

■ 2. The table in § 9.1 is amended by removing under the undesignated center heading “Significant New Uses of Chemical Substances” § 721.5995.

## PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

### § 721.5995 [Removed]

■ 4. Remove § 721.5995.

[FR Doc. 2010–12596 Filed 5–25–10; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 174

[EPA–HQ–OPP–2008–0763; FRL–8826–9]

### Coat Protein of Plum Pox Virus; 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 the coat protein of plum pox virus in or on stone fruit and almond when expressed in these food commodities by the plant-incorporated protectant, coat protein gene of plum pox virus. Interregional Research Project Number 4 of Rutgers University (on behalf of the United States Department of Agriculture–Agricultural Research Service–Appalachian Fruit Research Station) 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 the coat protein of plum pox virus under the FFDCA.

**DATES:** This regulation is effective May 26, 2010. Objections and requests for hearings must be received on or before July 26, 2010, 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–2008–0763. 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 Office of Pesticide Programs (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:** Denise Greenway, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: [greenway.denise@epa.gov](mailto:greenway.denise@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 174 through the Government Printing Office’s e-CFR site at <http://www.gpoaccess.gov/ecfr>.

To access the harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/oppts> and select “Test Methods and Guidelines.”

##### 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–2008–0763 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 July 26, 2010. 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 that does not contain any 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 a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2008–0763, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- **Mail:** 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 and Statutory Findings

In the **Federal Register** of November 14, 2008 (73 FR 67512) (FRL–8388–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a

pesticide tolerance petition (PP 7E7231) by Interregional Research Project Number 4 (IR-4), Rutgers University, 500 College Rd. East, Suite 201 W., Princeton, NJ 08540 (on behalf of the United States Department of Agriculture-Agricultural Research Service-Appalachian Fruit Research Station (USDA-ARS-AFRS), 2217 Wiltshire Rd., Kearneysville, WV 25430). The petition requested that 40 CFR part 174 be amended by establishing an exemption from the requirement of a tolerance for residues of the coat protein of plum pox virus. This notice referenced a summary of the petition prepared by the petitioner, IR-4 (on behalf of USDA-ARS-AFRS), which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA 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. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require 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...." Additionally, section 408(b)(2)(D) of FFDCA requires that 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."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

### III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information 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.

#### A. Overview

The coat protein of plum pox virus is produced by a plant-infecting Potyvirus in *Prunus* species, which include plum (cultivated and native or wild species), peaches, almonds, nectarines, and cherries. Such stone fruits are a natural source and sink for plum pox virus. When the gene that is responsible for producing the coat protein in infected plants is genetically engineered into uninfected plum trees, the plants become resistant to the devastating disease this virus causes, which is known as "Plum Pox." The C5 HoneySweet Plum (C5 plum) tree has been genetically engineered to contain the gene responsible for the coat protein. Ribonucleic acid (RNA) fragments derived from the virus coat protein gene cause the plant's natural protection mechanism, post-transcriptional gene silencing (PTGS), to be primed to resist virus infection, should it occur. Although non-engineered plants initiate PTGS upon infection with the virus, the serious damage caused by the virus (such as fruit degradation and leaf chlorosis) is not prevented.

The exemption from the requirement of a tolerance for residues of nucleic acids that are part of a plant-incorporated protectant established under 40 CFR 174.507 covers the coat protein gene (sometimes called the "transgene") of plum pox virus. The reason for establishing an exemption from the requirement of a tolerance for residues of the coat protein of plum pox virus (as opposed to the coat protein gene) is that insertion of the gene into the C5 plum includes an open reading frame, and so the production of this protein, and thus residues of the protein in or on food, is theoretically possible. In the unlikely event that any protein is produced, dietary exposure could result. However, no virus coat protein has been detected in the C5 plum during years of extensive field trials, which is likely attributed to the early initiation of the PTGS protective mechanism in the C5 plum plants (Ref. 1). That is, while the

coat protein of plum pox virus is produced in non-transgenic *Prunus* species infected with plum pox virus, it has not been observed (but is theoretically possible) in the transgenic plums.

#### B. Mammalian Toxicity and Allergenicity Assessment

To determine whether the coat protein of plum pox virus could potentially cause toxicity or allergenicity, the petitioner submitted results of an amino acid sequence similarity study. This study used two methods to compare the deduced amino acid sequence of the plum pox virus coat protein (as it could potentially be produced in the C5 plum) with sequence databases of known food allergens, toxins, and antinutrients. In the first analysis for overall similarity to toxins, allergens and anti-nutrients, none of the sequence analyses produced alignments greater than 35% identity over a window of 80 amino acids. In the second analysis specifically for allergen epitopes (regions of potential binding for triggering allergic reactions), there were no matching regions of eight amino acids, which is considered the threshold needed to indicate a potential hazard. These studies follow the guidance of the Codex Alimentarius for the safety assessment of foods derived from biotechnology (Ref. 2). Therefore, these data demonstrated that no food allergenicity, toxicity, or antinutrient effects would be expected from dietary exposure to the transgene, the overlapping plum DNA, or the protein (if it were produced) in the C5 plum.

#### C. In vitro Digestibility

Based upon the results of the submitted amino acid sequence similarity studies discussed in Unit III.B., the fact that plum pox virus coat protein has been in the human diet without adverse effects, and the reasonable expectation that no plum pox coat protein will be expressed in the C5 plum, the Agency granted the petitioner's waiver request for an *in vitro* digestibility study.

#### D. Hypersensitivity

The petitioner reported that since research began with the C5 plum in 1992, approximately 80 trees have been tested. Neither Agricultural Research Service (ARS) production staff, numbering approximately 20 people in the United States (West Virginia), nor personnel performing testing in Spain, Poland, Romania, the Czech Republic, and Chile, have, to the knowledge of EPA, experienced hypersensitivity or other adverse effects. Therefore, no

hypersensitivity effects are expected from exposure to the coat protein of plum pox virus (if it were produced) in the C5 plum. The Agency expects to be notified if such a hypersensitivity incident were to occur.

#### E. Additional Information

The petitioner submitted scientifically based rationales, described in Unit III.E., to justify the requested waivers of the following microbial pesticide toxicology data requirements: Tier I - acute oral toxicity/pathogenicity (Harmonized Test Guideline 885.3050), acute dermal toxicity/pathogenicity (Harmonized Test Guideline 885.3100), acute pulmonary toxicity/pathogenicity (Harmonized Test Guideline 885.3150), and acute injection toxicity/pathogenicity (Harmonized Test Guideline 885.3200). The Agency uses the microbial pesticide data requirements (see 40 CFR 158.2130) because the C5 plum has virus sequences similar to microbial products based on plant viruses. Basing the decision to grant the requested waiver of the data requirements on the available data and information without requiring further toxicity testing and residue data is similar to the Agency position regarding toxicity testing and the requirement of residue data for microbial products based on plant viruses from which this plant-incorporated protectant was derived (see 40 CFR 158.2130). For microbial products, further toxicity testing and residue data are triggered by significant adverse acute effects in studies such as the mouse oral toxicity study, to verify the observed adverse effects and clarify the source of these effects (Tiers II & III).

Several pertinent issues were considered by the Agency concerning the potential for dietary hazards from the C5 plum before determining whether to grant the petitioner's waiver requests. When considering registrations for plant-incorporated protectants to be used in food commodities, the potential for dietary exposure to novel proteins that may possess toxic, allergenic, or antinutrient properties must be evaluated. Sufficient information demonstrating that plant viruses are both in the human diet and exist in the human intestine without negative effects was reviewed by the Agency. Since Potyviruses contain other proteins in addition to coat protein and are not the only plant viruses found in food commodities, humans can be exposed to a wide range of plant virus proteins (Ref. 3). Proteins of plant viruses, including the coat protein from plum pox virus, neither act as antinutrients when ingested, nor possess any

properties that lead to toxicity or allergenicity (Ref. 4). Therefore, based on the lack of hazard from existing dietary exposure to plant viruses and the low expected potential for expression of the plum pox coat protein, there is a reasonable certainty of no harm from the aggregate exposure to the residues of the coat protein of plum pox virus, should it be expressed.

Another consideration is the product of the coat protein gene of plum pox virus as inserted into the C5 plum. In the natural virus infection, its replication intermediates do not require DNA since a virus-encoded, RNA-Dependent RNA-polymerase is used. To express the gene in a plant, a DNA copy must be made and incorporated into the plant's genome, so that the plant will express messenger ribonucleic acid (mRNA) homologous to the virus coat protein only. Often for a Potyvirus, this means also adding a start codon and short leader sequence since the viral start codon is distant from the coat protein sequence in the normal viral RNA genome (Ref. 4). As discussed in Unit III.B., a full sequence analysis and comparison with known toxins, allergens, and antinutrients demonstrated that neither the coat protein gene nor the plum pox coat protein gene inserted into the C5 plum were sufficiently homologous to trigger an adverse reaction.

Consideration of the low potential for production of protein is important since the silenced inserted gene has an open reading frame. Although there are known instances where suppression of gene-silencing can occur (e.g., PTGS inhibition such as produced by some other plant viruses, and low temperature growth), there are no foreseeable events that would lead to a breakdown in resistance under field conditions for the C5 plum. PTGS virtually eliminates the possibility of translation of virus coat protein from viral mRNA. When the coat protein gene insert is transcribed to the mRNA for the coat protein of plum pox virus, the mRNA is quickly cleaved and thus cannot be translated into the protein. If the plant becomes infected with the virus, the PTGS mechanism rapidly degrades the mRNA from the virus and prevents the production of new virions within the plant's tissues (Ref. 1).

In light of these considerations, the Agency granted the petitioner's requests to waive the listed data requirements.

#### F. References

1. Ravelonandro, M., J. Kundu, P. Briard, M. Monison and R. Scorza. 2007. The Effect of Co-Existing *Prunus* Viruses on Transgenic Plum Pox Virus Resistant

Plums. ISHS Acta Horticulturae 738: International Symposium on Biotechnology of Temperate Fruit Crops and Tropical Species, pp. 653–656.

2. Codex Alimentarius (2003) Foods Derived from Biotechnology, United Nations, Food and Agriculture Organization, World Health Organization.

3. Zhang, T., M. Breitbart, W. H. Lee, J.-Q. Run, C. L. Wei, S. W. L. Soh, M. L. Hibberd, E. T. Liu, F. Rohwer, Y. Ruan. 2006. RNA Viral Community in Human Feces: Prevalence of Plant Pathogenic Viruses. *PLOS Biology* 4(1):108-118.

4. Shukla, D. D., C. W. Ward. A. A. Brunt. 1994. The Potyviridae. CAB International. University Press. Cambridge, UK.

#### IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption for residues of the coat protein of plum pox virus, all other exemptions in effect for residues of virus coat proteins and virus coat protein gene plant-incorporated protectants, and exposure from non-occupational sources. Exposure to the coat protein of plum pox virus via the inhalation or dermal routes is not likely, since PTGS virtually eliminates the possibility of translation of the coat protein of plum pox virus from viral mRNA. In the event the protein is expressed in the C5 plum, it would be contained within plant cells, either eliminating the possibility of dermal and inhalation exposure, or reducing those exposure routes to negligible levels. This same evidence supports the Agency's conclusion that oral exposure from drinking water would be highly unlikely. Even if exposure occurred through an unlikely route, such as inhalation, the potential for the coat protein of plum pox virus to be an allergen is low, as evidenced by the lack of sequence homology with known allergens and the lack of hypersensitivity incidents in

individuals handling C5 plum trees, fruits, and other plant tissues during 18 years of research. Exposure via residential or lawn use to infants and children is also not expected because the use sites for the coat protein gene of plum pox virus are agricultural. In the unlikely event that the C5 plum expresses any viral coat protein, oral exposure from ingestion of fresh or processed fruit could occur, but as discussed in Unit III.E., the protein would not be expected to cause any adverse reactions.

#### V. 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."

EPA has not found the coat protein of plum pox virus to share a common mechanism of toxicity with any other substances, and the coat protein of plum pox virus does not appear to produce a toxic metabolite. For the purposes of this tolerance exemption action, therefore, EPA has assumed that the coat protein of plum pox virus 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 website at <http://www.epa.gov/pesticides/cumulative>.

#### VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold 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 unless EPA determines that a different margin of safety will be safe for infants and children.

Based on its review and consideration of all of the data and other information submitted by the petitioner discussed in Unit III., in addition to its previous

knowledge of plant viruses and plant virus coat proteins discussed in Unit III.E., EPA concludes that there is a reasonable certainty that no harm will result to the United States population, including infants and children, from aggregate exposure to residues of the coat protein of plum pox virus. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data available on the coat protein of plum pox virus demonstrate a lack of toxicity and pathogenicity. Plum pox Potyvirus (including the coat protein of plum pox virus) is not known to produce any recognized toxins, novel proteins, antinutrients, virulence factors, or enzymes normally associated with pathogen invasiveness or toxicity in mammals. Thus, there are no threshold effects of concern and, as a result, the Agency has concluded that the additional tenfold margin of safety for infants and children is unnecessary in this instance.

#### VII. Other Considerations

##### A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

##### 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 maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. 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.

The Codex has not established a MRL for the coat protein of plum pox virus.

#### VIII. Conclusions

The Agency concludes that there is a reasonable certainty that no harm will result to the United States population, including infants and children, from aggregate exposure to residues of the

coat protein of plum pox virus. Therefore, an exemption is established for residues of the coat protein of plum pox virus in or on the food commodities of fruit, stone, Group 12; and almond.

#### IX. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption 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 tolerance 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 174

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

Dated: May 7, 2010.

**Steven Bradbury,**

*Acting Director, Office of Pesticide Programs.*

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

#### PART 174—[AMENDED]

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

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

■ 2. Section 174.531 is added to subpart W to read as follows:

##### **§174.531 Coat protein of plum pox virus; exemption from the requirement of a tolerance.**

Residues of the coat protein of plum pox virus in or on the food commodities of fruit, stone, Group 12; and almond, are exempt from the requirement of a tolerance in these food commodities when expressed by the plant-incorporated protectant, coat protein gene of plum pox virus, and used in

accordance with good agricultural practices.

[FR Doc. 2010-12579 Filed 5-25-10; 8:45 am]

**BILLING CODE 6560-50-S**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 180**

**[EPA-HQ-OPP-2009-0920; FRL-8827-7]**

##### **Diquat Dibromide; Pesticide Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of diquat, derived from applications of diquat dibromide, in or on canola meal and canola seed. Syngenta Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also corrects minor errors in the regulations for diquat at 40 CFR 180.266.

**DATES:** This regulation is effective May 26, 2010. Objections and requests for hearings must be received on or before July 26, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2009-0920. 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:** Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@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**.

###### *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.gpoaccess.gov/ecfr>. To access the harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/oppts> and select "Test Methods and Guidelines."

###### *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-2009-0920 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