

Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to amend 40 CFR 180.700, upon the approval of the requested tolerance, by revising the established tolerance for residues of the insecticide afidopyropen, including its metabolites and degradates, in or on leafy greens subgroup 4–16A at 2.0 parts per million (ppm) to a tolerance in or on leafy greens subgroup 4–16A, except lettuce, leaf at 2 ppm. *Contact:* RD.

2. *PP 4F9135.* EPA–HQ–OPP–2024–0322. Gowan Company, LLC, P.O. Box 556, Yuma, AZ 85366, requests to amend the existing regional tolerance established in 40 CFR 180.448 for the ovicide/miticide hexythiazox in or on fruit, citrus group 10–10 (CA, AZ, TX only) at 0.6 ppm to include a national tolerance for citrus, fruit, subgroup 10–10B (lemon/lime). The residue analytical methodology, Morse Laboratories, LLC, Analytical Method# Meth-220, Original, titled “Determination of Hexythiazox In/On Various Matrices,” dated May 6, 2013, with method modifications dated May 16, 2013, was reviewed by the Agency in the study, Magnitude of the Residue of Hexythiazox in or on Citrus Raw Agricultural Commodities Following One Application of Onager® 1E Miticide. The same method was used in the new residue data generated to amend the crop subgroup 10–10B lemon/lime tolerance, nationally. *Contact:* RD.

#### *B. Notice of Filing—New Tolerance Exemptions for Inerts (Except PIPS)*

1. *PP IN–11880.* EPA–HQ–OPP–2024–0344. A&L Biological, Inc., 2136 Jetstream Rd., London, ON Canada, N5V 3P5 requests to establish an exemption from the requirement of a tolerance for residues of purified bovine serum albumin (CAS Reg. No. 9048–46–8), when used as an inert ingredient in or on the raw agricultural commodity greenhouse cucumber applied pre-bloom as a stabilizer in microbial pesticides at a concentration of ≤1.0% w/w under 40 CFR 180.920. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11882.* EPA–HQ–OPP–2024–0354. Croda Inc., 300–A Columbus Circle, Edison, NJ 08837–3907, c/o Exponent, Inc. Chemical Regulation and Food Safety, 1150 Connecticut Ave. NW, Suite 1100, Washington, DC 20036, requests to establish an exemption from the requirement of a tolerance for residues of glycerol ester of rosin (CAS Reg. No. 8050–31–5), when used as an

inert ingredient in pesticide formulations used pre- and post- harvest under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

3. *PP IN–11918.* EPA–HQ–OPP–2024–0356. SpayVac-for-Wildlife, Inc., 1202 Ann Street, Madison, WI 53713, requests to establish an exemption from the requirement of a tolerance for residues of cholesterol (CAS Reg. No. 97281–47–5) in equine and cervid contraceptive formulations, when used as an inert ingredient under 40 CFR 180.930. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

#### *C. Notice of Filing—New Tolerance Exemptions for Non-Inerts (Except PIPS)*

1. *PP 3F9084.* EPA–HQ–OPP–2024–0340. MBFi LLC, 11125 North Ambassador Drive, Suite 120, Kansas City, MO 64153, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide and nematocide *Trichoderma asperellum* DSM33649 in or on all food or feed commodities. The petitioner believes no analytical method is needed because this petition requests an exemption from the requirement of a tolerance without numerical limitations. *Contact:* BPPD.

2. *PP 4F9112.* EPA–HQ–OPP–2024–0329. EcoPhage LTD., 3 Pinchas Sapir St., Ness Ziona, Israel 7403626 (c/o Spring Regulatory Sciences 6620 Cypresswood Dr., Suite 250, Spring, TX 77379), requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the bactericides Bacteriophage active against *Xanthomonas campestris* pv. *vesicatoria*\_EcoPhage and Bacteriophage active against *Pseudomonas syringae* pv. *tomato*\_EcoPhage in or on all food or feed commodities. The petitioner believes no analytical method is needed because this petition requests an exemption from the requirement of a tolerance without numerical limitations. *Contact:* BPPD.

#### *D. Notice of Filing—New Tolerances for Non-Inerts*

1. *PP 4E9104.* EPA–HQ–OPP–2024–0200. Interregional Research Project Number 4 (IR–4), IR–4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606 requests to establish tolerances in 40 CFR 180.700 for residues of the

insecticide afidopyropen, including its metabolites and degradates, in or on lettuce, leaf at 7 ppm. Compliance with the tolerance levels specified is to be determined by measuring only afidopyropen. An acceptable analytical method is available for enforcement purposes. *Contact:* RD.

