ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0048; FRL–7708–3]

Alternaria destruens Strain 059; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the microbial pesticide *Alternaria destruens* Strain 059 (also referred to in this document as *A. destruens*) on all agricultural commodities when applied/used in accordance with label directions. Loveland Products Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *A. destruens*.

DATES: This regulation is effective May 18, 2005. Objections and requests for hearings must be received on or before July 18, 2005.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP–2005–0048. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

FOR FURTHER INFORMATION CONTACT: Tessa Milofsky, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0455; e-mail address: *milofsky.tessa@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 code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 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 Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), 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 E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. Background and Statutory Findings

In the **Federal Register** of January 17, 2001 (66 FR 4017) (FRL–6755–1), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 0F6191) by Loveland Products, Inc, 419 18th Street, Greenley, CO 80632–1286. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Alternaria destruens* Strain 059. This notice included a summary of the petition prepared by the petitioner Loveland Products, Inc. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(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. Pursuant to section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which require 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 * * *.'' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues '' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

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 and considered its validity, completeness, and reliability and the relationship of this information 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.

Alternaria destruens Strain 059 is toxic to several *Cuscuta* species including dodder, swamp dodder, largeseed dodder, field dodder, and smallseed dodder. This fungal pathogen is well-characterized, naturally-occurring, and has been isolated in the

United States, from fields located in Wisconsin and Massachusetts. Results of the acute toxicology, pathogenicity, and irritation studies required of the petitioner under FFDCA section 408(d)(2)(A), in support of the petition for an exemption from the requirement of a tolerance for *A. destruens* Strain 059, indicate that the fungus is non-toxic, non-pathogenic, non-irritating to skin, and minimally irritating to eyes.

Tests performed by Loveland Products, Inc. and cited in support of its food tolerance exemption petition are summarized below:

1. *Acute oral toxicity* - Rat (OPPTS Guideline 870.1100) MRID 451664–02: *Test material*: *Alternaria destruens* Strain 059. *Test dose*: 1 x 10^7 CFU/animal. *Result*: No mortality, no observable abnormalities on necropsy, and minor clinical signs (hair loss in one male, colored material around nose on a second male, and reduced fecal production in one female) with complete symptom clearance by day seven. The pesticide was classified as Toxicity Category IV for acute oral toxicity (C. Etsitty/J. Kough memorandum to S. Matten, 10/25/02 (hereafter referred to as BPPD Review - 10/25/02)).

2. *Acute pulmonary toxicity / pathogenicity* - Rat (OPPTS Guideline 885.3150) MRID 451664–03: *Test material*: *Alternaria destruens* Strain 059. *Test dose*: 5.0 x 10^5 CFU/animal. *Result*: Strain 059 was shown to be non-toxic, non-infective, and non-pathogenic to rats when administered intratracheally at 5.0 x 10^5 CFU/animal. Rats exhibited rales, colored material around nose/eyes, anogenital staining, few feces, labored breathing, and/or rough hair coat after dosing, however full recovery was seen within six days of test administration. Four test animals died following exposure and rats sacrificed on days three, seven, or 14, exhibited lungs with multifocal areas of congestion and consolidation, mottled colored areas, and enlargement. These symptoms are characteristic of an immune response and are considered normal when test material is delivered using this vehicle of exposure (BPPD Review - 10/25/02).

3. *Acute injection toxicity / pathogenicity* - Rat (OPPTS Guideline 885.3200) MRID 451664–04: *Test material*: *Alternaria destruens* Strain 059. *Test dose*: 9.6 x 10^6 CFU/animal. *Result*: No mortality lethal dose ($(LD)_{50}$ > 9.6 x 10^6 CFU per animal). Following exposure to *A. destruens*, rats exhibited soiled hair coat, emission of colored material around the nose, anogenital staining, and soft/few/no feces for up to eight days following test material administration. Gross necropsy provided evidence of an inflammatory response to the test substance in the form of multiple adhesions associated with liver, spleen, diaphragm, stomach, and/or testes/ovaries. Some males exhibited one or more of the following: Enlarged testis, small testis, lump in the scrotum, subcutaneous lump, multiple adhesions and nodular masses associated with the testes. Subcutaneous lumps and/or multiple nodules in the abdominal cavity were noted in some females. Adhesions and lumps identified in the abdominal and peritoneal area are indicative of an inflammatory response to administration of the test material and are considered normal (BPPD Review - 10/25/02).

4. *Acute dermal toxicity* - Rat (OPPTS 870.1200) MRID 451664–05: *Test material*: *Alternaria destruens* Strain 059. *Test dose*: 5,000 milligrams/kilogram (mg/kg) of animal weight. *Result*: No mortality (LD_{50} > 5,000 mg/kg animal weight), no observable abnormalities on necropsy. The pesticide is considered non-toxic and is therefore classified as Toxicity Category IV for acute dermal toxicity.

5. *Acute inhalation toxicity* - Rats (OPPTS 870.1300) MRID 451664–06: *Test material*: *Alternaria destruens* Strain 059. *Test dose*: 2.03 mg/liter (L). *Result*: No mortality (LD_{50} > 2.03 mg/L). Ocular and nasal discharge, hunched posture, and hypoactivity were noted during exposure. Upon removal from the exposure chamber, rats exhibited ocular and/or nasal discharge. Full recovery was noted within 17 hours of test completion. The acute lethal dose (LC_{50}) was greater than 2.03 mg/L. The pesticide is considered non-irritating and is therefore classified as Toxicity Category IV for acute inhalation toxicity.

6. *Primary eye irritation* - Rabbits (OPPTS 870.2400) MRID 451664–07: *Test material*: *Alternaria destruens* Strain 059. *Test dose:* 0.1 gram (g)/animal. *Result*: No corneal opacity or iritis. All test animals showed an initial positive conjunctival irritation response to *A. destruens*. Full resolution was seen within 48 hours of test administration. The pesticide is considered to be minimally irritating and is therefore classified as Toxicity Category III for primary eye irritation.

7. *Primary dermal irritation* - Rabbits (OPPTS 870.2500) MRID 451664–08: *Test material*: *Alternaria destruens* Strain 059. *Test dose*: 0.5 g/animal. *Result*: No dermal irritation was noted. The test substance was found to be nonirritating. The pesticide is considered non-irritating and is therefore classified as Toxicity Category IV for primary dermal irritation.

8. *Hypersensitivity study* - (OPPTS 870.2600) *Test material*: Not applicable (N/A). *Test dose:* N/A. *Result*: Loveland Products, Inc. submitted a request for a data waiver of this study. A waiver was granted due to the following considerations:

i. The non-toxicity and low irritation potential of the test substance, as demonstrated by acute oral, acute dermal, acute pulmonary, injection toxicity/pathogenicity, and dermal irritation studies;

ii. Few opportunities for exposure via dermal and inhalation routes; and

iii. No documented reports of hypersensitivity incidents during production and testing of the active ingredient and end use product.

9. *Immune response study* - (OPPTS 885.3800) *Test material*: N/A. *Test dose*: N/A. *Result*: Loveland Products, Inc. submitted a request for a data waiver of this study. The submitted acute toxicity and pathogenicity studies demonstrated that *A. destruens* is not toxic, infective, or pathogenic to test animals. This finding justifies the data waiver request. Therefore, the Agency waived the data requirement for immune response testing.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Alternaria destruens may be applied early-season, as a granular formulation that is sprinkled on soil, or mid- to late-season as a foliar spray on fruit and vegetable crops. Proposed use sites include vegetables, fruits, field crops, and nonagricultural areas such as uncultivated rights-of-way, roadsides, and fallow areas.

1. *Food*. Because of the proposed use of *A. destruens* on food crops, fungal residues may be present on agricultural commodities. However, negligible to no risk is expected for the general population, including infants and children, because *A. destruens* demonstrated no pathogenicity or oral toxicity at the maximum doses tested (see Unit III of this document).

