

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 FFDCFA. 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.

#### X. 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 recordkeeping requirements.

Dated: October 13, 2004.

**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 180.1255 is added to subpart D to read as follows:

#### § 180.1255 *Bacillus pumilus* strain QST 2808; Exemption from the Requirement of a Tolerance..

An exemption from the requirement of a tolerance is established for residues of the microbial pesticide *Bacillus pumilus* strain QST 2808 when used in or on all agricultural commodities when applied/used in accordance with label directions.

[FR Doc. 04–24250 Filed 11–2–04; 8:45 am]

BILLING CODE 6560–50–S

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP–2004–0206; FRL–7683–2]

#### Thifensulfuron-methyl; Tolerance Actions

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

**ACTION:** Final rule.

**SUMMARY:** EPA is reinstating corn tolerances for the herbicide thifensulfuron-methyl. These corn tolerances were previously established but inadvertently removed shortly thereafter. Registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of thifensulfuron-methyl on corn currently exist and have existed for more than 10 years.

**DATES:** This regulation is effective November 3, 2004. Objections and requests for hearings must be received on or before January 3, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under docket identification (ID) number OPP–2004–0206. 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:

Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: [Nevola.joseph@epa.gov](mailto:Nevola.joseph@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 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 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

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

In the **Federal Register** of May 12, 2004 (69 FR 26348) (FRL-7358-8), EPA issued a proposal to correct an inadvertent error and reinstate the tolerances in 40 CFR 180.439 for residues of thifensulfuron-methyl in or on corn, field, forage at 0.1 parts per million (ppm); corn, field, stover at 0.1 ppm; and corn, field, grain at 0.05 ppm. Also, the May 12, 2004 proposal provided a 60-day comment period which invited public comment. In response to the proposal published in the **Federal Register** of May 12, 2004 (69 FR 26348), EPA received one comment as follows:

*Comment.* On May 21, 2004, a private citizen from New Jersey objected to "any residue allowed or any exemption to produce this product" and expressed a general concern for chemicals and their toxic effects in humans, air, water, and soil.

*Agency response.* The comment did not address the inadvertent or improper removal of the established corn tolerances for thifensulfuron-methyl. EPA did not propose the approval of a new chemical but rather proposed the reinstatement of the corn tolerances in 40 CFR 180.439 to correct their inadvertent removal in 1994. For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. *et seq.*). Active registrations for use of thifensulfuron-methyl on corn have existed since 1994.

In accordance with current Agency practice, the commodity terminologies for the tolerances should be revised from "corn forage, field" to "corn, field, forage"; "corn grain, field" to "corn, field, grain"; and "corn fodder, field" to "corn, field, stover." Therefore, in this final rule, EPA is correcting the

inadvertent removal and is reinstating the tolerances in 40 CFR 180.439 for residues of the herbicide thifensulfuron-methyl in or on corn, field, forage at 0.1 ppm; corn, field, stover at 0.1 ppm; and corn, field, grain at 0.05 ppm.

On September 17, 2004 (69 FR 55975) (FRL-7679-4), EPA published a final rule in the **Federal Register** that established tolerances for residues of thifensulfuron-methyl in or on canola, seed; cotton, gin byproducts; cotton, undelinted seed; and flax, seed. Also, EPA determined that 10 tolerances for thifensulfuron-methyl, including the three corn tolerances reinstated herein, are considered reassessed according to FQPA standards.

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

A tolerance represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq.*, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods (21 U.S.C. 346(a)). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore adulterated under section 402(a) of the FFDCA. Such food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States. EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as import tolerances, are necessary to allow importation into the United States of food containing such pesticide residues.

### C. When Do These Actions Become Effective?

EPA is reinstating the three corn tolerances for thifensulfuron-methyl effective November 3, 2004.

## III. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by 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 FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of 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 FFDCA, as was provided in the old sections 408 and 409 of 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-2004-0206 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 January 3, 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 III.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-2004-0206, 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).

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

This final rule reinstates specific tolerances established under section 408 of FFDCA. The Office of Management and Budget (OMB) has exempted this type of action 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 as required by 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 other 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Furthermore, for the pesticide named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present reinstatement that would change EPA's previous analysis. 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 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.

#### **V. 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 recordkeeping requirements.

Dated: October 18, 2004.

**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. In § 180.439, the table in paragraph (a) is amended by alphabetically adding the following commodities to read as follows:

**§ 180.439 Thifensulfuron-methyl; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * *	* *
Corn, field, forage .....	0.10
Corn, field, grain .....	0.05
Corn, field, stover .....	0.10
* * *	* *

\* \* \* \* \*

[FR Doc. 04-24249 Filed 11-2-04; 8:45 am]

BILLING CODE 6560-50-S

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 501**

[Docket No. NHTSA-2004-19521]

**Succession to Administrator**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This document amends NHTSA's regulation specifying the order of succession to Administrator, and also clarifies that officials must be encumbered in their position on a permanent basis to be in the line of succession.

**EFFECTIVE DATE:** This rule is effective November 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** You may contact Stanley Feldman at 202-366-9511.

**SUPPLEMENTARY INFORMATION:** This final rule, which amends NHTSA's regulation specifying the order of succession to the Administrator and clarifies that officials must be encumbered in their position on a permanent basis to be in the line of succession, has no substantive effect. Notice and the opportunity for comment are therefore not required under the Administrative Procedure Act, and the amendment is effective immediately upon publication in the **Federal Register**. In addition, this amendment is not subject to *Executive Order 12866*, the Department of Transportation's regulatory policies and procedures, or the provisions for Congressional review of final rules in Chapter 8 of Title 5, United States Code.

**List of Subjects in 49 CFR Part 501**

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ In consideration of the foregoing, 49 CFR part 501 is amended as follows:

**PART 501—[AMENDED]**

■ 1. The authority citation for part 501 continues to read as follows:

**Authority:** 49 U.S.C. 105 and 322; delegation of authority at 49 CFR 1.50.

■ 2. Section 501.4 is revised to read as follows:

**§ 501.4 Succession to Administrator.**

(a) The following officials, in the order indicated, shall act in accordance with the requirements of 5 U.S.C. 3346-3349 as Administrator of the National Highway Traffic Safety Administration, in the case of the absence or disability or in the case of a vacancy in the office of the Administrator, until a successor is appointed:

- (1) Deputy Administrator;
- (2) Chief Counsel;
- (3) Senior Associate Administrator for Vehicle Safety;
- (4) Senior Associate Administrator for Traffic Injury Control; and
- (5) Senior Associate Administrator for Policy and Operations.

(b) In order to qualify for the line of succession, officials must be encumbered in their position on a permanent basis.

Issued on October 29, 2004.

**Jeffrey W. Runge,**  
*Administrator.*

[FR Doc. 04-24525 Filed 11-2-04; 8:45 am]

BILLING CODE 4910-59-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 541**

[Docket No. NHTSA-2004-17359]

RIN 2127-AJ27

**Final Theft Data; Motor Vehicle Theft Prevention Standard**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final theft data; correction.

**SUMMARY:** This document corrects typographical errors in the final theft data published on September 1, 2004 (69 FR 53354), for model year (MY) 2002 passenger motor vehicles that were stolen in calendar year (CY) 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** NHTSA is correcting errors in the MY 2002 theft data published in the **Federal Register** on September 1, 2004 (69 FR 53354). Specifically, NHTSA is correcting the typographical errors provided for the Saab 9-3 and Saab 9-5 vehicle lines respectively. The following corrections are to be made to page 53358 of the notice document:

1. On line number 157, in the 3rd column under Make/model (line), "38233" should read "9-3".

2. On line number 198, in the 3rd column under Make/model (line), "38235" should read "9-5".

Since the corrections made by this document are only to inform the public of previous agency actions, and do not impose any additional obligations on any party, NHTSA finds for good cause that the revisions made by this notice should be effective as soon as this notice is published in the **Federal Register**.

Issued on: October 27, 2004.

**Stephen R. Kratzke,**  
*Associate Administrator for Rulemaking.*

[FR Doc. 04-24465 Filed 11-2-04; 8:45 am]

BILLING CODE 4910-59-P