

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New source review, Nitrogen oxides, Ozone.

Dated: May 7, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(362)(i)(A)(1) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(362) New and amended regulations were submitted on April 29, 2009 by the Governor's designee.

(i) Incorporation by Reference.

(A) San Diego Air Pollution Control District.

(1) Rule 27.1, “Federal Requirements for the San Diego County Air Pollution

Control District's Alternative Mobile Source Emission Reduction Program Approved On September 8, 2000,” adopted and effective on August 8, 2008.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2008-0923; FRL-8417-9]

Exemptions from the Requirement of a Tolerance; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Technical Amendments.

SUMMARY: This document makes minor technical revisions of certain commodity terms listed under 40 CFR part 180, subpart D. EPA is taking this action to establish a uniform listing of commodity terms throughout part 180.

DATES: This regulation is effective June 3, 2009. Objections and requests for hearings must be received on or before August 3, 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-2008-0923. 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: Stephen Morrill, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs,

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8319; fax number: (703) 308-7026; e-mail address: morrill.stephen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General

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:

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

This listing is not intended to be exhaustive, but rather to provide 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?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 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-2008-0923 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 as required by 40 CFR part 178 on or before August 3, 2009.

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 that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2008-0923, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P),

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Background

What Action is the Agency Taking?

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary database entitled *Food and Feed Commodity Vocabulary*. The database was developed to consolidate all the major OPP commodity

vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use the "preferred commodity term" as listed in the aforementioned database. This is the ninth in a series of documents revising the terminology of commodity terms listed under 40 CFR part 180. Eight final rules, revising pesticide tolerance nomenclature, have published in the **Federal Register:** June 19, 2002 (67 FR 41802) (FRL-6835-2); June 21, 2002 (67 FR 42392) (FRL-7180-1); July 1, 2003 (68 FR 39428) (FRL-7308-9) and (68 FR 39435) (FRL-7316-9); December 13, 2006 (71 FR 74802) (FRL-8064-3); September 18, 2007 (72 FR 53134) (FRL-8126-5) corrected on October 31, 2007 (72 FR 61535) (FRL-8151-4); and October 10, 2008, (73 FR 60151) (FRL-8376-1). This revision process will establish a uniform presentation of existing commodity terms under 40 CFR part 180.

| In Section | In paragraph | Remove the term | Add in its place the term |
|------------|--------------------|-------------------|--|
| 180.1011 | (b) | beeswax and honey | honey and honeycomb |
| 180.1019 | (b) | meat | cattle, meat; goat, meat; hog, meat; horse, meat; sheep, meat; |
| 180.1019 | (b) | poultry | poultry, fat; poultry, meat; poultry, meat, byproducts |
| 180.1019 | (b) | eggs | egg |
| 180.1020 | (a) Commodity list | Bean, dry, edible | Bean, dry, seed |
| 180.1020 | (a) | Corn, fodder | Corn, field, stover; Corn, pop, stover; |
| 180.1020 | (a) | Corn, forage | Corn, field, forage |
| 180.1020 | (a) | Corn, grain | Corn, field, grain; Corn, pop, grain |
| 180.1020 | (a) | Cottonseed | Cotton, undelinted, seed |
| 180.1020 | (a) | Flaxseed | Flax, seed |
| 180.1020 | (a) | Guar beans | Guar, seed |
| 180.1020 | (a) | Peas, southern | Cowpea, forage; Cowpea, hay; Cowpea, seed |
| 180.1020 | (a) | Peppers, chili | Pepper, chili |
| 180.1020 | (a) | Potatoes | Potato |
| 180.1020 | (a) | Rice | Rice, grain; Rice straw |
| 180.1020 | (a) | Safflower, grain | Safflower, seed |
| 180.1020 | (a) | Sorghum, grain | Sorghum, grain, grain |
| 180.1020 | (a) | Sorghum, fodder | Sorghum, grain, stover |
| 180.1020 | (a) | Soybeans | Grain, aspirated fractions; Soybean, forage; Soybean, hay; Soybean, seed |
| 180.1020 | (a) | Sunflower seed | Sunflower, seed |

| In Section | In paragraph | Remove the term | Add in its place the term |
|------------|--------------|--|---|
| 180.1020 | (b) | Wheat | Wheat, forage; Wheat, grain; Wheat, hay; Wheat, straw |
| 180.1021 | (a) | Meat | Cattle, meat; Goat, meat; Hog, meat; Horse, meat; sheep, meat |
| 180.1021 | (a) | Poultry | Poultry, fat; Poultry, meat; Poultry, meat byproducts |
| 180.1021 | (a) | Eggs | Egg |
| 180.1022 | | eggs | egg |
| 180.1022 | | poultry | poultry, fat; poultry, meat; poultry, meat byproducts |
| 180.1023 | (a) | alfalfa | alfalfa, forage; alfalfa, hay; alfalfa, seed |
| 180.1023 | (a) | barley grain | barley, grain |
| 180.1023 | (a) | Bermuda grass | Bermudagrass, forage; Bermudagrass, hay |
| 180.1023 | (a) | bluegrass | bluegrass, forage; bluegrass, hay |
| 180.1023 | (a) | brome grass | bromegrass, forage; bromegrass, hay |
| 180.1023 | (a) | clover | clover, forage; clover, hay |
| 180.1023 | (a) | corn grain | corn, field, grain; corn, pop, grain; corn, sweet, kernel plus cob with husks removed |
| 180.1023 | (a) | cowpea hay | cowpea, hay |
| 180.1023 | (a) | fescue | fescue, forage; fescue, hay |
| 180.1023 | (a) | lespedeza | lespedeza, forage; lespedeza, hay |
| 180.1023 | (a) | lupines | lupin |
| 180.1023 | (a) | oat grain | oat, grain |
| 180.1023 | (a) | orchard grass | orchardgrass, forage; orchardgrass, hay |
| 180.1023 | (a) | peanut hay | peanut, hay |
| 180.1023 | (a) | peavine hay | pea, field, hay |
| 180.1023 | (a) | rye grass | ryegrass, Italian, hay |
| 180.1023 | (a) | sorghum grain | sorghum, grain, grain |
| 180.1023 | (a) | soybean hay | soybean, hay |
| 180.1023 | (a) | sudan grass | sudangrass, forage; sudangrass, hay |
| 180.1023 | (a) | timothy | timothy, forage; timothy, hay |
| 180.1023 | (a) | vetch | vetch, forage; vetch, hay |
| 180.1023 | (a) | wheat grain | wheat, grain |
| 180.1023 | (b) | meat and meat byproducts of cattle, sheep, hogs, goats, horses | cattle, meat; cattle, meat byproducts; goat, meat; goat, meat byproducts; hog, meat; hog, meat byproducts; horse, meat; horse, meat byproducts; sheep, meat; sheep, meat byproducts |
| 180.1023 | (b) | poultry | poultry, fat; poultry, meat; poultry, meat byproducts |

| In Section | In paragraph | Remove the term | Add in its place the term |
|------------|--------------|---|--|
| 180.1023 | (b) | eggs | egg |
| 180.1027 | (c) | including corn, cottonseed, beans, lettuce, okra, peppers, sorghum, soybeans, and tomatoes. | [Removed] |
| 180.1035 | | honey and beeswax | honey and honeycomb |
| 180.1037 | (a) | cottonseed | cotton, undelinted, seed |
| 180.1037 | (b) | artichokes | artichoke |
| 180.1043 | | cottonseed | cotton, undelinted, seed |
| 180.1054 | (b) | grapes | grape |
| 180.1057 | | citrus fruit | fruit, citrus |
| 180.1058 | | alfalfa hay | alfalfa, hay |
| 180.1058 | | Bermuda grass hay | Bermudagrass, hay |
| 180.1058 | | blue grass hay | bluegrass, hay |
| 180.1058 | | brome grass hay | bromegrass, hay |
| 180.1058 | | clover hay | clover, hay |
| 180.1058 | | corn grain | corn, field, grain; corn, pop, grain |
| 180.1058 | | oat grain | oat, grain |
| 180.1058 | | orchard grass hay | orchardgrass, hay |
| 180.1058 | | sorghum grain | sorghum, grain, grain |
| 180.1058 | | sudan grass hay | sudangrass, hay |
| 180.1058 | | rye grass hay | ryegrass, Italian, hay |
| 180.1058 | | timothy hay | timothy, hay |
| 180.1070 | | crop group Brassica (cole) leafy vegetables | Vegetable, brassica, leafy, group 5 |
| 180.1070 | | radishes | radish, roots; radish, tops |
| 180.1073 | | peaches | peach |
| 180.1073 | | quinces | quince |
| 180.1073 | | nectarines | nectarine |
| 180.1073 | | macadamina nuts | nut, macadamia |
| 180.1075 | | Rice grain | Rice, grain |
| 180.1075 | | Soybeans | Soybean, seed; Soybean, forage; Soybean, hay; Grain, aspirated fractions |
| 180.1076 | (b) | pasture and rangeland forage | grass, pasture, forage; grass, rangeland, forage |
| 180.1083 | (a) and (b) | Peas | Pea, dry, seed; Pea, succulent |
| 180.1087 | | almond | almond; almond, hulls |
| 180.1087 | | cotton | cotton, undelinted seed; cotton, gin byproducts |
| 180.1087 | | soybeans | soybean, seed; soybean, forage; soybean, hay; grain, aspirated fractions |

| In Section | In paragraph | Remove the term | Add in its place the term |
|------------|--------------|--|---|
| 180.1087 | | potatoes | potato |
| 180.1087 | | sugarbeets | beet, sugar, roots; beet, sugar, tops |
| 180.1087 | | tomatoes | tomato |
| 180.1087 | | bell peppers | pepper, bell |
| 180.1087 | | strawberries | strawberry |
| 180.1087 | | eggplants | eggplant |
| 180.1087 | | cucumbers | cucumber |
| 180.1087 | | carrots | carrot, roots |
| 180.1087 | | radish | radish, roots; radish, tops |
| 180.1087 | | turnips | turnip, roots; turnip, tops |
| 180.1087 | | onions | onion |
| 180.1087 | | peas | pea, dry, seed; pea, succulent |
| 180.1087 | | melons | melon |
| 180.1087 | | grapes | grape |
| 180.1087 | | walnuts | walnut |
| 180.1092 | | beeswax and honey | honey and honeycomb |
| 180.1097 | | grapes | grape |
| 180.1103 | | RACs | raw agricultural commodities |
| 180.1113 | | grasses, forage and hay | grass, forage; grass, hay |
| 180.1113 | | rice, grain and straw | rice, grain; rice, straw |
| 180.1113 | | soybeans | Grain, aspirated fractions; soybean, seed |
| 180.1113 | | soybean, forage and hay | soybean, forage; soybean, hay |
| 180.1113 | | wild rice | rice, wild grain |
| 180.1178 | | honey and beeswax | honey and honeycomb |
| 180.1196 | (a) | raw agricultural commodities, in processed commodities | all food commodities |
| 180.1196 | (b) | all raw and processed food commodities | all food commodities |
| 180.1206 | (a) | cotton and its food/feed commodities | cotton, gin byproducts; cotton, hulls; cotton, meal; cotton, refined oil; cotton, undelinted seed |
| 180.1206 | (c) | on corn | in or on grain, aspirated fractions; corn, field, forage; corn, field flour; corn, field, grain; corn, field, grits; corn, field, starch; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover |
| 180.1219 | | corn, sweet (K+CWHR) | corn, sweet, kernel plus cob with husks removed |
| 180.1254 | | on peanut and its food/feed commodities | In or on peanut; peanut hay; peanut, meal; peanut, refined oil |
| 180.1258 | | alfalfa | Alfalfa, seed; alfalfa, hay |

| In Section | In paragraph | Remove the term | Add in its place the term |
|------------|--------------|----------------------|--|
| 180.1258 | | barley grain | barley, grain |
| 180.1258 | | Bermuda grass; | bermudagrass, hay |
| 180.1258 | | bluegrass | bluegrass, hay |
| 180.1258 | | brome grass | bromegrass, hay |
| 180.1258 | | clover | clover, hay |
| 180.1258 | | corn grain | corn, field, grain; corn, pop, grain |
| 180.1258 | | cowpea hay | cowpea, hay |
| 180.1258 | | fescue hay | fescue, hay |
| 180.1258 | | lespedeza | lespedeza, hay |
| 180.1258 | | lupines | lupin |
| 180.1258 | | oat grain | oat, grain |
| 180.1258 | | orchard grass | orchardgrass, hay |
| 180.1258 | | peanut grass | peanut, hay |
| 180.1258 | | Timothy | timothy, hay |
| 180.1258 | | vetch | vetch, hay |
| 180.1258 | | wheat grain | wheat, grain |
| 180.1261 | | tomatoes and peppers | pepper and tomato |
| 180.1274 | | wheat and barley | grain, aspirated fractions; barley, grain; barley, hay; barley, straw; wheat, grain; wheat, forage; wheat, hay; wheat, straw |
| 180.1276 | | grass and grass hay | grass, forage; grass, hay |
| 180.1279 | | cucurbits | cucurbit |

III. Statutory and Executive Order Reviews

This document makes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a “significant regulatory action” subject to review by OMB 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 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). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice

and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impacts of today’s rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. These technical amendments to the Code of Federal Regulations have no substantive impact on the underlying regulations. These technical amendments will not have any negative economic impact on any entities, including 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 the 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.

IV. 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 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 the rule in the **Federal Register**. This 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: May 21, 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 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 §180.1011, by revising paragraph (b) to read as follows:

§ 180.1011 Viable spores of the microorganism *Bacillus thuringiensis* Berliner; exemption from the requirement of a tolerance.

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus thuringiensis* Berliner, as specified in paragraph (a) of this section, in or on honey and honeycomb and all other raw agricultural commodities when it is applied either to growing crops, or when it is applied after harvest in accordance with good agricultural practices.

* * * * *

■ 3. In § 180.1019, by revising paragraph (b) to read as follows:

§ 180.1019 Sulfuric acid; exemption from the requirement of a tolerance.

* * * * *

(b) Residues of sulfuric acid are exempted from the requirement of a tolerance in cattle, meat; goat, meat; hog, meat; horse, meat; sheep, meat; poultry, fat; poultry, meat; poultry, meat, byproducts; egg; milk; fish, shellfish, and irrigated crops when it results from the use of sulfuric acid as an inert ingredient in a pesticide product used in irrigation conveyance systems and lakes, ponds, reservoirs, or bodies of water in which fish or shellfish are cultivated. The sulfuric acid is not to exceed 10% of the pesticide formulation (non-aerosol formulations only).

* * * * *

■ In § 180.1020, by revising the Commodity list in paragraph (a) and the table in paragraph (b) to read as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

(a) * * *

Commodity

Bean, dry, seed
Corn, field, forage
Corn, field, grain
Corn, field, stover
Corn, pop, grain
Corn, pop, stover
Cotton, undelinted seed
Cowpea, forage
Cowpea, hay
Cowpea, seed
Flax, seed
Flax, straw
Grain, aspirated fractions
Guar, seed
Pepper, chili
Potato
Rice, grain
Rice, straw
Safflower, seed
Sorghum, forage
Sorghum, grain, grain
Sorghum, grain, stover
Soybean, forage
Soybean, hay
Soybean, seed
Sunflower, seed

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/revocation date |
|---------------|-------------------|----------------------------|
| Wheat, forage | NA | 12/31/06 |
| Wheat, grain | NA | 12/31/06 |
| Wheat, hay | NA | 12/31/06 |
| Wheat, straw | NA | 12/31/06 |

- 5. In § 180.1021, by revising paragraph (a) introductory text to read as follows:

§ 180.1021 Copper; exemption from the requirement of a tolerance.

(a) Copper is exempted from the requirement of a tolerance in cattle, meat; goat, meat; hog, meat; horse, meat; sheep, meat; milk, poultry, fat; poultry, meat; poultry, meat byproducts; egg, fish, shellfish, and irrigated crops when it results from the use of:

* * * * *

- 6. Section 180.1022 is revised to read as follows:

§ 180.1022 Iodine-detergent complex; exemption from the requirement of a tolerance.

The aqueous solution of hydriodic acid and elemental iodine, including one or both of the surfactants (a) polyoxypropylene-polyoxyethylene glycol nonionic block polymers (minimum average molecular weight 1,900) and (b) α -(p-nonylphenyl)-*omega*-hydroxypoly (oxyethylene) having a maximum average molecular weight of 748 and in which the nonyl group is a propylene trimer isomer, is exempted from the requirement of a tolerance for residues in egg, and poultry, fat; poultry, meat; poultry, meat byproducts when used as a sanitizer in poultry drinking water.

* * * * *

- 7. In § 180.1023, by revising paragraphs (a) and (b) to read as follows:

§ 180.1023 Propanoic acid; exemptions from the requirement of a tolerance.

(a) Postharvest application of propanoic acid or a mixture of methylene bispropionate and oxy(bismethylene) bispropionate when used as a fungicide is exempted from the requirement of a tolerance for residues in or on the following raw agricultural commodities: Alfalfa, forage; alfalfa, hay; alfalfa, seed; barley, grain; Bermudagrass, forage; Bermudagrass, hay; bluegrass, forage; bluegrass, hay; bromegrass, forage; bromegrass, hay; clover, forage; clover, hay; corn, field, grain; corn, pop, grain; cowpea, hay; fescue, forage; fescue, hay; lespedeza, forage; lespedeza, hay; lupin; oat, grain; orchardgrass, forage; orchardgrass, hay; peanut, hay; pea, field, hay; ryegrass, Italian, hay; sorghum, grain, grain; soybean, hay; sudangrass, forage; sudangrass, hay; timothy, forage; timothy, hay; vetch, forage; vetch, hay; and wheat, grain.

(b) Propanoic acid is exempt from the requirement of a tolerance for residues in or on cattle, meat; cattle, meat byproducts; goat, meat; goat, meat byproducts; hog, meat; hog meat

byproducts; horse, meat; horse, meat byproducts; sheep, meat; sheep meat byproducts; and, poultry, fat; poultry meat; poultry meat byproducts; milk, and egg when applied as a bactericide/fungicide to livestock drinking water, poultry litter, and storage areas for silage and grain.

* * * * *

- 8. In § 180.1027, by revising paragraph (c) to read as follows:

§ 180.1027 Nuclear polyhedrosis virus of *Heliothis zea*; exemption from the requirement of a tolerance.

* * * * *

(c) Exemptions from the requirement of a tolerance are established for the residues of the microbial insecticide *Heliothis zea* NPV, as specified in paragraphs (a) and (b) of this section, in or on all agricultural commodities.

- 9. Section 180.1035 is revised to read as follows:

§ 180.1035 Pine oil; exemption from the requirement of a tolerance.

Pine oil is exempted from the requirement of a tolerance for residues in the raw agricultural commodities honey and honeycomb, when present therein as a result of its use as a deodorant at no more than 12 percent in formulation with the bee repellent butanoic anhydride applied in an absorbent pad over the hive.

- 10. Section 180.1037 is revised to read as follows:

§ 180.1037 Polybutenes; exemption from the requirement of a tolerance.

(a) Polybutenes are exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cotton, undelinted seed when used as a sticker agent for formulations of the attractant gossyplure (1:1 mixture of (Z,Z)- and (Z,E)-7,11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

(b) Polybutenes are exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity artichoke when used as a sticker agent in multi-layered laminated controlled-release dispensers of (Z)-11-hexadecenal to disrupt the mating of the artichoke plume moth.

- 11. Section 180.1043 is revised to read as follows:

§ 180.1043 Gossyplure; exemption from the requirement of a tolerance.

The pheromone gossyplure, a 1:1 mixture of (Z,Z)- and (Z,E)-7,11-hexadecadien-1-ol acetate) is exempt from the requirement of a tolerance in or on the raw agricultural commodity

cotton, undelinted seed when applied to cotton from capillary fibers.

- 12. In § 180.1054, by revising paragraph (b) to read as follows:

§ 180.1054 Calcium hypochlorite; exemptions from the requirement of a tolerance.

* * * * *

(b) Calcium hypochlorite is exempted from the requirement of a tolerance in or on grape when used as a fumigant postharvest by means of a chlorine generator pad.

- 13. Section 180.1057 is revised to read as follows:

§ 180.1057 Phytophthora palmivora; exemption from requirement of tolerance.

Phytophthora palmivora is exempted from the requirement of a tolerance in or on the raw agricultural commodity fruit, citrus.

- 14. Section 180.1058 is revised to read as follows:

§ 180.1058 Sodium diacetate; exemption from the requirement of a tolerance.

Sodium diacetate, when used postharvest as a fungicide, is exempt from the requirement of a tolerance for residues in or on alfalfa, hay; Bermudagrass, hay; bluegrass, hay; bromegrass, hay; clover, hay; corm, field, grain; corn, pop, grain; oat, grain; orchardgrass, hay; sorghum, grain, grain; sudangrass, hay; ryegrass, Italian, hay; timothy, hay.

- 15. Section 180.1070 is revised to read as follows:

§ 180.1070 Sodium chlorite; exemption from the requirement of a tolerance.

Sodium chlorite is exempted from the requirement of a tolerance for residues when used in accordance with good agricultural practice as a seed-soak treatment in the growing of the raw agricultural commodities vegetable, brassica, leafy, group 5 and radish, roots and radish, tops.

- 16. Section 180.1073 is revised to read as follows:

§ 180.1073 Isomate-M; exemption from the requirement of a tolerance.

The oriental fruit moth pheromone (Isomate-M) (Z-8-dodecen-1-yl acetate, E-8-dodecen-1-yl acetate, Z-8-dodecen-1-ol) is exempt from the requirement of a tolerance in or on all the raw agricultural commodities (food and feed) including, peach; quince; nectarine; and nut, macadamia when used in orchards with encapsulated polyethylene tubing to control oriental fruit moth.

- 17. In § 180.1075, by revising the Commodity list to read as follows:

§ 180.1075 *Colletotrichum gloeosporioides* f. sp. *aeschynomene*; exemption from the requirement of a tolerance.

* * * * *

Commodity

Aspirated grain fractions

Rice, grain

Soybean, forage

Soybean, hay

Soybean, seed

■ 18. In § 180.1076, by revising paragraph (b) to read as follows:

§ 180.1076 Viable spores of the microorganism *Bacillus popilliae*; exemption from the requirement of a tolerance.

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus popilliae*, as specified in paragraph (a) of this section in or on grass, pasture, forage and grass, rangeland, forage when it is applied to growing crops in accordance with good agricultural practices.

■ 19. In § 180.1083, by revising paragraphs (a) and (b) to read as follows:

§ 180.1083 Dimethyl sulfoxide; exemption from the requirement of a tolerance.

* * * * *

(a) Carbaryl (1-naphthyl methyl-carbamate)

Pea, dry, seed

Pea, succulent

(b) *O*-*O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate

Pea, dry, seed

Pea, succulent

■ 20. Section 180.1087 is revised to read as follows:

§ 180.1087 Sesame stalks; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the biorational nematicide sesame stalk in or on the following raw agricultural commodities: Almond; almond, hulls; cotton, undelinted seed; cotton, gin byproducts; soybean, seed; soybean, forage; soybean, hay; aspirated grain fractions; potato; beet, sugar, roots; beet, sugar, tops; tomato; pepper, bell; squash; strawberry; eggplant; cucumber; carrot, roots; radish, roots; radish, top; turnip, roots; turnip, tops; onion; pea, dry; pea, succulent; melon; grape; walnut; orange; grapefruit; mulberry; peach; apple; apricot; blackberry; loganberry; pecan; cherry; plum, and cranberry.

■ 21. Section 180.1092 is revised to read as follows:

§ 180.1092 Menthol; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the pesticidal chemical menthol in or on honey and honeycomb when used in accordance with good agricultural practice in over-wintering bee hives.

■ 22. Section 180.1097 is revised to read as follows:

§ 180.1097 GBM-ROPE; exemption from the requirement of a tolerance.

The grape berry moth pheromone (GBM-ROPE) containing the active ingredients (Z)-9-dedecenyl acetate and (Z)-11-tetradecenyl acetate is exempt from the requirement of a tolerance in or on the raw agricultural commodity grape when used in orchards with encapsulated polyethylene tubing to control grape berry moth.

■ 23. Section 180.1103 is revised to read as follows:

§ 180.1103 Isomate-C; exemption from the requirement of a tolerance.

The codling moth pheromone (Isomate-C) E,E-8,10-dodecenyl alcohol, dodecanol, tetradecanol is exempt from the requirements of a tolerance in or on all raw agricultural commodities when formulated in polyethylene pheromone dispensers for use in orchards with encapsulated polyethylene tubing to control codling moth.

■ 24. Section 180.1113 is revised to read as follows:

§ 180.1113 *Lagenidium giganteum*; exemption from the requirement of a tolerance.

Lagenidium giganteum (a fungal organism) is exempt from the requirement of a tolerance in or on the raw agricultural commodities aspirated grain fractions; grass, forage; grass, hay; rice, grain; rice, straw; soybean, seed; soybean, forage; soybean, hay; rice, wild, grain.

■ 25. Section 180.1178 is revised to read as follows:

§ 180.1178 Formic acid; exemption from the requirement of a tolerance.

The pesticide formic acid is exempted from the requirement of a tolerance in or on honey and honeycomb when used to control tracheal mites and suppress varroa mites in bee colonies, and applied in accordance with label use directions.

■ 26. Section 180.1196 is revised to read as follows:

§ 180.1196 Peroxyacetic acid; exemption from the requirement of a tolerance.

(a) An exemption from the requirement of a tolerance is established

for residues of peroxyacetic acid in or on all food commodities, when such residues result from the use of peroxyacetic acid as an antimicrobial treatment in solutions containing a diluted end use concentration of peroxyacetic acid up to 100 ppm per application on fruits, vegetables, tree nuts, cereal grains, herbs, and spices.

(b) An exemption from the requirement of a tolerance is established for residues of peroxyacetic acid, in or on all food commodities when used in sanitizing solutions containing a diluted end-use concentration of peroxyacetic acid up to 500 ppm, and applied to tableware, utensils, dishes, pipelines, tanks, vats, fillers, evaporators, pasteurizers, aseptic equipment, milking equipment, and other food processing equipment in food handling establishments including, but not limited to dairies, dairy barns, restaurants, food service operations, breweries, wineries, and beverage and food processing plants.

■ 27. In § 180.1206, by revising paragraphs (a) and (c) to read as follows:

§ 180.1206 *Aspergillus flavus* AF36; exemption from the requirement of a tolerance.

(a) An exemption from the requirement of a tolerance is established for residues of the microbial pesticide *Aspergillus flavus* AF36 in or on cotton, gin byproducts; cotton, hulls; cotton, meal; cotton, refined oil; cotton, undelinted seed.

* * * * *

(c) *Aspergillus flavis* AF 36 is temporarily exempt from the requirement of a tolerance on corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover when used in accordance with the Experimental Use Permit 71693-EUP-2. This temporary exemption from the tolerance will expire December 31, 2011.

■ 28. Section 180.1219 is revised to read as follows:

§ 180.1219 Foramsulfuron; exemption from the requirement of a tolerance.

The pesticide foramsulfuron is exempted from the requirement of a tolerance in corn, field, grain/corn, field, forage/ corn, field, stover/corn, pop, grain/corn, pop, forage/corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover when applied as a herbicide in accordance with good agricultural practices.

■ 29. Section 180.1254 is revised to read as follows:

§ 180.1254 Aspergillus flavus NRRL 21882 on peanut; exemption from requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Aspergillus flavus* NRRL 21882 in or on peanut; peanut hay; peanut, meal; peanut, refined oil.

■ 30. Section 180.1258 is revised to read as follows:

§ 180.1258 Acetic acid; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the biochemical pesticide acetic acid when used as a preservative on post-harvest agricultural commodities intended for animal feed, including Alfalfa, seed; alfalfa, hay; barley, grain; bermudagrass, hay; bluegrass, hay; bromegrass, hay; clover, hay; corn, field, grain; corn, pop, grain; cowpea, hay; fescue, hay; lespedeza, hay; lupin; oat, grain; orchardgrass, hay; peanut, hay; timothy, hay; vetch, hay; and wheat, grain, or commodities described as grain or hay.

■ 31. Section 180.1261 is revised to read as follows:

§ 180.1261 *Xanthomonas campestris* pv. *vesicatoria* and *Pseudomonas syringae* pv. *tomato* specific Bacteriophages.

An exemption from the requirement of a tolerance is established for residues of *Xanthomonas campestris* pv. *vesicatoria* and *Pseudomonas syringae* pv. *tomato* specific bacteriophages in or on pepper and tomato.

■ 32. In § 180.1274, by revising the introductory text to read as follows:

§ 180.1274 Tris (2-ethylhexyl) phosphate; exemption from the requirement of a tolerance.

Tris (2-ethylhexyl) phosphate (TEHP, CAS Reg. No. 78-42-2) is exempt from the requirement of a tolerance for residues in grain, aspirated fractions; barley, grain, barley, hay, barley, straw; wheat, grain; wheat, forage; wheat, hay; wheat, straw when used under the following conditions:

■ 33. Section 180.1276 is revised to read as follows:

§ 180.1276 Tobacco mild green mosaic tobamovirus (TMGMV); temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of tobacco mild green mosaic tobamovirus in or on all grass, forage and grass, hay.

■ 34. Section 180.1279 is revised to read as follows:

§ 180.1279 Zucchini yellow mosaic virus—weak strain; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance for residues of the ZYMV-WK strain in or on all raw cucurbit when applied/used in accordance with label directions.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2007-0312; FRL-8414-6]

Triflumizole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of triflumizole and its metabolites containing the 4-chloro-2-trifluoromethylaniline (FA-1-1) moiety, calculated as the parent compound, in or on leafy greens subgroup 4A, except spinach; Brassica, head and stem, subgroup 5A; Brassica, leafy greens, subgroup 5B; cilantro leaves; Swiss chard; pineapple; papaya; black sapote; canistel; mamey sapote; mango; sapodilla; star apple; hops, dried cones; and turnip greens. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also deletes the following time-limited tolerances, as permanent tolerances supersede them: Collards, kale and mustard greens, as residues on these commodities will be covered by the Brassica, leafy greens, subgroup 5B tolerance; broccoli, since residues will be covered by the Brassica, head and stem, subgroup 5A tolerance; dandelion leaves and parsley leaves, since residues will be covered by the leafy greens subgroup 4A tolerance; Swiss chard and turnip greens, as the time-limited tolerances will be superseded by permanent tolerances; and coriander leaves, as the cilantro leaves tolerance supersedes it and is the preferred commodity definition.

DATES: This regulation is effective June 3, 2009. Objections and requests for hearings must be received on or before August 3, 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-2007-0312. 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:

Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7390; e-mail address: nollen.laura@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:

- 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 to provide 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**.