2. *Drinking water exposure*. *Alternaria destruens* does not thrive in aquatic

environments and there are no aquatic use sites for the pesticide. Although cranberry is listed as a use site, the product may only be applied to dry bogs. Accordingly, application of this pesticide to agricultural crops is not expected to increase drinking water exposure to *A. destruens*. Furthermore, any material that is consumed through drinking water would pose negligible to no risk for the general population, including infants and children, due to the pesticide's low toxicity classification (see Unit III of this document).

B. Other Non-Occupational Exposure

Alternaria destruens will be applied to agricultural fields and dry bogs. Since these application sites are not generally located near residential areas, there will be little opportunity for non-occupational exposures to *A. destruens*. Moreover, in the unlikely event of such exposure, no harm would be expected due to the active ingredient's low toxicity classification.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires the Agency, when considering whether to establish, modify, or revoke a tolerance, to consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' These considerations include the possible cumulative effects of such residues on infants and children. Due to the overall minimal toxicity and non-pathogenicity of the active ingredient, cumulative effects from the residues of this product are not anticipated.

VI. Determination of Safety for U.S. Population, Infants and Children

There is a reasonable certainty that no harm to the U.S. population, including infants and children, will result from aggregate exposure to residues of *A. destruens* due to its use as a microbial pest control agent. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. As discussed in Unit III, above, *A. destruens* is minimally toxic, non-pathogenic, and non-infective to mammals. Accordingly, exempting *A. destruens* from the requirement of a tolerance is considered safe and poses no significant risks.

FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety), which often are referred to as uncertainty factors, are incorporated into EPA risk assessment either directly or through the use of a margin of exposure analysis or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk. Actual exposures to adults and children through diet are expected to be several orders of magnitude less than the doses used in the toxicity and pathogenicity tests referenced in Unit III of this document. Thus, the Agency has determined that an additional margin of safety for infants and children is unnecessary.

VII. Other Considerations

A. Endocrine Disruptors

EPA is required under section 408(p) of the FFDCA, as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally-occurring estrogen, or other such endocrine effects as the Administrator may designate.'' *Alternaria destruens* is not a known endocrine disruptor nor is it related to any class of known endocrine disruptors. Consequently, endocrine-related concerns did not adversely impact the Agency's safety finding for *A. destruens*.

B. Analytical Method(s)

The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation for the reasons stated above, including the active ingredient's low mammalian toxicity. *Alternaria destruens* is a common and naturally-occurring fungus. There is likelihood of prior exposure for some individuals and exposure to this fungus is not expected to increase dramatically though use of the pesticide in approved use sites. For these reasons, an analytical method is not required.

C. Codex Maximum Residue Level

There is no Codex Alimentarium Commission Maximum Residue Level for *A. destruens*.

VIII. Conclusions

There is no evidence of adverse effects from oral, dermal, or inhalation exposure to this microbial agent (see Unit III of this document), nor is *A. destruens* expected to disrupt hormone or endocrine systems. Further, *A. destruens* is not expected to negatively impact the quality of drinking water. Consequently, there is reasonable certainty that no harm to the U.S. population, including infants and children, will result from aggregate exposure to residues of *A. destruens*.

IX. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA 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) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2005–0048 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 18, 2005.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). 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). 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.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES.** Mail your copies, identified by docket ID number OPP–2005–0048, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid 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 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

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).

X. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XI. Congressional Review Act

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. 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 this final rule in the **Federal Register**. This final rule 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 record keeping requirements.

Dated: May 5, 2005.

James Jones,

Director, 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 180.1256 is added to subpart D to read as follows:

§ 180.1256 Alternaria destruens Strain 059; Exemption from the Requirement of a Tolerance

An exemption from the requirement of a tolerance is established for residues of the microbial pesticide *Alternaria destruens* Strain 059 when used in or on all raw agricultural commodities when applied/used in accordance with label directions.

[FR Doc. 05–9903 Filed 5–17–05; 8:45 am]

BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–2, 301–10, 301–11, 301–13, 301–50, 301–70, 301–71, 304–3, and 304–5

[FTR Amendment 2005–03; FTR Case 2005–304]

RIN 3090–AI10

Federal Travel Regulation; Transportation Expenses

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the Federal Travel Regulation (FTR), by clarifying various provisions regarding temporary duty (TDY) travel. The explanation of changes is addressed in the supplementary information below. The FTR and any corresponding documents may be accessed at GSA's website at *http://www.gsa.gov/ftr*.

DATES: *Effective Date*: May 18, 2005.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat (VIR), Room 4035, GS Building, Washington, DC, 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Umeki Gray Thorne, Office of Governmentwide Policy, Travel Management Policy, at (202) 208–7636. Please cite FTR Amendment 2005–03; FTR case 2005–304.

SUPPLEMENTARY INFORMATION:

A. Background

The changes in this final rule clarify existing sections of chapters 301 and 304 as follows:

1. In section 301–2.5(a) ''premium-class'' is replaced with ''first-class or business-class''.

2. In section 301–10.106(b) ''premium class'' is replaced with ''business-class''.

3. In section 301–10.121 an introductory paragraph is added and the definition of ''coach-class'' is revised; the term and definition of ''premium-class'' is deleted; the term and definition of ''business-class'' is added; the definition of ''first-class'' is revised; the term and definition of ''premium-class other than first-class'' is deleted; and the definition of ''single-class'' is moved from paragraph (e) to paragraph (d).

4. In section 301–10.123 the introductory paragraph is revised and in paragraph (a) ''premium-class other than first-class'' is replaced with ''business-class''.

5. In section 301–10.124 the section heading and the note to section 301–10.124 ''premium-class other than first-class'' is replaced with ''business-class''. In section 301–10.124 ''premium-class'' is replaced with ''first-class and business-class''.

6. In section 301–11.20(a)(4) ''less than premium-class'' is replaced with ''coach-class''.

7. In section 301–13.3(f) ''premium-class'' is replaced with ''first-class'' and ''business-class''.

8. Section 301–50.6(a)(2) is revised.

9. Section 301–70.102(b)(1) is revised.

10. In section 301–71.105(a) ''premium-class'' is replaced with ''first-class or business-class''.

11. In Appendix C to Chapter 301—Standard Data Elements for Federal Travel, the phrases ''premium class'' and ''Non-premium class'' are replaced with the phrases ''first-class and business class'' and ''Non-first-class and Non-business-class'' respectively, wherever they appear.

12. In section 304–3.9 ''premium-class other than first-class common carrier'' is replaced with ''business-class''.

13. In section 304–5.5 ''premium other than first-class'' is replaced with ''business-class''.

B. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301–2, 301–10, 301–11, 301–13, 301–50, 301–70, 301–71, 304–3, and 304–5.

Government employees, Travel and transportation expenses.

Dated: May 5, 2005.

Stephen A. Perry,

Administrator of General Services.

■ For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, GSA amends 41 CFR parts 301–2, 301–10, 301–11, 301–13, 301–50, 301–70, 301–71, 304–3, and 304–5 as set forth below:

CHAPTER 301—TEMPORARY DUTY (TDY) TRAVEL ALLOWANCES

PART 301–2—GENERAL RULES

■ 1. The authority citation for 41 CFR part 301–2 continues to read as follows:

Authority: 5 U.S.C. 5707, 31 U.S.C. 1353; 49 U.S.C. 40118.

§ 301–2.5 [Amended]

■ 2. Amend § 301–2.5(a) by removing ''premium-class service'' and adding ''first-class or business-class service'' in its place.

PART 301–10—TRANSPORTATION EXPENSES

■ 3. The authority citation for 41 CFR part 301–10 is revised to read as follows:

Authority: 5 U.S.C. 5707, 40 U.S.C. 121(c); 49 U.S.C. 40118, Office of Management and Budget Circular No. A–126, ''Improving the