

**§ 62.9632 Effective date.**

The effective date of the plan for municipal solid waste landfills is April 16, 1999.

[FR Doc. 99-6500 Filed 3-16-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-300530A; FRL-6052-3]

RIN 2070-AB78

**Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene); Exemption from the Requirement of a Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; Technical amendment.

**SUMMARY:** EPA is issuing a technical amendment to a tolerance exemption it published in the **Federal Register** on August 15, 1997 (62 FR 43650). This technical amendment changes the name of the active ingredient from "Replicase Protein of Potato Leaf Roll Virus and the genetic material necessary for its production" to "Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) and the genetic material necessary for its production." This action is requested by Monsanto Company, who originally filed the pesticide petition requesting an exemption from the requirement of a tolerance for residues of the biological pest control agent under the name "Replicase Protein of Potato Leaf Roll Virus and the genetic material necessary for its production." The change was suggested by the Agency as a result of the review of data which indicated that the former active ingredient, Replicase Protein of Potato Leaf Roll Virus and the genetic material necessary for its production, was not solely responsible for providing the plant product with its' pesticidal properties (i.e., resistance to infection by the Potato Leaf Roll Virus). Changing the active ingredient name in no way changes the findings, determinations, or effects of the originally issued final rule published in the **Federal Register** of August 15, 1997 (62 FR 43650).

**DATES:** This regulation is effective March 17, 1999. Objections and requests for hearings must be received by EPA on or before May 17, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300530A],

must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees) and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-00530A], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300530A]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Linda Hollis, Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 9th fl., Crystal Mall #2 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)308-8733. e-mail: hollis.linda@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:****I. Background**

In the **Federal Register** of June 25, 1997 (62 FR 34283-34286) (FRL-5728-4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C.

346a(e) announcing the filing of a pesticide tolerance petition by Monsanto Company, St. Louis, Missouri. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the Food Quality Protection Act (FQPA) of 1996. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the biological pest control agent Replicase Protein of Potato Leaf Roll Virus and the genetic material necessary for its production in or on all food commodities. EPA published a final rule establishing a tolerance exemption in the **Federal Register** on August 15, 1997 (62 FR 43650) (FRL-5738-3) amending 40 CFR 180.1183. An amendment to this petition and thus the final rule establishing a tolerance exemption, was requested by Monsanto Company to change the name of the active ingredient from the above to Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) and the genetic material necessary for its production. This request came at the suggestion of the Agency as a result of the review of data which indicated that the former active ingredient, "Replicase Protein of Potato leaf Roll Virus and the genetic material necessary for its production," was not solely responsible for providing the plant with its' pesticidal properties (i.e., resistance to infection by the Potato Leaf Roll Virus). A change in the name of the active ingredient will in no way amend the text of the original petition or EPA's findings, conclusions or determinations as described in the August 15, 1997 Final Rule (62 FR 43650). Additionally, a change in the name of the active ingredient does not affect and/or compromise the Agency's original dietary risk exposure assessment which concluded that the active ingredient posed no dietary risk of concern under normal conditions. Therefore, this technical amendment only changes in the name of the active ingredient. All other text remains the same as in the final rule of August 15, 1997 (62 FR 43650) which amended 40 CFR 180.1183. For the reasons set forth above, EPA believes that it is appropriate to issue this rule as a technical amendment. Because this amendment makes a minor corrective change to an existing regulation and has no substantive impact, EPA has determined that good cause exists to dispense with the notice and comment provisions of the Administrative Procedure Act (APA)

pursuant to 5 U.S.C. 553(b)(B). Section 408 of the FFDCA provides that the Administrator, before issuing a comment unless the Administrator for good cause finds that it would be in the public interest to provide a shorter period. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA is merely correcting the name of a chemical for which a tolerance exemption has already been issued. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under section 408(e)(2). Under section 408(g)(1) of the FFDCA, today's rule is effective upon publication.

## II. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 17, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor

would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## III. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP-300530A]. A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:  
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

## IV. Regulatory Assessment Requirements

This final rule does not impose any new requirements. It only implements a technical correction to the Code of

Federal Regulations (CFR). As such, this action does not require review by the Office of Management and Budget (OMB) under Executive order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501., or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1991). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). 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), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act (APA) or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.)

## V. Submission to Congress and the Comptroller General

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. Section 808 allows the issuing agency to make a good cause finding that notice and public determinations must be supported by a brief statement 5 U.S.C. 808(2). EPA has made such a good cause finding for this final rule, and established an effective date of March 17, 1999. Pursuant to 5 U.S.C 808(2), this determination is

supported by the brief statement in Unit I. of this preamble. 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 the rule in the **Federal Register**. This 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: March 2, 1999.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention 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 180.1183 is revised to read as follows:

**§ 180.1183 Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) and the genetic material necessary for its production; Exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of the biological plant pesticide Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) and the genetic material necessary for its production.

[FR Doc. 99-6176 Filed 3-16-99; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[OPP-300810; FRL-6068-4]

RIN 2070-AB78

##### Propiconazole; Establishment of Time-Limited Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of propiconazole, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole, and its

metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on corn, peanuts and pineapples. Novartis Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire on December 31, 2000.

**DATES:** This regulation is effective March 17, 1999. Objections and requests for hearings must be received by EPA on or before May 17, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300810], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300810], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300810]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 249,

Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9354, waller.mary@epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 20, 1998 (63 FR 64498) (FRL-6042-1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) announcing the filing of pesticide petitions (PP) for tolerances by Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. This notice included a summary of the petitions prepared by Novartis Crop Protection, Inc., the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.434 be amended by establishing time-limited tolerances for combined residues of the fungicide propiconazole, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound on corn, fodder at 12 parts per million (ppm); corn, forage at 12 ppm; corn, grain at 0.1 ppm; corn, sweet (kernels plus cobs with husks removed) at 0.1 ppm; peanuts at 0.2 ppm; peanuts, hay at 20 ppm; pineapple at 0.1 ppm and pineapple, fodder at 0.1 ppm. These proposed tolerances will expire on December 31, 2000 and will replace previously established tolerances which expired on December 31, 1998.

#### I. Background and Statutory Findings

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) 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) 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