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## II. Background and Statutory Findings

In the **Federal Register** of March 20, 2003 (68 FR 13703) (FRL-7296-5), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of pesticide petitions (PP 6F4631 and 0F6095) by BayerCropScience, P.O. Box 12014, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709. That notice included a summary of the petitions prepared by BayerCropScience, the registrant. One comment was received in response to this notice of filing by B. Sachau, 15 Elm Str., Florham Park, NJ 07932. Mr. Sachau objected generally to the

presence of pesticides in food and specifically to the presence of flufenacet.

Bayer requested in petition 6F4631 that 40 CFR 180.527 (a) be amended by making the currently time-limited tolerances for combined residues of the herbicide flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety] permanent in or on the following agricultural commodities: Corn, field, forage at 0.4 ppm; corn, field, grain at 0.05 ppm; corn, field, stover at 0.4 ppm; and soybean, seed at 0.1 ppm.

Bayer requested in petition 0F6095 that the section 18 tolerances listed below in 40 CFR 180.527 (b) for combined residues of the herbicide flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide and its metabolites containing 4-fluoro-*N*-methylethyl benzenamine moiety] be made permanent and moved to 40 CFR 180.527 (a), cattle, fat at 0.05 ppm; cattle, kidney at 0.5 ppm; cattle, meat at 0.05 ppm; cattle, meat byproducts at 0.1 ppm; goat, fat at 0.05 ppm; goat, kidney at 0.5 ppm; goat, meat at 0.05 ppm; goat, meat byproducts at 0.1 ppm; hog, fat at 0.05 ppm; hog, kidney at 0.5 ppm; hog, meat at 0.05 ppm; hog, meat, byproducts at 0.1 ppm; horse, fat at 0.05 ppm; horse, kidney at 0.5 ppm; horse, meat at 0.05 ppm; horse, meat byproducts at 0.1 ppm; sheep, fat at 0.05 ppm; sheep, kidney at 0.5 ppm; sheep, meat at 0.05 ppm; sheep, meat byproducts at 0.1 ppm; wheat, forage at 10.0 ppm; wheat, grain at 1.0 ppm; wheat, hay at 2.0 ppm; and wheat, straw at 0.50 ppm.

Bayer requested in petition 0F6095 that the currently time limited tolerances in 40 CFR 180.527 (d) be amended by establishing permanent tolerances for indirect or inadvertent residues of the herbicide flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the following raw agricultural commodities from the application of this herbicide to the raw agricultural commodities listed in 40 CFR 180.527 (a) and (b) at the levels listed below Table 1:

TABLE 1.—TOLERANCE LEVELS

Commodity	Current level in Parts per Million	Level in Parts per Million proposed by Bayer
Alfalfa, forage	0.1	0.1
Alfalfa, hay	0.1	0.1
Alfalfa, seed	0.1	0.1
Clover, forage	0.1	0.1
Clover, hay	0.1	0.1
Grain, cereal, group 15, except rice	0.1	0.4
Grain, cereal, forage, fodder, and straw, group 16, except rice	0.1	10.0
Grass, forage, fodder and hay, group 17	0.1	0.1

The Agency's current review did not include the data submitted with petition 0F6095. Therefore, the Agency is leaving the section 18 time limited tolerances listed in 40 CFR 180.527 (b) unchanged. The time limited tolerances listed in 40 CFR 180.527 (b) were issued in connection with a section 18 and were extended to July, 2005 on January 16, 2003 (68 FR 2242)(FRL-7284-8). The section 18 tolerances are not being modified in this notice but are included in the risk assessments discussed below. In addition, since the Agency's current review did not include the data submitted with petition 0F6095 and the risk assessment outlined below indicated that the risk cup was full, the tolerances for indirect or inadvertent residues listed in 40 CFR 180.527(d) will be made permanent but the levels will remain unchanged.

Section 408(b)(2)(A)(i) of the 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 the 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