

**D. Aggregate Exposure**

Since the Cry9C protein is expressed in plant tissues, dermal or inhalation will be negligible to non-existent. Drinking water is unlikely to be contaminated with Cry9C protein due to the rapid degradation of plant materials in the soil. Processed plant products may allow for low levels of exposure to the Cry9C protein, but the lack of mammalian toxicity and the lack of sequence homology to known toxins or allergens, has already been demonstrated.

**E. Cumulative Exposure**

The unique mode-of-action of *Bt* proteins in general, coupled with the lack of mammalian toxicity for the Cry9C protein provides no basis for the expectation of cumulative exposure with other compounds.

**F. Safety Determination**

*Bt* microbial pesticides containing Cry proteins have been applied for more than 30 years to food and feed crops consumed by the U.S. population. There have been no human safety problems attributed to Cry proteins. The extensive mammalian toxicity studies performed to support the safety of *Bacillus thuringiensis* - containing pesticides clearly demonstrate that the tested isolates are not toxic or pathogenic (McClintock, *et al.*, 1995, *Pestic. Sci.* 45:95-105). The lack of mammalian toxicity or allergenic properties of the Cry9C protein provides support for our request of an exemption from the requirement of a tolerance set forth in this petition. Non-dietary exposure of infants, children or the US population in general, to the Cry9C protein expressed in plant materials, are not expected due to the uses of this product within agricultural settings.

**G. Existing Tolerances**

No tolerances or tolerance exemptions have been granted for the *Bacillus thuringiensis* subsp. *tolworthi* Cry9C and the genetic material necessary for the production of this protein in or on all raw agricultural commodities.

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5895-2]

**Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Arizona Public Service Company and Opportunity To Comment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed administrative penalty assessment and opportunity to comment.

**SUMMARY:** EPA is providing notice of a proposed administrative penalty assessment and proposed Consent Agreement for alleged violations of the Clean Water Act. EPA is also providing notice of the opportunity to comment on the proposed penalty assessment.

Under section 309(g) of the Clean Water Act, 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance.

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may comment on a proposed Class II penalty or participate in a Class II penalty proceeding are set forth in the Consolidated Rules. The deadline for submitting public comment of a proposed Class II order is thirty days after publication of this document.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the matter of Arizona Public Service Company, P.O. Box 52034, Phoenix, AZ; EPA Docket No. CWA-IX-FY97-16; filed on September 11, 1997, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1389, proposed penalty of \$42,000 for unpermitted discharges in August 1994, January 1997, February 1997 and March 1997 into the Gila River from their water reclamation supply system pipeline. EPA and Arizona Public Service Company have agreed to a proposed Consent Agreement in which Arizona Public Service Company shall pay a civil penalty of \$42,000.

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the Respondent is available as part of this administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will take no final action in these proceedings prior to thirty (30) days after the date of publication of this document.

Dated: September 11, 1997.

**John Ong,**

*Acting Director, Water Division.*

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5895-4]

**EPA's Final Decision To Withdraw Phase I Total Maximum Daily Loads (TMDLs) for Copper in certain New Jersey Waters of New York-New Jersey Harbor**

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

**ACTION:** Notice.

**SUMMARY:** EPA has determined that certain New Jersey waters of the New York-New Jersey Harbor are not water quality-limited for copper, and therefore, Phase I copper TMDLs are not required for these water segments. The New Jersey Harbor waters for which Phase I Copper TMDLs are being withdrawn are defined as Newark Bay, Hackensack River below the Oradell Dam, Passaic River below the Dundee Dam, Raritan River below the Fieldsville Dam, and Raritan Bay. EPA is hereby issuing public notice of its final decision to withdraw the Phase I TMDLs for copper established by EPA on January 24, 1996.

**DATES:** September 19, 1997.

**ADDRESSES:** Copies of the responsiveness summary and relevant supporting documents may be obtained by writing to Mr. Steven Wood, Fate & Effects Team, U.S. Environmental