

1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances 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. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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 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: July 2, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.517 by revising the introductory text of paragraph (a) and

adding the following entries to the table in paragraph (a) to read as follows:

§ 180.517 Fipronil; tolerances for residues.

(a) *General.* Therefore, tolerances are established for combined residues of the insecticide fipronil (5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)sulfonyl]-1H-pyrazole-3-carbonitrile) and its metabolites 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl) sulfonyl]-1H-pyrazole-3-carbonitrile and 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl)thio]-1H-pyrazole-3-carbonitrile and its photodegradate 5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl)-4-[(1R,S)-(trifluoromethyl)]-1H-pyrazole-3-carbonitrile in or on the following items at the levels specified:

Commodity	Parts per million (ppm)
* * *	*
Rice grain	0.04
Rice straw	0.10

* * * * *

[FR Doc. 98-18987 Filed 7-16-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300681; FRL-6016-7]

RIN 2070-AB78

Pseudomonas Fluorescens Strain PRA-25; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a temporary exemption from the requirement of a tolerance for residues of the microbial pest control agent *pseudomonas fluorescens* strain PRA-25 on peas, snap beans, sweet corn, supersweet corn when applied/used on vegetable seeds in the planter box immediately before planting to reduce seed rot and damping-off disease cause by *Pythium spp.* and root rot caused by *Aphanomyces euteiches*. Good Bugs, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food

Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) requesting the temporary/time-limited tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *pseudomonas fluorescens* strain PRA-25. The tolerance will expire on July 31, 2001.

DATES: This regulation is effective July 17, 1998. Objections and requests for hearings must be received by EPA on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP-300681], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees) and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300681], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300681]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Linda A. Hollis, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401

M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. , 9th fl., CM #2 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308-8733, e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 26, 1997 (62 FR 8735) (FRL-5589-1), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition (PP 7G4803) Good Bugs, Inc. P.O. Box 939, New Glarus, WI 53574. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the FQPA of 1996. The petition requested that 40 CFR part 180 be amended by establishing a temporary/time-limited tolerance for residues of *pseudomonas fluorescens* strain PRA-25.

There were no comments received in response to the notice of filing. The data submitted in the petition and all other relevant material have been evaluated.

I. Risk Assessment and Statutory Findings

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

II. Toxicological Profile

Consistent with section 408(b)(2)(D) of the 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.

All available information indicates that there is a reasonable certainty that no harm will result from residues of *pseudomonas fluorescens* strain PRA-25 on the treated vegetables because of the ubiquitous nature of this bacterium commonly associated with roots, stems, leaves and blossoms of a tremendous variety of plants, soil, freshwater, raw and refrigerated milk, meat, fish and cheese and readily isolated from foodstuff and its low toxicity to humans. The toxicological data submitted with this petition demonstrate a lack of human health issues and fully support a temporary exemption from the requirement of a tolerance for *pseudomonas fluorescens* strain PRA-25.

1. *Acute Mammalian Toxicity/Pathogenicity/Infectivity Testing*- no acute toxicity/pathogenicity effects were observed when rats were given a maximum dose of $>1.75 \times 10^8$ cfu.

2. *Nontarget Organism Testing of Microbial Pest Control Agent* - waivers were submitted for all data requirements for nontarget avian, freshwater fish and aquatic invertebrate, insects and honeybees. No additional nontarget Tier I studies required for intended MPCA use as a pre-plant seed treatment.

3. *Acute Oral Limit Toxicity*- no acute toxicity was observed when rats were administered an acute oral dose of 1.75×10^8 cfu.

III. Aggregate Exposures

In examining aggregate exposure, section 408 of the 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 groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Food. *Pseudomonas fluorescens* strain PRA-25 is a ubiquitous bacterium that is commonly associated with soil, water, plant roots and leaves, meat, fish, and dairy products. Therefore, no additional exposure to food or drinking water is anticipated by using *pseudomonas fluorescens* strain PRA-25.

B. Other Non-Occupational Exposure

Non-dietary exposure such as lawn care, topical insect repellents, etc. is not anticipated since this microbial pesticide does not have these uses. Occupational exposure will be mitigated through the use of proper personal protective equipment.

IV. Cumulative Exposure to Substances with Common Mechanisms of Toxicity

Pseudomonas fluorescens strain PRA-25 does not exhibit a particular mechanism of toxicity in common with other agents, therefore, cumulative effects with any other substance are not considered.

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

For the U.S. population, including infants and children, *pseudomonas fluorescens* strain PRA-25, EPA concludes that there is reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of *pseudomonas fluorescens* strain PRA-25. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because as discussed above, no toxicity to mammals has been observed for *pseudomonas fluorescens* strain PRA-25 and under reasonable foreseeable circumstances it does not pose a risk. Thus, a temporary tolerance for *pseudomonas fluorescens* strain PRA-25 is not necessary to ensure the safety of consumers. Therefore, 40 CFR part 180 is amended as set forth below.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of exposure (MOE)(safety) for infants and children in the case of threshold effects to account for pre-and post natal toxicity and the completeness of the database, unless EPA determines that a different MOE will be safe for infants and children. MOEs are often referred to as uncertainty (safety) factors. In this microbial agency is practically non-toxic to mammals, including infants and children, and, thus, there are no threshold effects; therefore, EPA has not used a MOE approach to assess the safety of *pseudomonas fluorescens* strain PRA-25. As a result, EPA concludes that this temporary exemption will be safe without use of an additional margin of safety.

VI. Other Considerations

A. Endocrine Disruptors

The Agency has no information to suggest the *pseudomonas fluorescens* strain PRA-25 will have an effect on the immune and endocrine systems. The Agency is not requiring information on the endocrine effects of this biological pesticide at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

B. Analytical Method(s)

The Agency proposes to establish a temporary exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *pseudomonas fluorescens* strain PRA-25.

VII. Objections and Hearing Requests

The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the hearing clerk, at the address given under the **ADDRESSES** section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if

the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

A record has been established for this rulemaking under docket control number [OPP-300681]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in **ADDRESSES** at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the 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). 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.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub.L. 104-4). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). In addition, since tolerance exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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 the rule in the **Federal Register**. This 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: July 8, 1998.

Stephen L. Johnson,

Deputy 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. 346a and 371.

2. Section 180.1200 is added to subpart D to read as follows:

§ 180.1200 *Pseudomonas fluorescens* strain PRA-25; temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of the microbial pesticide, *pseudomonas fluorescens* strain PRA-25 when used on peas, snap beans and sweet corn and will expire July 31, 2001.

[FR Doc. 98-18986 Filed 7-16-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL-6118-1]

Underground Storage Tank Program: Approved State Program for Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state

statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions (42 U.S.C. 6991d and 6991e). This rule codifies in part 282 the prior approval of Nevada's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: The regulation is effective September 15, 1998, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of Nevada's underground storage tank program must be received by the close of business on August 17, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register**, as of September 15, 1998, in accordance with 5 U.S.C. 552 (a).

ADDRESSES: Comments may be mailed to the U.S. EPA Office of Underground Storage Tanks (WST-8), Waste Management Division, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105-3901. Comments received by EPA may be inspected in the public docket, located in the Office of Underground Storage Tanks, at the above address, from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

Copies of Nevada's underground storage tank program may be obtained from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada, 89710; the U.S. EPA Region 9 Library, 13th Floor, 75 Hawthorne Street, San Francisco, California, 94105-3901; and the U.S. EPA Underground Storage Tank docket office and the U.S. EPA Office of Underground Storage Tanks, both located at 401 M. Street SW, Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: John Thayer, Nevada Program Manager, Office of Underground Storage Tanks (WST-8), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105-3901, Phone: (415) 744-2092.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency (EPA) to approve state underground storage tank programs to operate in the state in lieu

of the federal underground storage tank program. On December 24, 1992, EPA published a **Federal Register** notice announcing its tentative decision to grant approval to Nevada. (See 57 FR 248,61376, December 24, 1992.) Approval was effective on March 30, 1993.

EPA codifies its approval of state programs in Part 282 of Title 40, Code of Federal Regulations (CFR) and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Nevada underground storage tank program. This codification reflects the state program in effect at the time EPA granted Nevada approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Nevada program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Nevada program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Nevada, the status of federally approved requirements of the Nevada program will be readily discernible. Only those provisions of the Nevada underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Nevada's underground storage tank program, EPA has added section 282.78 to Title 40 of the Code of Federal Regulation. Section 282.78 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.78 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal