoxyfenozide 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 the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on 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 margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. 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 safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* There is no evidence of prenatal or postnatal sensitivity, as discussed in Unit IV.C. of the final rule previously published in the **Federal Register** of August 31, 2005 (70 FR 51597) (FRL-7732-3).

3. *Conclusion.* There is a complete toxicity data base for methoxyfenozide and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency has determined that the FQPA Safety Factor can be reduced to 1X in assessing the risk posed by this chemical. The basis for this determination is discussed in Unit IV.C.5 of the final rule previously published in the **Federal Register** of August 31, 2005.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* No appropriate endpoint was identified in the oral toxicity studies including the acute neurotoxicity study in rats and the developmental toxicity studies in rats and rabbits. Therefore, no acute dietary risk is expected.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to methoxyfenozide from food and drinking water will utilize 23% of the cPAD for the U.S. population, 32% of the cPAD for all infants <1-year old, and 56% of the cPAD for children 1-2 years old, the highest exposed subgroup. There are no residential uses for methoxyfenozide that result in chronic residential exposure to methoxyfenozide.

3. *Short-term and Intermediate-term risk.* Short-term and intermediate-term

aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Methoxyfenozide is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population.* Methoxyfenozide has been classified as "not likely" to be a human carcinogen. The classification is based on the 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, methoxyfenozide is not expected to pose a cancer risk.

5. *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, and to infants and children from aggregate exposure to methoxyfenozide residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (TR 34-00-28) was previously developed by Rohm and Haas; high performance liquid chromatography (HPLC) with positive ion electrospray (E.I.) tandem mass spectrometry (LC/MS/MS) 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.

B. International Residue Limits

There are no established or proposed Codex, Canadian, or Mexican limits for residues of methoxyfenozide in or on plant or animal commodities. Therefore, no compatibility issues exist regarding the proposed U.S. tolerances.

V. Conclusion

Therefore, the tolerance is established for residues of methoxyfenozide per se; benzoic acid, 3-methoxy-2-methyl-2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl)hydrazide, in or on soybean aspirated grain at 160 ppm, soybean forage at 30 ppm, soybean hay at 80 ppm, soybean hulls at 2.0 ppm, and soybean seeds at 1.0 ppm. The original petition (PP 3F6794) and notice of filing (Docket identification number OPP-2004-0184) contained additional proposed tolerances for soybean, oil and

soybean, meal. Dow AgroSciences the registrant submitted a revised Section F of the petition for the removal of soybean, oil and soybean, meal from the tolerance expression.

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 due to its lack of significance, 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). 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.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). 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. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10,

1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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 22, 2006.

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 180.544 is amended by alphabetically adding commodities to the table in paragraph (a)(1) to read as follows:

§ 180.544 Methoxyfenozide; tolerances for residues.

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

| Commodity | Parts per million |
|--|-------------------|
| * * * * * | * |
| Soybean, aspirated grain fractions | 160 |
| Soybean, forage | 30 |
| Soybean, hay | 80 |
| Soybean, hulls | 2.0 |
| Soybean, seed | 1.0 |
| * * * * * | * |

[FR Doc. E6-8828 Filed 6-6-06; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06-1051; MB Docket No. 05-108; RM-11178]

Radio Broadcasting Services; Andover and Haverhill, MA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Beanpot Broadcasting Corp., licensee of Station WXRV(FM), Channel 223B, Haverhill, Massachusetts, deletes Channel 223B at Haverhill,