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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[OPP-2003-0130; FRL-7310-9]****Famoxadone; Pesticide Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes tolerances for residues of famoxadone (3-anilino-5-methyl-5-(4-phenoxyphenyl)-1,3-oxazolidine-2,4-dione) in or on vegetables, fruiting, group 8 (except tomato) at 4.0 parts per million (ppm), tomato at 1.0 ppm; vegetables cucurbit, group 9 at 0.30 ppm; lettuce, head at 10.0 ppm; potato at 0.02 ppm; grape at 2.50 ppm; grape, raisin at 4.0 ppm; fat of cattle, horses, goats, sheep at 0.02 ppm; liver of cattle, horses, goats, sheep at 0.05 ppm; and milk fat (reflecting negligible residues in whole milk) at 0.060 ppm. E.I. Dupont Nemours and Company (Dupont) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These reflect the first food tolerances for this fungicide in the United States.

DATES: This regulation is effective July 2, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0130, must be received on or before September 2, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dennis M. McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-6742; e-mail address: mcneilly.dennis@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)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 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 Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0130. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/>

to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of January 10, 2001 (66 FR 1981) (FRL-6760-8), 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 a pesticide petition (PP 0F6070) for establishing tolerances for potatoes at 0.05 ppm, cucurbit vegetable crop group (cucumbers, melon, squash) at 0.7 ppm; fruiting vegetable crop group (tomatoes, and peppers) at 1.0 ppm; and head lettuce at 15 ppm by Dupont, P.O. Box 80038, Wilmington, DE 19880-0038. That notice included a summary of the petition prepared by Dupont, the registrant. There were no comments received in response to the notice of filing.

In a second **Federal Register** of August 1, 2001 (66 FR 39762) (FRL-6789-2), 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 a pesticide petition (PP 7E4847) for establishing a tolerance for grapes at 2.0 parts per million by Dupont, P.O. Box 80038, Wilmington, DE 19880-0038. That notice included a summary of the petition prepared by Dupont, the registrant. The Agency received a written comment from the World Wildlife Fund (WWF) dated August 31, 2001. The Agency's response to this comment can be found at Unit III.B.

The initial petitions requested that 40 CFR 180.587 be amended by establishing tolerances for residues of the fungicide famoxadone (3-anilino-5-methyl-5-(4-phenoxyphenyl)-1,3-oxazolidine-2,4-dione) in or on potatoes at 0.05 ppm; cucurbit vegetable crop group at 0.7 ppm; fruiting vegetable crop group at 1.0 ppm; head lettuce at 15 ppm; grapes at 2.0 ppm; and raisins at 4.0 ppm.

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