

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2016-0537; FRL-9970-04]

**Sedaxane; Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of sedaxane in or on grain, cereal, forage, fodder and straw, group 16; grain, cereal, group 15; peanut; and peanut, hay. Syngenta Crop Protection, LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 8, 2017. Objections and requests for hearings must be received on or before February 6, 2018, 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:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2016-0537, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDfRNNotices@epa.gov](mailto:RDfRNNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers

determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-id?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-id?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. 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-2016-0537 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 6, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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 (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2016-0537, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.
- *Hand Delivery:* To make special arrangements for hand delivery or

delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**II. Summary of Petitioned-For Tolerance**

In the **Federal Register** of November 30, 2016 (81 FR 86312) (FRL-9954-06), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8458) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.665 be amended by establishing tolerances for residues of the fungicide sedaxane, in or on grain, cereal, forage, fodder and straw, group 16 at 0.06 parts per million (ppm); grain, cereal, group 15 at 0.01 ppm; peanut at 0.01 ppm; and peanut, hay at 0.08 ppm. The petition also requested that tolerances for residues of sedaxane on the following commodities be removed upon the establishment of the petitioned-for tolerances: barley, grain at 0.01 ppm; barley, hay at 0.04 ppm; barley, straw at 0.01 ppm; corn, field, forage at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.01 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.01 ppm; corn, sweet, forage at 0.01 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 0.01 ppm; oat, forage at 0.015 ppm; oat, grain at 0.01 ppm; oat, hay at 0.06 ppm; oat, straw at 0.01 ppm; rye, forage at 0.015 ppm; rye, grain at 0.01 ppm; rye, straw at 0.01 ppm; sorghum, grain, forage at 0.01 ppm; sorghum, grain, grain at 0.01 ppm; sorghum, grain, stover at 0.01 ppm; wheat, forage at 0.015 ppm; wheat, grain at 0.01 ppm; wheat, hay at 0.06 ppm; and wheat, straw at 0.01 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing tolerances and removing tolerances as requested in the petition, with one exception. The tolerance for crop group 16 is being established at 0.10 ppm to harmonize with Codex Alimentarius Commission maximum residue level (MRL).

### III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCFA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCFA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCFA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Consistent with FFDCFA section 408(b)(2)(D), and the factors specified in FFDCFA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for sedaxane including exposure resulting from the tolerances established by this action. EPA’s assessment of exposures and risks associated with sedaxane follows.

#### A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The main target tissue for sedaxane was found to be the liver. Sedaxane also caused thyroid hypertrophy/hyperplasia in male rats. In the acute neurotoxicity (ACN) and sub-chronic neurotoxicity

(SCN) studies, sedaxane caused decreased activity, muscle tone, rearing and grip strength; however, because no specific neurotoxic effects or adverse histopathology were observed, EPA has concluded that there is low concern for neurotoxicity.

In the rat, no adverse effects in fetuses were seen in developmental toxicity studies at maternally toxic doses. In the rabbit, fetal toxicity was observed at the same doses as the dams. Offspring effects in the rat reproduction study occurred at the same doses causing parental effects.

The available data show evidence of high dose liver tumors (in male rats and mice), thyroid tumors (in male rats), and uterine tumors (in female rats) resulting from exposure to sedaxane. Based on a weight of evidence of the available data, a constitutive androstane receptor/pregnane-X receptor (CAR/PXR)-mediated mitogenic mode-of action (MOA) was established for liver tumors in male mice and rats and a liver-mediated altered thyroid hormone homeostasis MOA was established for thyroid tumors in male rats. At this time, a MOA for the uterine tumors has not been identified.

To assess the carcinogenic potential for sedaxane, EPA has concluded that a non-linear approach (*i.e.*, RfD) is appropriate for the following reasons: (1) There is a clear understanding of the threshold (non-linear) doses associated with the key events in the established MOAs leading to liver and thyroid tumors in rodents (the key events occur only at doses that well exceed the chronic reference dose (0.11 mg/kg/day)); (2) sedaxane is not mutagenic or genotoxic; (3) the dose at which uterine tumors was observed is at 261 mg/kg/day, which greatly exceeds the chronic reference dose (0.11 mg/kg/day) being used to assess chronic exposure to sedaxane. Sedaxane has been reclassified as “Suggestive Evidence of Carcinogenic Potential”.

Sedaxane has low acute toxicity by the oral, dermal, and inhalation routes. It is not a dermal sensitizer, causes no skin irritation, and only slight eye irritation.

Specific information on the studies received and the nature of the adverse

effects caused by sedaxane as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov> in document titled “Sedaxane Human Health Risk Assessment to Support New Seed Treatment Uses on Cereal Grains Crop Group 15; Forage, Fodder and Straw of Cereal Grains Crop Group 16; Peanut; and Cancer Reclassification”, pages 11–19 in docket ID number EPA–HQ–OPP–2016–0537.

#### B. Toxicological Points of Departure/Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides>.

A summary of the toxicological endpoints for sedaxane used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SEDAXANE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children and Females 13–49 years of age).	NOAEL = 30 mg/kg/day. UF <sub>A</sub> = 10x UF <sub>H</sub> = 10x FQPA SF = 1x	Acute RfD = 0.30 mg/kg/day. aPAD = 0.30 mg/kg/day.	Rat ACN Study NOAEL = 30 mg/kg LOAEL = 250 mg/kg based on reduced activity, decreased rearing, initial inactivity, piloerection, ruffled fur and recumbency, decreased body weight (BW), decreased body weight gain (BWG) and food consumption (males). In females, weakened condition, swaying gait, decreased activity, reduced muscle tone, and decreased locomotor activity and rearing. The weakened condition, swaying gait and decreased activity were observed on days 2–7, while the other effects were on day 1.
Chronic dietary (All populations)	NOAEL = 11 mg/kg/day. UF <sub>A</sub> = 10x UF <sub>H</sub> = 10x FQPA SF = 1x	Chronic RfD = 0.11 mg/kg/day. cPAD = 0.11 mg/kg/day.	Chronic Rat Study NOAEL = 11/14 mg/kg bw/day ♂/♀ LOAEL = 67/86 mg/kg bw/day ♂/♀ in males based on decreased hind limb grip strength, increased liver weight, increased incidences of hepatocyte hypertrophy and eosinophilic foci, and thyroid follicular cell hypertrophy, basophilic colloid, epithelial desquamation and increased phosphate levels (♂). In females, it was based on decreased BW and BWG, increased liver weight and the same thyroid histopathology noted above for males.
Cancer (Oral, dermal, inhalation).	Classification: “Suggestive Evidence of Carcinogenic Potential”. A non-linear approach ( <i>i.e.</i> , RfD) would adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to sedaxane.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF<sub>A</sub> = extrapolation from animal to human (interspecies). UF<sub>H</sub> = potential variation in sensitivity among members of the human population (intraspecies).

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to sedaxane, EPA considered exposure under the petitioned for tolerances as well as all existing sedaxane tolerances in 40 CFR 180.665. EPA assessed dietary exposures from sedaxane in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for sedaxane. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) under the Continuing Surveys of Food Intake by Individuals (CSFII) and the CDC under the National Health and Nutrition Examination Survey What We Eat in America (NHANES/WEIA) 2003–2008. EPA assumed tolerance-level residues for all commodities and 100% crop treated. Default processing factors were used with the exception of peanut butter.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment

EPA used the food consumption data from the USDA NHANES/WEIA 2003–2008. EPA assumed tolerance-level residues for all commodities and 100% crop treated (CT). Default processing factors were used with the exception of peanut butter.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to sedaxane. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for sedaxane. Tolerance-level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for sedaxane in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of sedaxane. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/pesticide-science->

*and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the FQPA Index Reservoir Screening Tool (FIRST) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of sedaxane for acute exposures are estimated to be 4.1 parts per billion (ppb) for surface water and 15.1 ppb for ground water and for chronic exposures for non-cancer assessments are estimated to be 1.2 ppb for surface water and 13.0 ppb for ground water. The surface water estimates include contributions from all drinking water residues of concern identified for risk assessment purposes; nevertheless, the ground water EDWCs were higher than the surface water EDWCs and were selected for use in the dietary exposure assessments.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 15.1 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 13.0 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-

occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Sedaxane is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to sedaxane and any other substances, and sedaxane does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that sedaxane does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s Web site at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

#### D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence for increased susceptibility following prenatal or post-natal exposures to sedaxane based on effects seen in developmental toxicity studies in rabbits or rats. In range-finding and definitive developmental toxicity studies in rats,

neither quantitative nor qualitative evidence of increased susceptibility of fetuses to *in utero* exposure to sedaxane was observed. In these studies, there were no single-dose effects. There was no evidence of increased susceptibility in a two-generation reproduction study in rats following prenatal or post-natal exposure to sedaxane. There was no evidence of neuropathology or abnormalities in the development of the fetal nervous system from the available toxicity studies conducted with sedaxane. Clear NOAELs/LOAELs were established for the developmental effects seen in rats and rabbits as well as for the offspring effects seen in the two-generation reproduction study. The dose-response relationship for the effects of concern is well characterized.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for sedaxane is complete.

ii. Given the available information, there is low concern that sedaxane is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. In the rat, no adverse effects in fetuses were seen in developmental toxicity at maternally toxic doses. In the rabbit, fetal toxicity was observed at the same doses as the dam (increased unossified sternebrae and 13th rudimentary ribs and a decrease in fetal weights of –9% and increased abortions). In the dam, at the same doses, the effects were decreased body weight, reduced food consumption, and decreased defecation. In reproduction studies, offspring effects occurred at the same doses causing parental effects; thus, there was no quantitative increase in sensitivity in rat pups. The LOAELs and NOAELs for the developmental and reproduction studies were clearly defined. The NOAEL used for the acute dietary risk assessment (30 mg/kg/day), based on effects observed in the ACN study, is protective of the developmental and offspring effects seen in rabbits and rats with the NOAELs of 100–200 mg/kg/day. Based on these considerations, there are no residual uncertainties for pre-and/or post-natal susceptibility.

iv. There were no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface

water modeling used to assess exposure to sedaxane in drinking water. These assessments will not underestimate the exposure and risks posed by sedaxane.

#### E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to sedaxane will occupy <1% of the aPAD for all infants (<1-year-old), the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to sedaxane from food and water will utilize <1% of the cPAD for all population subgroups. There are no residential uses for sedaxane.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no proposed or registered residential uses of sedaxane, a short-term risk assessment was not performed. The chronic risk assessment is protective for any short-term exposures from food and drinking water.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no proposed or registered residential uses of sedaxane, an intermediate-term risk assessment was not performed. The chronic risk assessment is protective for any intermediate-term exposures from food and drinking water.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has concluded that using the nonlinear approach based on the chronic RfD will be protective of potential carcinogenicity.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to sedaxane residues.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

An adequate analytical method is available to enforce the proposed tolerances for sedaxane in plant commodities. A modification of the Quick, Easy, Cheap, Effective, Rugged, and Safe (QuEChERS) method was developed for the determination of residues of sedaxane (as its isomers SYN508210 and SYN508211) in/on various crops. The sedaxane isomers (SYN508210 and SYN508211) are quantitatively determined by LC/MS/MS. The validated limit of quantitation (LOQ) reported in the method is 0.005 ppm for both sedaxane isomers.

The analytical standard for sedaxane, with an expiration date of February 28, 2018, is currently available in the EPA National Pesticide Standards Repository.

##### B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international MRL established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex has established MRLs for sedaxane in or on grain, cereal, forage, fodder and straw, group 16 at 0.10 ppm and grain, cereal, group 15 at 0.01 ppm. Codex has not established a MRL for sedaxane in or on peanut. Tolerances are harmonized with the Codex MRLs for groups 16 and 15.

#### V. Conclusion

Therefore, tolerances are established for residues of sedaxane in or on grain, cereal, forage, fodder and straw, group 16 at 0.10 ppm; grain, cereal, group 15

at 0.01 ppm; peanut at 0.01 ppm; and peanut, hay at 0.08 ppm. In addition, EPA is removing the following existing tolerances for residues of sedaxane as they are superseded by the tolerances established in this rulemaking: Barley, grain at 0.01 ppm; barley, hay at 0.04 ppm; barley, straw at 0.01 ppm; corn, field, forage at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.01 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.01 ppm; corn, sweet, forage at 0.01 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 0.01 ppm; oat, forage at 0.015 ppm; oat, grain at 0.01 ppm; oat, hay at 0.06 ppm; oat, straw at 0.01 ppm; rye, forage at 0.015 ppm; rye, grain at 0.01 ppm; rye, straw at 0.01 ppm; sorghum, grain, forage at 0.01 ppm; sorghum, grain, grain at 0.01 ppm; sorghum, grain, stover at 0.01 ppm; wheat, forage at 0.015 ppm; wheat, grain at 0.01 ppm; wheat, hay at 0.06 ppm; and wheat, straw at 0.01 ppm.

#### VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) 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 action has been exempted from review under Executive Order 12866, this action 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 action 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 FFDCA section 408(d), such as the tolerance 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 action 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 FFDCA section 408(n)(4). 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 action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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 (NTTAA) (15 U.S.C. 272 note).

#### VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), 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 the rule in the **Federal Register**. This action 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: November 22, 2017.

**Michael L. Goodis,**

*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.

■ 2. In § 180.665, revise the table in paragraph (a) to read as follows:

**§ 180.665 Sedaxane; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Beet, sugar, roots .....	0.01
Canola, seed .....	0.01
Cotton, gin byproducts .....	0.01
Cotton, undelinted seed .....	0.01
Grain, cereal, forage, fodder and straw, group 16 .....	0.10
Grain, cereal, group 15 .....	0.01
Pea and bean, dried shelled, except soybean, subgroup 6C ....	0.01
Peanut .....	0.01
Peanut, hay .....	0.08
Potato .....	0.02
Potato, wet peel .....	0.075
Rapeseed, subgroup 20A .....	0.01
Soybean, forage .....	0.05
Soybean, hay .....	0.04
Soybean, seed .....	0.01
Vegetable, foliage of legume, except soybean, subgroup 7A ....	0.01

\* \* \* \* \*

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BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180****[EPA-HQ-OPP-2016-0687; FRL-9969-96]****Bacillus subtilis Strain BU1814; Exemption From the Requirement of a Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of *Bacillus subtilis* strain BU1814 in or on all food commodities when used in accordance with label directions and good agricultural practices. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus subtilis* strain BU1814 under FFDCA.

**DATES:** This regulation is effective December 8, 2017. Objections and requests for hearings must be received on or before February 6, 2018, 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:** The docket for this action, identified by docket identification (ID)

number EPA-HQ-OPP-2016-0687, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. 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-2016-0687 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 6, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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 (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2016-0687, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**II. Background**

In the **Federal Register** of February 7, 2017 (82 FR 9555) (FRL-9956-86), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6F8490) by BASF Corporation, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the fungicide *Bacillus subtilis* strain BU1814 in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner BASF Corporation, which is available in the docket via <http://www.regulations.gov>. There were no