

§ 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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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.

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.

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

comments received in response to the notice of filing.

III. Final Rule

A. EPA's Safety Determination

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 FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption 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, FFDCA section 408(b)(2)(D) requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity."

EPA evaluated the available toxicity and exposure data on *Bacillus subtilis* strain BU1814 and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled "Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for *Bacillus subtilis* strain BU1814." This document, as well as other relevant information, is available in the docket for this action as described under ADDRESSES. The available data indicate that *Bacillus subtilis* strain BU1814 showed no toxicity, no pathogenicity, and no infectivity via the acute oral, pulmonary, and intravenous routes of exposure. Based upon its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and

children, from aggregate exposure to residues of *Bacillus subtilis* strain BU1814. Therefore, an exemption from the requirement of a tolerance is established for residues of *Bacillus subtilis* strain BU1814 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. 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 exemption in this action, 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. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA 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, EPA 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 EPA's 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).

V. 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 27, 2017.

Richard P. Keigwin, Jr.,
Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1348 to subpart D to read as follows:

§ 180.1348 *Bacillus subtilis* strain BU1814; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Bacillus subtilis* strain BU1814 in or on all food commodities when used in

accordance with label directions and good agricultural practices.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA-HQ-OPPT-2017-0245; FRL-9971-38]

RIN 2070-AK36

Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: In the *Federal Register* of October 25, 2017, EPA published both a direct final rule and proposed rule to update the voluntary consensus standards that originally published in the Toxics Substances Control Act (TSCA) Title VI formaldehyde emission standards for composite wood products final rule on December 12, 2016. In addition, in the direct final rule and proposed rule the EPA amended the testing requirements for panel producers and third-party certifiers establishing correlation between approved quality control test methods and either the ASTM E1333-14 test chamber, or, upon showing equivalence, the ASTM D6007-14 test chamber. As noted in the direct final rule, if EPA received adverse comment on the proposed amendments, the Agency would publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the direct final action will not take effect. The Agency did receive adverse comment on the proposed rule amendments, and is therefore withdrawing the direct final rule and will instead proceed with a final rule based on the proposed rule after considering all public comments.

DATES: Effective December 8, 2017, the direct final rule published in the *Federal Register* of October 25, 2017 (82 FR 49287) (FRL-9962-84), is withdrawn.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Erik Winchester, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-

6450; email address: winchester.erik@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

A list of potentially affected entities is provided in the *Federal Register* of October 25, 2017 (82 FR 49287). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the October 25, 2017 *Federal Register*, EPA published both a direct final rule (see 82 FR 49287) and proposed rule (see 82 FR 49302) (FRL-9962-80) pursuant to section 601 of TSCA that would have updated several of the voluntary consensus standards incorporated by reference at § 770.99 as published on December 12, 2016 (see 81 FR 89674) (FRL-9949-90). These voluntary consensus standards have been updated, withdrawn, or superseded since publication of the original final rule in 2016. Additionally, the direct final rule would have amended testing requirements for demonstration of equivalence and correlation between approved quality control test methods and either the ASTM E1333-14 test chamber, or, upon showing equivalence in accordance with § 770.20(d), the ASTM D6007-14 test chamber under § 770.20(d)(2)(i).

Since the direct final rule and proposed rule's publication, EPA has received a comment on the proposed amendments to the voluntary consensus standard updating action that the Agency considers to be adverse. As a result of receiving an adverse comment, EPA is withdrawing the direct final rule published in the *Federal Register* on October 25, 2017. All comments are available for review in the public docket. EPA will address the public comments received on this action in a subsequent final rule.

III. How do I access the docket?

To access the docket, please go to <http://www.regulations.gov> and follow the online instructions using the docket ID number EPA-HQ-OPPT-2017-0245. Additional information about the Docket Facility is also provided under **ADDRESSES** in the October 25, 2017 (82 FR 49287) *Federal Register* document. If you have questions, consult the

technical person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. Good Cause Finding

EPA finds that there is "good cause" under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to withdraw the direct final rule discussed in this document without prior notice and comment. For this document, notice and comment is impracticable and unnecessary because EPA is under a time limit to publish this withdrawal. It was determined that this document is not subject to the 30-day delay of effective date generally required by 5 U.S.C. 553(d) as there is good cause for the withdrawal to be effective immediately. This withdrawal must become effective prior to the effective date of the direct final rule being withdrawn, as EPA explained in the direct final rule itself.

V. Statutory and Executive Order Reviews

This document withdraws regulatory requirements that have not gone into effect. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and Executive Order review requirements applicable to the direct final rule being withdrawn were discussed in the October 25, 2017 (82 FR 49287) *Federal Register* document. Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

VI. Congressional Review Act (CRA)

Pursuant to the CRA (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). Section 808 of the CRA allows the issuing agency to make a rule effective sooner than otherwise provided by CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. As required by 5 U.S.C. 808(2), this determination is supported by a brief statement in Unit IV.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood.