

toxicity/pathogenicity studies in rodents indicated that following several routes of exposure, the immune system is still intact and able to process and clear the active ingredient. *Trichoderma asperellum* strain ICC 012 is a ubiquitous organism in the environment and there have been no reports of the organism affecting endocrine systems. Therefore, it is unlikely that this organism would have estrogenic or endocrine effects, and it is practically non-toxic to mammals.

#### B. Analytical Method

The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *Trichoderma asperellum* strain ICC 012.

#### C. Codex Maximum Residue Level

No Codex maximum residue level exists for *Trichoderma asperellum*.

### VIII. Conclusions

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of *Trichoderma asperellum* strain ICC 012 in or on all food and feed commodities. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed in Unit III, no toxicity or pathogenicity to mammals has been observed in test animals.

### IX. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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.*, 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).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not 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).

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).

### 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 180

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

Dated: February 4, 2010.

**Steven Bradbury**,

*Acting 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 180.1294 is added to subpart D to read as follows:

#### § 180.1294 *Trichoderma asperellum* strain ICC 012; exemption from the requirement of a tolerance.

*Trichoderma asperellum* strain ICC 012 is exempted from the requirement of a tolerance in or on all food and feed commodities when applied pre-harvest and used in accordance with good agricultural practices.

[FR Doc. 2010-3854 Filed 3-2-10; 8:45 am]

**BILLING CODE 6560-50-S**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 10-196, MB Docket No. 07-296, RM-11412]

### FM TABLE OF ALLOTMENTS, French Lick, Indiana, and Irvington, Kentucky.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The staff grants a rulemaking petition filed by L. Dean Spencer to allot FM Channel 261A at Irvington, Kentucky, as a first local service. To accommodate this new allotment, the staff modifies the license of Station WFLQ(FM), French Lick, Indiana, to specify operation on Channel 229A in lieu of Channel 261A.

**DATES:** Effective March 15, 2010.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MB Docket No. 07–296, adopted January 27, 2010, and released January 29, 2010. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's website, <<http://www.bcpiweb.com>>.

The Notice of Proposed Rule Making also included an Order to Show Cause directed to the licensee of Station WFLQ(FM), French Lick, Indiana, to show cause why its license should not be modified to specify operation on Channel 229A in lieu of Channel 261A. See 73 FR 50296, published August 26, 2008. Although Station WFLQ(FM) argued that it should not be required to change channels, the Report and Order found that the station had not raised a substantial and material question of fact that would warrant a hearing on this issue. The document also states that the ultimate permittee of Channel 261A at Irvington, Kentucky, will be required to reimburse Station WFLQ(FM), French Lick, Indiana, for its reasonable and prudent costs associated with the involuntary channel change at French Lick. The reference coordinates for Channel 261A at Irvington are 37–56–52 NL and 86–24–54 WL. The reference coordinates for Channel 229A at French Lick are 38–35–41 NL and 86–36–48 WL. Finally, because Station WFLQ(FM) is a licensed station, the channel substitution at French Lick will be updated in the Commission's Consolidated Data Base System [CDBS].

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this Report & Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Irvington, Channel 261A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief,*

*Audio Division,*

*Media Bureau.*

[FR Doc. 2010–4364 Filed 3–2–10; 8:45 am]

**BILLING CODE 6712–01–S**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[Docket No. 071220872–0093–04]

RINs 0648–AS71 and 0648–AU71

##### Magnuson-Stevens Act Provisions; Correction

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This rule amends general provisions for domestic fisheries in the western Pacific to correct errors that resulted from two recent rules. This action is necessary to remedy missing information, out of date administrative references, and a misspelling.

**DATES:** Effective March 3, 2010.

**FOR FURTHER INFORMATION CONTACT:** Bob Harman, Pacific Islands Region, NMFS, 808 944–2271.

**SUPPLEMENTARY INFORMATION:** On November 21, 2008, NMFS published in the **Federal Register** a final rule (73 FR 70600) designating three species of pelagic squid as management unit species under the Fishery Management Plan for Pelagic Species of the Western

Pacific Region (FMP). That rule also established permitting and reporting requirements, and authorization for NMFS to place observers on squid fishing vessels. This final rule was effective December 22, 2008, except for the collection-of-information requirements, which were effective October 5, 2009 (74 FR 45756, September 4, 2009).

The final rule that included squid jig fishing in the FMP inadvertently omitted an instruction to revise the table of authorized fishing gear at 50 CFR 600.725(v). The rule established squid as management unit species in the definition of western Pacific pelagic management unit species (50 CFR 665.800). The rule authorized squid jig fishing (50 CFR 665.801(g)), and defined squid jig gear (50 CFR 665.800). The rule also set restrictions on the use of squid jig gear (50 CFR 665.14(b), 665.808, and 665.802(z)). By these actions, squid jig gear and fishing are authorized and managed. However, the rule did not include this authorized fishing gear in the table at 50 CFR 600.725(v), which provides a complete list of all authorized fishing gear in the FEPs. The rule should have added an entry to include squid jig as an authorized gear in the squid jig fishery in item 7 (western Pacific pelagic fisheries in the FMP) of section VIII (fisheries under the jurisdiction of the Western Pacific Fishery Management Council) in that table. This final rule corrects that error, and no substantive changes are made to the regulations.

Additionally, on January 14, 2010, NMFS published in the **Federal Register** a final rule (75 FR 2198) restructuring western Pacific fishery regulations at 50 CFR part 665 to be consistent with five new area-specific fishery ecosystem plans (FEP). The FEPs were established as FMPs, consistent with the Magnuson-Stevens Fishery Conservation and Management Act. In that rule, no substantive changes were made to the regulations. NMFS also restructured western Pacific regulations to be consistent with the area-specific organization of the FEPs, and changed administrative references in western Pacific regulations from “FMP” to “FEP.” That final rule was effective February 16, 2010.

That final rule inadvertently omitted an instruction to revise the table of authorized fishing gear at 600.725(v) to change references from “FMP” to “FEP” in section VIII (fisheries under the jurisdiction of the Western Pacific Fishery Management Council). This final rule corrects those administrative references; no substantive changes are made to the regulations.