

fenhexamid, N-(2,3-dichloro-4-hydroxyphenyl)-1-methyl-cyclohexane carboxamide, in or on food commodities as follows: cucumber at 2.0 parts per million (ppm) (PP 2E6496); fruit, stone, group 12, postharvest at 10.0 ppm (PP 3E6541); kiwifruit, postharvest at 15.0 ppm (PP 2E6463); leafy greens, subgroup 4A, except spinach at 30.0 ppm (PP 3E6532); vegetable, fruiting, group 8, at 2.0 ppm (PP 2E6496). IR-4 subsequently amended PP 3E6541 to propose tolerances for fruit, stone, group 12, except plum, prune, fresh, postharvest at 10.0 ppm and separate tolerances for plum, prune, dried at 2.5 ppm and plum, prune, fresh at 1.5 ppm. IR-4 also amended PP 2E6496 to propose tolerances for vegetable, fruiting, group 8, except nonbell pepper at 2.0 ppm. EPA is deleting the established fenhexamid tolerance for fruit, stone, except plum, prune, fresh at 6.0 ppm. This tolerance is no longer needed since this action establishes a higher tolerance at 10.0 ppm to cover both pre- and postharvest application to stone fruit, except plum, prune, fresh.

EPA has received objections to tolerances it established for residues of fenhexamid on a variety of berry crops and pistachio (67 FR 19114) (FRL-6829-9). The objections were filed by the Natural Resources Defense Council (NRDC) and raised several issues regarding aggregate exposure estimates and the additional safety factor for the protection of infants and children. NRDC's objections raise complex legal, scientific, policy, and factual matters and EPA has initiated a public comment period on them in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL-7167-7), which ended on October 16, 2002. Although that proceeding remains ongoing, prior to acting on this current tolerance action, EPA reviewed the fenhexamid-specific objections raised by NRDC and has addressed them at relevant points throughout this preamble.

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 408(b)(2)(C) of the 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...."

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 the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL-5754-7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, 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 the FFDCA, for tolerances for residues of fenhexamid on cucumber at 2.0 ppm; fruit, stone, group 12, except plum, prune, fresh, postharvest at 10.0 ppm; kiwifruit, postharvest at 15.0 ppm; leafy greens subgroup 4A, except spinach at 30.0 ppm; plum, prune, dried at 2.5 ppm; plum, prune, fresh at 1.5 ppm; vegetable, fruiting, group 8, except nonbell pepper at 2.0 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. The nature of the toxic effects caused by fenhexamid are discussed in Unit II.A. of the final rule on Fenhexamid; Pesticide Tolerance published in the **Federal Register** of April 13, 2000 (65 FR 19842) (FRL-6553-7).

B. Toxicological Endpoints

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. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF ($RfD = NOAEL / UF$). Where an additional safety factors (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = $NOAEL / \text{exposure}$) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{\text{cancer}} = \text{point of departure} / \text{exposures}$) is calculated. A summary of the toxicological endpoints for fenhexamid used for human risk assessment is shown in Table 1 of this unit: