

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 174 and 180

[EPA-HQ-OPP-2005-0116; FRL-7742-2]

### Administrative Revisions to Plant-Incorporated Protectant Tolerance Exemptions

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

**ACTION:** Direct Final Rule.

**SUMMARY:** EPA is taking direct final action to move existing active and inert ingredient plant-incorporated protectant tolerance exemptions from 40 CFR part 180, Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food to 40 CFR part 174, Procedures and Requirements for Plant-Incorporated Protectants, subpart W. EPA is also making some conforming changes to the text of the individual exemptions being transferred from part 180 so that they are consistent with part 174, as well as some minor technical corrections to the wording of certain individual exemptions. This action is administrative in nature and no substantive changes are made or are intended.

**DATES:** This Direct Final Rule is effective on July 24, 2007 without further notice, unless EPA receives adverse comment by June 25, 2007. If EPA receives such adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

If this Direct Final Rule becomes effective on July 24, 2007, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. Objections and requests for hearings must be received on or before September 24, 2007.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0116. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in the regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The 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:** Mike Mendelsohn, Biopesticides and Pollution Prevention Division (BPPD) (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8715; fax number: (703) 308-7026; e-mail address: [mendelson.mike@epa.gov](mailto:mendelson.mike@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?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at

<http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR parts 174 and 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### C. Can I File an Objection or Hearing Request?

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. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2005-0116 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 September 24, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2005-0116, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

##### II. Background

In 2001, EPA published a final rule, establishing certain basic parameters of its regulatory program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for a specific class of

pesticide products—plant-incorporated protectants (66 FR 37772, July 19, 2001). EPA defined these products as pesticidal substances, along with the genetic material necessary to produce them, when produced and used in living plants. As part of that rule, EPA changed the name of this type of pesticide from “plant-pesticide” to “plant-incorporated protectant.” EPA also established a new part in title 40 of the Code of Federal Regulations (CFR) specifically for plant-incorporated protectants (40 CFR part 174). In the same issue of the **Federal Register**, EPA established a blanket tolerance exemption for all residues of nucleic acids that are part of a plant-incorporated protectant (PIP) (66 FR 37817, July 19, 2001). See 40 CFR 174.475.

#### A. What Action is the Agency Taking?

In this Direct Final Rule, the Agency is making minor technical changes to conform the wording of certain individual tolerance exemptions with the above regulations. The specific technical changes are discussed below.

The Agency is moving some tolerance exemptions listed under 40 CFR part 180 to 40 CFR part 174 in order to consolidate all plant-incorporated protectant-specific regulations in the same part.

The Agency is also making some conforming changes to the wording of the exemptions so that they are consistent with the provisions currently in part 174. These changes consist of revising the term “plant-pesticides” in these exemptions to read “plant-incorporated protectants” and changing the term “vegetative insecticidal protein” to the more broad term “plant-incorporated protectant.”

Further, for these exemptions, as well as those found in newly redesignated 40 CFR 174.501, 174.502, 174.503, 174.504, 174.505, 174.506, and 174.528 (formerly §§ 174.452, 174.453, 174.454, 174.455, 174.456, 174.457, and 174.458, respectively), EPA is also deleting the references to the phrase “genetic material necessary for its production” and the term “regulatory regions,” as well as the definitions of these terms, from individual tolerance exemptions. As noted above, EPA established a blanket tolerance exemption for nucleic acids, which includes the residues of genetic material necessary for the production of pesticidal substances in living plants, and residues of the genetic material necessary to produce any inert ingredient (40 CFR 174.475 redesignated as § 174.507). Retaining the references to the phrase “genetic material necessary for the production of the individual

substances,” and to “regulatory regions” in the text of the individual exemptions would be wholly duplicative of redesignated 40 CFR 174.507, and has the potential to cause confusion as to the intended scope of that provision. Accordingly, the Agency is removing these references. These deletions will in no way affect the legal status of such residues, given the provisions at 40 CFR 174.507.

Similarly, inclusion of the definitions of these terms in the individual exemptions becomes unnecessary once the exemptions are moved to part 174, as the terms are defined at § 174.3, which is generally applicable to all regulations contained in part 174. Moreover, the wording of the definitions varies slightly between some of the individual tolerance exemptions. While the Agency does not believe that there is any substantive difference between the different formulations, to avoid any confusion, EPA has chosen to delete the definitions from the individual tolerance exemptions. The deletion of these definitions from the individual tolerance exemptions will in no way affect the legal status of the residues exempted.

Further, for these exemptions and for 40 CFR 174.451, *Scope and Purpose*, redesignated as § 174.500, EPA is changing the terms “plant raw agricultural commodities,” “Raw agricultural commodities,” “raw agricultural commodities, in food, and in animal feeds,” “plant racs,” and “plant commodities” to read “food commodities.” While the Agency does not believe that there is any substantive difference between the different formulations, to avoid any confusion, EPA has chosen to use the one term “food commodities.” This change will in no way affect the legal status of the residues exempted.

EPA is changing the term “delta-endotoxin” to read “Cry protein” and removing any subspecies designations for *Bacillus thuringiensis* PIPs. The terms “delta-endotoxin” and “Cry protein” are redundant. While the Agency does not believe that there is any substantive difference between these different formulations, to avoid any confusion, EPA has chosen to use the one term “Cry protein” without a subspecies designation. This change will in no way affect the legal status of the residues exempted.

EPA is adding the term “enzyme” to descriptions of current PIP inert ingredients to clarify the function of these proteins and to make classification easier for the layman. While the Agency does not believe that there is any substantive difference between these

and the current naming formulations, to clarify the function of these proteins and make classification easier for the layman, EPA has chosen to add the term “enzyme.” This change will in no way affect the legal status of the residues exempted.

EPA is updating *Bacillus thuringiensis* derived plant-incorporated protectant exemptions to conform to updated nomenclature as determined by the Bacillus thuringiensis Pesticidal Crystal Proteins Nomenclature Committee, a non-governmental scientific committee, <http://www.biols.susx.ac.uk/home/NeilCrickmore/Bt/>. EPA is standardizing the tolerance exemption descriptions to list the “residues of” portion of the exemption first and to list field corn, sweet corn and popcorn as corn; corn, field; corn, sweet; and corn, pop. These changes will in no way affect the legal status of the residues exempted.

EPA is adding language to the exemption at § 174.513 (redesignated from § 180.1183), Potato Leaf Roll Virus Resistance Gene (also known as orfl/orf2 gene), and the genetic material necessary for its production to clarify that residues in or on all food commodities are covered under this regulation. The phrase “in or on all raw agricultural commodities” was inadvertently excluded from the regulatory text of this exemption. However, the preamble to the rule clearly stated the Agency’s intention to exempt residues of this product in or on all raw agricultural commodities. See 62 FR 43650, August 15, 1997. In addition, EPA’s findings and supporting analyses concerning the safety of these residues addressed residues in or on all raw agricultural commodities. The inclusion of the phrase “all food commodities” in the individual tolerance exemption will in no way affect the legal status of the residues covered by the regulation.

Finally, EPA is adding language to the exemption at § 174.523 (redesignated from § 180.1174), CP4 Enolpyruvylshikimate-3-phosphate (GP4 EPSPS), and the genetic material necessary for its production in all plants to clarify that this PIP inert ingredient is a synthase. The word “synthase” corresponds to the last “S” in “CP4 EPSPS” and was inadvertently excluded from the exemption. However, the Notice of Filing (the pesticide petition) clearly stated “synthase” in describing the ingredient. See 60 FR 54689, October 25, 1995 (FRL-4982-4). The inclusion of the phrase “synthase” in the individual tolerance exemption will in no way affect the legal status of the residues covered by the regulation.

The specific tolerance exemptions that EPA is transferring from part 180, subpart D to part 174, subpart W are identified in the codified portion of this document. In addition to redesignating these sections into part 174, EPA is making non-substantive changes to terminology and for that reason the revised tolerance language that will appear in 40 CFR part 174 appears at the end of this document as regulatory text. While EPA believes that it has accurately transferred each of the tolerance exemptions included in this rule, the Agency would appreciate readers notifying EPA of discrepancies, omissions or technical problems by submitting such comments to the address under **FOR FURTHER INFORMATION CONTACT**.

EPA is publishing this rule without prior proposal because EPA views this as a non-controversial amendment and anticipates no adverse comments since the changes are entirely administrative in nature. As discussed further below, these revisions are being made merely to make the wording of certain tolerance exemptions consistent with the wording adopted in subsequent regulations. No changes have been made that affect in any way the legal status of the residues covered by the existing tolerance exemptions. All of the substantive issues reflected in the revisions to the regulatory text previously were the subject of notice and comments rulemaking; as no substantive changes are contemplated by this regulation, EPA anticipates no adverse comment on this notice. However, in the "Proposed Rules" section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to these administrative revisions to plant-incorporated protectant tolerance exemptions if adverse comments are filed. This Direct Final Rule will be effective on July 24, 2007 without further notice unless the Agency receives adverse comment by June 25, 2007. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. The Agency will address all public comments in a subsequent final rule based on the proposed rule. The Agency will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### *B. What is the Agency's Authority for Taking this Action?*

This action is being finalized under sections 408(e)(1)(B) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e)(1)(B).

Section 408(e)(1)(B) provides that the Administrator may issue a regulation modifying an exemption of a pesticide chemical residue from the requirement of a tolerance, 21 U.S.C. 346a(e)(1)(B). Because EPA is making no substantive modifications to the tolerance exemptions, the Agency has not made separate findings regarding the safety of the individual exemptions. EPA believes that the safety standard is applicable only where the Agency takes affirmative action to either substantively modify the tolerance exemption, or has reviewed the tolerance exemption and determined to leave it in effect. EPA is taking neither action in this notice, but is merely making technical modifications to conform the wording of the individual exemptions to wording that is consistent with the surrounding regulations.

### **III. Statutory and Executive Order Reviews**

#### *A. Executive Order 12866*

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies

that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is a not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities since this action is administrative in nature and no substantive changes are being made.

### **IV. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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**

##### *40 CFR Part 174*

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements, Plant-incorporated protectants.

##### *40 CFR Part 180*

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 12, 2007.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

■ Therefore, Title 40, chapter I of the Code of Federal Regulations 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. In the following table, the sections in the first column are transferred to 40 CFR part 174, subpart W and redesignated as the sections in the second column.

Old Section	Redesignated as New section
180.1134	174.521
180.1147	174.509
180.1151	174.522
180.1155	174.510
180.1173	174.511
180.1174	174.523
180.1182	174.512
180.1183	174.513
180.1184	174.514
180.1185	174.515
180.1186	174.516
180.1190	174.524
180.1192	174.517
180.1214	174.518
180.1215	174.519
180.1216	174.525
180.1217	174.520
180.1249	174.526
180.1252	174.527

#### **§§ 180.1227 and 180.1242 [Removed]**

■ 3. Section 180.1227 and 180.1242 are removed.

#### **PART 174—[AMENDED]**

■ 4. The authority citation for part 174 continues to read as follows:

**Authority:** 7 U.S.C. 136 - 136y; 21 U.S.C. 346a and 371.

#### **§ 174.21 [Amended]**

■ 5. Section 174.21 is amended as follows:

■ i. In paragraph (b) by revising the reference “§§ 174.475 through 174.479” to read “§§ 174.507 through 174.508.”

■ ii. In paragraph (c) by revising the reference “§§ 174.485 through 174.490” to read “§ 174.705.”

#### **§§ 174.475 and 174.479 [Redesignated as §§ 174.507 and 174.508]**

■ 6. Sections 174.475 and 174.479 are redesignated as §§ 174.507 and 174.508, respectively.

#### **§§ 174.480 and 174.485 [Redesignated as §§ 174.700 and 174.705]**

■ 7. Sections 174.480 and 174.485 are redesignated as § 174.700 and § 174.705, respectively and remain in subpart X.

■ 8. Sections 174.451, 174.452, 174.453, 174.454, 174.455, 174.456, and 174.457 are redesignated as §§ 174.500, 174.501, 174.502, 174.503, 174.504, 174.505, and 174.506, respectively, and revised to read as follows:

#### **§ 174.500 Scope and purpose.**

This subpart lists the tolerances and exemptions from the requirement of a tolerance for residues of plant-incorporated protectants in or on food commodities.

#### **§ 174.501 *Bacillus thuringiensis* VIP3A protein; temporary exemption from the requirement of a tolerance.**

Residue of *Bacillus thuringiensis* VIP3A protein are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in cotton seed, cotton oil, cotton meal, cotton hay, cotton hulls, cotton forage, and cotton gin byproducts. This temporary exemption from the requirement of a tolerance expires May 1, 2007.

#### **§ 174.502 *Bacillus thuringiensis* Cry1A.105 protein in corn; temporary exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1A.105 protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 524-EUP-97 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the

requirement of a tolerance expires and is revoked June 30, 2009; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

#### **§ 174.503 *Bacillus thuringiensis* Cry2Ab2 protein in corn; temporary exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry2Ab2 protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 524-EUP-97 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked June 30, 2009; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

#### **§ 174.504 *Bacillus thuringiensis* Cry1F protein in cotton; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1F protein in cotton are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in food and feed commodities of cotton.

#### **§ 174.505 *Bacillus thuringiensis* modified Cry3A protein (mCry3A) in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* modified Cry3A protein (mCry3A) in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

#### **§ 174.506 *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins in corn are exempted from the requirement of a tolerance when used as plant-incorporated protectants in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

■ 9. Newly redesignated §§ 174.509 through 174.527 are revised to read as follows:

**§ 174.509 *Bacillus thuringiensis* Cry3A protein; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry3A protein are exempted from the requirement of a tolerance when used as a plant-incorporated protectant in potatoes.

**§ 174.510 *Bacillus thuringiensis* Cry1Ac protein in all plants; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1Ac protein in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectants in all food commodities.

**§ 174.511 *Bacillus thuringiensis* Cry1Ab protein in all plants; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1Ab protein in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectants in all food commodities.

**§ 174.512 Coat Protein of Potato Virus Y; exemption from the requirement of a tolerance.**

Residues of Coat Protein of Potato Virus Y are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.513 Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene); exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of the plant-incorporated protectant Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) in or on all food commodities.

**§ 174.514 Coat Protein of Watermelon Mosaic Virus-2 and Zucchini Yellow Mosaic Virus; exemption from the requirement for a tolerance.**

Residues of Coat Protein of Watermelon Mosaic Virus-2 and Zucchini Yellow Mosaic Virus are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.515 Coat Protein of Papaya Ringspot Virus; exemption from the requirement of a tolerance.**

Residues of Coat Protein of Papaya Ringspot Virus are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.516 Coat protein of cucumber mosaic virus; exemption from the requirement of a tolerance.**

Residues of Coat Protein of Cucumber Mosaic Virus are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.517 *Bacillus thuringiensis* Cry9C protein in corn; exemption from the requirement of a tolerance.**

The plant-incorporated protectant *Bacillus thuringiensis* Cry9C protein in corn is exempted from the requirement of a tolerance for residues, only in corn used for feed; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed.

**§ 174.518 *Bacillus thuringiensis* Cry3Bb1 protein in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry3Bb1 protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectants in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

**§ 174.519 *Bacillus thuringiensis* Cry2Ab2 protein in cotton; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry2Ab2 protein in cotton are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in the food and feed commodities, cotton seed, cotton oil, cotton meal, cotton hay, cotton hulls, cotton forage, and cotton gin byproducts.

**§ 174.520 *Bacillus thuringiensis* Cry1F protein in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1F protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectants in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

**§ 174.521 Neomycin phosphotransferase II; exemption from the requirement of a tolerance.**

Residues of the neomycin phosphotransferase II (NPTII) enzyme are exempted from the requirement of a tolerance in all food commodities when used as a plant-incorporated protectant inert ingredient.

**§ 174.522 Phosphinothricin Acetyltransferase (PAT); exemption from the requirement of a tolerance.**

Residues of the Phosphinothricin Acetyltransferase (PAT) enzyme are exempt from the requirement of a

tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

**§ 174.523 CP4 Enolpyruvylshikimate-3-phosphate (CP4 EPSPS) synthase in all plants; exemption from the requirement of a tolerance.**

Residues of the CP4 Enolpyruvylshikimate-3-phosphate (CP4 EPSPS) synthase enzyme in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

**§ 174.524 Glyphosate Oxidoreductase GOX or GOXv247 in all plants; exemption from the requirement of a tolerance.**

Residues of the Glyphosate Oxidoreductase GOX or GOXv247 enzyme in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

**§ 174.525 *E. coli* B-D-glucuronidase enzyme as a plant-incorporated protectant inert ingredient; exemption from the requirement of a tolerance.**

Residues of *E. coli* B-D-glucuronidase enzyme are exempt from the requirement of a tolerance when used as a plant-incorporated protectant inert ingredient in all food commodities.

**§ 174.526 Hygromycin B phosphotransferase (APH4) marker protein in all plants; exemption from the requirement of a tolerance.**

Residues of the Hygromycin B phosphotransferase (APH4) enzyme in all plants are exempt from the requirement of a tolerance when used as a plant-incorporated protectant inert ingredient in cotton.

**§ 174.527 Phosphomannose isomerase in all plants; exemption from the requirement of a tolerance.**

Residues of the phosphomannose isomerase (PMI) enzyme in plants are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

■ 10. Section 174.458 is redesignated as 174.528 and revised to read as follows:

**§ 174.528 *Bacillus thuringiensis* Vip3Aa20 protein; temporary exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Vip3Aa20 protein in corn are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; corn, pop. This temporary exemption from the

requirement of tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 67979-EUP-6, which is being issued in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked March 31, 2008; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the temporary tolerance exemption is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

[FR Doc. E7-7768 Filed 4-24-07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0224; FRL-8121-2]

#### Propiconazole; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of propiconazole and its metabolites containing the dichlorobenzoic acid (DCBA) moiety expressed as parent compound, in or on peach and nectarine. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on peach and nectarine as a post-harvest treatment. This regulation establishes maximum permissible levels for residues of propiconazole in these food commodities. The tolerances expire and are revoked on December 31, 2010.

**DATES:** This regulation is effective April 25, 2007. Objections and requests for hearings must be received on or before June 25, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0224. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced

Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., VA. The hours of operation of this Docket Facility are 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:

Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9356; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@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?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### C. Can I File an Objection or Hearing Request?

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. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-0224 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 June 25, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2007-0224, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday,