(NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

X. 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 in 40 CFR Part 174

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

Dated: July 27, 2009.

W. Michael McDavit,

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

■ Therefore, 40 CFR chapter I is amended as follows:

PART 174—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 174.502 is revised to read as follows:

§ 174.502 Bacillus thuringiensis Cry1A.105 protein; exemption from the requirement of a tolerance.

(a) Residues of *Bacillus thuringiensis* Cry1A.105 protein in or on the food and feed commodities of corn; corn, field, flour; corn, field, forage; corn, field, grain; corn, field, grits; corn, field, meal; corn, field, refined oil; corn, field, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husk removed; corn, sweet, stover; and corn, pop, grain and corn, pop, stover are exempt from the requirement of a tolerance when the *Bacillus thuringiensis* Cry1A.105 protein is used as a plant-incorporated protectant in these food and feed corn commodities.

(b) A time-limited exemption from the requirement of a tolerance is established for residues of *Bacillus thuringiensis* Cry1A.105 protein in or on the food and feed commodities of cotton; cotton, forage; cotton, gin byproducts; cotton, hay; cotton, hulls; cotton, meal; cotton, refined oil; and cotton, undelinted seed when the *Bacillus thuringiensis* Cry1A.105 protein is used as a plant-incorporated protectant in these food and feed cotton commodities. The exemption from the requirement of a tolerance expires and is revoked on November 22, 2010.

[FR Doc. E9–18860 Filed 8–6–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0601; FRL–8431–8]

Inert Ingredients; Extension of Effective Date of Revocation of Certain Tolerance Exemptions with Insufficient Data for Reassessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document moves the effective date of the revocation of six inert ingredient tolerance exemptions with insufficient data for reassessment as set forth in the **Federal Register** on August 4, 2008 (73 FR 45312).

DATES: In the final rule published August 9, 2006 (71 FR 45415), and delayed on August 4, 2008 (73 FR 45312):

1. The effective date is delayed from August 9, 2009, to October 9, 2009, for the following amendments to § 180.910: 2.m., n., and cc.

2. The effective date is delayed from August 9, 2009, to October 9, 2009, for the following amendments to § 180.930: 4.t., u., and v.

Objections and requests for hearings must be received on or before October 6, 2009, 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–2009–0601. All documents in the docket are listed in the index for the docket. 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kerry Leifer, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8811; e-mail address: *leifer.kerry@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. 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**.

II. Background and Statutory Findings

A. Background

In a final rule published in the **Federal Register** on August 9, 2006 (71 FR 45415) (FRL–8084–1), EPA revoked inert ingredient tolerance exemptions because insufficient data were available to the Agency to make the safety determination required by Federal Food, Drug, and Comestic Act (FFDCA) section 408(c)(2). In reassessing the safety of the tolerance exemptions, EPA considered the validity, completeness, and reliability of the data that are available to the Agency [FFDCA section 408 (b)(2)(D)] and the available information concerning the special susceptibility of infants and children (including developmental effects from *in utero* exposure) [FFDCA section 408

(b)(2)(C)]. EPA concluded it had insufficient data to make the safety finding of FFDCA section 408(c)(2) and revoked the inert ingredient tolerance exemptions identified in the final rule under 40 CFR 180.910, 180.920, 180.930, and 180.940, with the revocations effective on August 9, 2008.

In a subsequent direct final rule published in the **Federal Register** on August 4, 2008 (73 FR 45312) (FRL–8372–7), EPA moved the effective date of the revocation of certain inert ingredient tolerance exemptions from August 9, 2008, until August 9, 2009. This determination was made based on requests for an extension of the revocation date from pesticide registrants and inert ingredient manufacturers who had demonstrated their intent to support certain inert ingredient tolerance exemptions and who had provided data development plans and schedules for data submission to the Agency.

B. Moving the Effective Date of the Revocation for Six Tolerance Exemptions

In the case of six of the revoked tolerance exemptions, EPA has received petitions for the establishment of tolerance exemptions which included the submission of data for these inert ingredients. Notices of filing of these petitions (PP 8E7466 and PP 8E7478) were published in the **Federal Register** on March 25, 2009 (74 FR 12856) (FRL–8399–4). The Agency has not yet fully completed the risk assessments needed to evaluate these petitions and to make a safety finding. EPA, therefore, concludes that additional time is necessary to complete the safety determinations for these six tolerance exemptions and that the effective date of the revocation of the these tolerance exemptions should be moved by two months to October 9, 2009.

C. 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. 346a, as amended by FQPA, 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. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under FFDCA section 402(a), 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *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. Under FFDCA section 408(e)(1)(B), 21 U.S.C. 346a(e)(1)(B), EPA may take action establishing, modifying, suspending, or revoking a tolerance exemption.

III. Delayed Effective Date for Certain Tolerance Exemptions

The amendatory designations listed in this unit are reprinted from the final rule published in the **Federal Register** issue of August 4, 2008 (73 FR 45312) for the convenience of the user. The structure mirrors the amendatory designations in the original document. The amendatory designations shown are those with the effective date delayed until October 9, 2009.

Section 180.910

m. α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 4-14 moles or 30 moles.

n. α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

cc. α-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)phenol with a range of 1–14 or 30–70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1–14 or 30–70.

Section 180.930

t. α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4–14 moles.

u. α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

v. α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4–14 or 30–90 moles of ethyiene oxide.

IV. Statutory and Executive Order Reviews

This rule changes the effective date of the revocation of certain tolerance exemptions under section 408(d) of FFDCA. The Office of Management and Budget (OMB) has exempted tolerance exemption 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 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).

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant negative economic impact on a substantial number of small entities.

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 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 9, 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.

List of Subjects in 40 CFR Part 180

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

Dated: August 4, 2009.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§180.910 [Amended]

■ 2. In the final rule published August 9, 2006 (71 FR 45415), and delayed on August 4, 2008 (73 FR 45312), the effective date is delayed from August 9, 2009, to October 9, 2009, for the following amendments to § 180.910: 2.m., n., and cc.

§180.930 [Amended]

■ 3. In the final rule published August 9, 2006 (71 FR 45415), and delayed on August 4, 2008 (73 FR 45312), the effective date is delayed from August 9, 2009, to October 9, 2009, for the following amendments to § 180.930: 4.t., u., and v.

[FR Doc. E9–19057 Filed 8–6–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0806; FRL–8427–7]

Avermectin B_1 and its delta-8,9-isomer; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of avermectin B_1 and its delta-8,9-isomer in or on stone fruit crop group 12, tree nut crop group 14, pistachio, tuberous and corm vegetable crop subgroup 01C, goat fat, hog fat, horse fat, sheep fat, cattle fat, and cattle meat byproducts. Existing tolerances for cattle, fat and cattle, meat byproducts are revised. Existing individual crop tolerances on almond, plum, potato, and walnut are deleted and replaced by the establishment of new crop group tolerances. Existing tolerances on almond, hulls and plum, prune, dried are retained. This regulation also makes a technical correction to correctly express the existing tolerances for mint (replace term ''mint'' with the more specific terms ''peppermint, tops'' and ''spearmint, tops''). Syngenta Crop Protection, Inc. and Y-TEX Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 7, 2009. Objections and requests for hearings must be received on or before October 6, 2009, 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–2008–0806. All documents in the docket are listed in the docket index available at *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 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Thomas C. Harris, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308-9423; e-mail address: *harris.thomas@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 those engaged in the following activities: