

## **EPA Meets FQPA Deadline**

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**by Lynn L. Bergeson**

Aug. 3, 2006, marked the end of the 10-year deadline EPA was given under the 1996 Food Quality Protection Act (FQPA) to complete a review and reassessment of all tolerances (maximum permitted residues) for all food use pesticides. The agency claims to have completed over 99 percent of the reassessments.

Despite its important implications for domestic food safety, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended by FQPA a decade ago, remains one of the least understood federal environmental statutes. EPA is responsible for regulating the sale and use of pesticides, and the allowable levels in and on food. Their authority is set forth in FIFRA and the Federal Food, Drug and Cosmetic Act (FFDCA), both of which were amended by FQPA. FIFRA provides the overall framework for EPA's regulation of pesticides. The FFDCA governs the establishment of pesticide tolerances for food and feed products.

### **EPA's progress**

Within three years of FQPA's enactment, EPA had to complete 33 percent of the required tolerance reassessments, 66 percent within six years, and 100 percent within 10 years. According to EPA's website, it has now completed 9,637, or over 99. The agency recommended revocation of 3,200 tolerances, the modification of 1,200 tolerances, and confirmed the safety of 5,237 tolerances.

### **New science standards**

As any FIFRA/pesticide practitioner will attest, implementation of FQPA has changed the way EPA assesses pesticides and reaffirms food tolerances. To satisfy FQPA's aggregate risk assessment standard, they developed new and specialized exposure assessment methodologies to account for pesticide exposure from multiple routes and exposure sources.

EPA also developed new tools to account for cumulative risk assessments. Models and algorithms were developed to calculate assessments for four pesticide groups: organophosphate insecticides, carbamate insecticides, triazine herbicides and chloracetanilide herbicides.

Finally, EPA developed/refined a new administrative process to review and consider stakeholder input on FQPA decisions. They followed the recommendations of the Tolerance Reassessment Advisory Committee, a Federal Advisory Committee Act advisory group, and established a public participation process that was first used in 1998 for the organophosphate pesticide review. The process was expanded to include all pesticides undergoing reregistration and tolerance reassessment, and included multiple opportunities for public comment in either an abbreviated four-phase or more common six-phase review process.

### **Implications**

EPA's implementation of FQPA has many implications. First, the pesticide review and approval process is much more science-driven. The implementation of the FQPA aggregate and cumulative risks assessment provisions require that registrants develop data and/or

offer information sufficient to meet FIFRA/FQPA's high health standard.

Second, the public process that evolved in implementing FQPA is now routinely used by EPA for pesticide reregistration review purposes. The review process offers many opportunities for public comment and stakeholder input.

Third, the FQPA process has resulted in the cancellation/revocation of thousands of tolerances.

Finally, EPA may well be forced to defend several of its more controversial decisions in administrative and possibly judicial venues. EPA has seldom actually sought to cancel and defend its cancellation determinations under FIFRA, and the burden such an administrative process imposes on the agency is strenuous. Other pesticides may well be facing similar fates, challenging EPA's limited resources all the more.

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