2. *PP 4E9110.* EPA–HQ–OPP–2024–0262. Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, lambda-cyhalothrin, in or on pineapple and raspberry at 0.05 ppm. The ICI Method 81, ICI Method 86, ICI Method 96, and liquid chromatography with MS/MS detection analytical methods are used to measure and evaluate chemical residues of lambda-cyhalothrin. *Contact:* RD.

3. *PP 4F9117.* EPA–HQ–OPP–2024–0363. UPL NA Inc. P.O. Box 12219 Research Triangle Park, NC 27709–2219 requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide acifluorfen in or on sugar beet roots and sugar beet tops at 0.06 ppm. The LC/MS/MS method is used to measure and evaluate the chemical acifluorfen. *Contact:* RD.

**Authority:** 21 U.S.C. 346a.

Dated: August 15, 2024.

**Kimberly Smith,**

*Acting Director, Information Technology and Resources Management Division, Office of Program Support.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

#### RIN 0648–BM94

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendment 2

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Announcement of availability of fishery management plan amendments; request for comments.

**SUMMARY:** The Caribbean Fishery Management Council (Council) has submitted Amendment 2 to the Puerto Rico Fishery Management Plan (FMP), Amendment 2 to the St. Croix FMP, and

Amendment 2 to the St. Thomas and St. John FMP (jointly Amendment 2) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 2 would prohibit and restrict the use of certain net gear in U.S. Caribbean Federal waters and would require a descending device be available and ready for use on vessels when fishing for federally managed reef fish in U.S. Caribbean Federal waters. The purpose of Amendment 2 is to protect habitats and species from the potential negative impacts associated with the use of certain net gear and to enhance the survival of released reef fish in U.S. Caribbean Federal waters.

**DATES:** Written comments on Amendment 2 must be received on or before October 28, 2024.

**ADDRESSES:** You may submit comments on Amendment 2, identified by “NOAA-NMFS-2024-0084”, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and enter “NOAA-NMFS-2024-0084”, in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Maria Lopez-Mercer, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

An electronic copy of Amendment 2, which includes a fishery impact statement, an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-2-puerto-rico-st-croix-and-st-thomas-and-st-john-fishery-management-plans-trawl>.

**FOR FURTHER INFORMATION CONTACT:** Maria Lopez-Mercer, NMFS Southeast

Regional Office, 727-824-5305, [maria.lopez@noaa.gov](mailto:maria.lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS, with advice of the Council, manages the Puerto Rico, St. Croix, and St. Thomas and St. John fisheries in U.S. Caribbean Federal waters under the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs. The Council prepared the FMPs, which the Secretary of Commerce approved, and NMFS implements the FMPs through regulations at 50 CFR part 622 under the authority of Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act requires each regional fishery management council to submit any FMP or FMP amendment to the Secretary of Commerce for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

### Background

The Magnuson-Stevens Act requires NMFS and the regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. The Magnuson-Stevens Act authorizes the Council and NMFS to regulate fishing activity to support the conservation and management of federally managed fisheries, which may include regulations that pertain to fishing for non-federally managed species (i.e., species that are not managed under an FMP).

On September 22, 2020, the Secretary of Commerce approved the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs under section 304(a)(3) of the Magnuson-Stevens Act. The FMPs took effect on October 13, 2022, after NMFS published the final rule to implement the FMPs (87 FR 56204; September 13, 2022). Each FMP contains management measures applicable for Federal waters in the respective island management area, including allowable fishing gear and harvest methods for species managed under each FMP. Federal regulations at 50 CFR part 622 Subpart S, Subpart T, and Subpart U describe management measures for Puerto Rico,

St. Croix, and St. Thomas and St. John, respectively. Federal waters around Puerto Rico extend seaward from 9 nautical miles (nmi) or 16.7 kilometers (km) from shore to the offshore boundary of the U.S. Caribbean exclusive economic zone (EEZ). Federal waters around St. Croix and St. Thomas and St. John extend seaward from 3 nmi (5.6 km) from shore to the offshore boundary of the U.S. Caribbean EEZ.

In addition to regulations specific to each FMP, Federal regulations at 50 CFR 600.725(v)(V) identify the fishing gear authorized for federally-managed fisheries and non-managed fisheries of each island management area. Employing fishing gear or engaging in fishing in a fishery that is not on the list of authorized fisheries and authorized gear types is prohibited. However, an individual fisherman may notify the Council of the intent to use a fishing gear or participate in a fishery that is not on the authorized list (50 CFR 600.725(v)). Ninety days after such notification to the Council, the individual may use such fishing gear or participate in the fishery unless regulatory action is taken to prohibit the use of the gear or participation in the fishery.

In Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, gillnets are listed as an authorized gear type for the commercial federally-managed and non-federally managed pelagic fisheries, as well as all other commercial non-federally managed fisheries located in U.S. Caribbean Federal waters. Trawl nets are listed as an authorized gear type for the commercial non-federally managed fisheries, other than the non-managed pelagic fisheries. Purse seines and trammel nets are not listed as authorized fishing gear for any fishery (managed or non-managed) in U.S. Caribbean Federal waters.

At its December 2021 meeting, the Council discussed prohibiting the use of trawl gear, trammel nets, purse seines, and gillnets for all fishing in U.S. Caribbean Federal waters as a precautionary approach to prevent potential negative impacts from the use of these fishing gear types to sensitive habitats present in U.S. Caribbean Federal waters and to eliminate the potential for bycatch associated with each of these types of fishing gear. During the development of Amendment 2, when considering the use of gillnet gear, the Council recommended restricting the use of gillnets such that it would only be allowed for fishing in non-managed fisheries to accommodate fishermen who use gillnet gear at the surface of the water to catch baitfish.

Currently, gear-specific regulations in U.S. Caribbean Federal waters prohibit the use of gillnets and trammel nets in the federally-managed reef fish and spiny lobster fisheries. These regulations require that any gillnet or trammel net used to fish for any other species must be tended at all times (50 CFR 622.437(a)(3) and (c)(2); 50 CFR 622.477(a)(3) and (c)(2); 50 CFR 622.512(a)(3) and (c)(2)). Gillnets and trammel nets are also prohibited for use year-round in the seven federally-managed seasonally closed areas: Puerto Rico—(1) Abrir La Sierra Bank (50 CFR 622.439(a)(1)(ii)), (2) Tourmaline Bank (50 CFR 622.439(a)(2)(ii)), (3) Bajo de Sico (50 CFR 622.439(a)(3)(ii)); U.S. Virgin Islands (USVI)—(4) Mutton Snapper Spawning Aggregation Area (50 CFR 622.479(a)(1)(ii)), (5) Red Hind Spawning Aggregation Area east of St. Croix (50 CFR 622.479(a)(2)(ii)), (6) Grammanik Bank (50 CFR 622.514(a)(1)(ii)), and (7) Hind Bank Marine Conservation District (50 CFR 622.514(a)(2)). Though trawl gear, trammel nets, purse seines, and gillnets are used infrequently, if at all, by commercial or recreational fishermen in Federal waters around Puerto Rico, St. Croix, or St. Thomas and St. John, the Council recommends being proactive in protecting marine resources and recommend regulatory action to prohibit or restrict the use of these fishing gear types in U.S. Caribbean Federal waters.

Currently, trawl gear, which includes bottom and mid-water trawls, is listed as an authorized fishing gear type for commercial non-federally managed fisheries, other than the non-managed pelagic fisheries under each FMP (Table part V to 50 CFR 600.725(v)). As described in Amendment 2, there is no evidence that commercial fishermen use or have ever used trawl gear in Federal waters around any of the island management areas, except for limited exploratory research (*e.g.*, for commercial fishing purposes) conducted in the early 1900s.

As discussed, the use of trammel net gear is currently prohibited in the federally-managed reef fish and spiny lobster fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. Trammel nets are not listed in Table part V to 50 CFR 600.725(v) as an authorized fishing gear type in any managed or non-managed fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. As described in Amendment 2, some trammel net landings of non-managed species such as baitfish have been reported from fisheries located in Federal waters around Puerto Rico. There is no

evidence of the use of trammel nets in fisheries located in Federal waters around the USVI.

Similar to trammel net gear, purse seine is not identified in Table part V to 50 CFR 600.725(v) as an authorized fishing gear type for any fishery in any of the island management areas. As discussed in Amendment 2, purse seines are not used in any fishery located in Federal waters around Puerto Rico or the USVI.

As discussed in Amendment 2, the use of gillnets is prohibited in the federally-managed reef fish and spiny lobster fisheries, and they are rarely used by commercial fishermen in non-managed fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John due to depth and distance from the coast. However, gillnets are allowed and used in Puerto Rico territorial waters to fish for certain non-managed commercial species, including baitfish. Gillnets are prohibited in USVI territorial waters, except for gillnets used at the surface for the commercial harvest of certain species of baitfish.

In addition to impacts associated with the use of certain types of fishing gear discussed above, there is a concern about the mortality of reef fish that are released after capture by commercial and recreational fishermen, particularly reef fish caught in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John that experience injuries related to barotrauma. Barotrauma in fish is the rapid expansion of gases inside a fish as it is rapidly retrieved from depth. Barotrauma generally occurs when retrieving fish from depths of 90 feet (27.4 meters) or greater, though it can occur in waters as shallow as approximately 33 feet (10 meters) deep. Fishermen can help increase the survivability of fish showing signs of barotrauma that are released by using a descending device. A descending device lowers a fish back to depth where internal gases recompress and the fish can be released unharmed. Descending devices are not currently required to be on any fishing vessels in U.S. Caribbean Federal waters.

#### **Actions Contained in Amendment 2**

Amendment 2 would (1) prohibit the use of trawls, trammel nets, and purse seines in all fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, (2) prohibit the use of gillnets in federally-managed fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, and restrict the use of gillnets in non-managed fisheries

to a gillnet that meets specified requirements, and (3) require a descending device be available and ready for use on each fishing vessel when fishing in federally-managed reef fish fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John.

#### *Trawl, Trammel Net, and Purse Seine Gear Prohibition*

As described in Amendment 2, the Council recommended a precautionary approach to management that would prevent the future use of trawl, trammel net, and purse seine gear by any sector (*i.e.*, commercial and recreational) in any fishery (*i.e.*, managed and non-managed) located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. With respect to non-managed fisheries, the Magnuson-Stevens Act gives the fishery management councils and NMFS authority to regulate fishing activity to support the conservation and management of fisheries, which can include regulations that pertain to non-managed fisheries. Through this precautionary action, the Council seeks to prevent potentially negative effects to habitats and species associated with the use of certain types of fishing gear.

Amendment 2 would prohibit the use of trawl, trammel net, and purse seine gear in all fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. If implemented, and the gear types are specifically prohibited, fishermen would not be able to petition the Council to use of trawl, trammel net, and purse seine gear in Federal waters.

#### *Gillnet Gear Prohibition and Restriction*

Amendment 2 includes a precautionary action to prohibit the use of gillnets in all federally-managed fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. Amendment 2 would also restrict the use of gillnets in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John to commercial non-managed fisheries only, and only so long as the gillnet meets the following specifications and requirements: (1) the gillnet mesh size must be exactly 0.75 inches (1.9 centimeters) square or 1.5 inches (3.8 centimeters) stretched; (2) one gillnet up to 600 feet (182.9 m) in length is allowed on board a vessel; (3) the gillnet must be used 20 feet (6.1 m) or more above the bottom; and (4) the gillnet must be tended at all times.

The current use of gillnets in the commercial non-managed fisheries located in Federal waters around Puerto

Rico, St. Croix, and St. Thomas and St. John is minimal, due to the water depth and distance from the coast.

Amendment 2 would establish specific requirements for gillnets used in these fisheries to prevent or minimize potential negative ecological and biological effects (e.g., bycatch of undersized individuals or protected species), and to prevent physical effects to habitats in the U.S. Caribbean Federal waters, which may occur if a gillnet is attached to or makes contact with the bottom. The specific gillnet requirements were developed to reflect how the gear is currently used by commercial fishermen in territorial waters around Puerto Rico and the USVI to harvest baitfish.

#### *Descending Devices*

Amendment 2 would require a descending device be on board a commercial or recreational vessel and readily available for use while fishing for or possessing species of reef fish managed under the FMPs. The list of reef fish managed by the Council in each FMP and can be found in table 3 to 50 CFR part 622.431 (Puerto Rico), table 2 to 50 CFR part 622.471 (St. Croix), and table 2 to 50 CFR part 622.506 (St. Thomas and St. John).

For this proposed requirement, a descending device means an instrument

that is attached to a minimum 16-ounces (454-grams) of weight and length of line that will release the fish at the depth from which it was caught, or a minimum of 60 feet (18.3 meters). The descending device attaches to the fish's mouth or is a container that will hold the fish. The device must be capable of releasing the fish automatically, by the actions of the operator of the device, or by allowing the fish to escape on its own. Since minimizing surface time is critical to increasing survival, a descending device must be readily available for use while engaged in fishing for federally-managed reef fish.

#### **Proposed Rule for Amendment 2**

NMFS has drafted a proposed rule to implement Amendment 2. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### **Consideration of Public Comments**

The Council has submitted Amendment 2 for Secretarial review, approval, and implementation. Comments on Amendment 2 must be

received by October 28, 2024. NMFS is considering if additional time for implementing the descending device requirement would be warranted to allow the Council the opportunity to conduct additional outreach and education activities and for fishermen to obtain the required descending device. NMFS will announce for the effective date of the descending device requirement in any final rule for Amendment 2. Comments received during the respective comment periods, whether specifically directed to Amendment 2 or the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 2. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 2 or the proposed rule during their respective comment periods will be addressed in the final rule.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: August 21, 2024.

**Lindsay Fullenkamp,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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