

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[EPA-HQ-OPP-2008-0923; FRL-8809-4]

Exemption from the Requirement of a Tolerance; Technical Amendment**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; technical amendment.

SUMMARY: EPA issued a final rule in the **Federal Register** of June 3, 2009, concerning minor technical revisions of certain commodity terms listed under 40 CFR part 180, subpart D. The fungal active ingredient *Aspergillus flavus* NRRL 21882 was inadvertently revised. This document is being issued to amend the section to include text that was omitted.

DATES: This final rule is effective February 10, 2010.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0923. All documents in the docket are listed in the docket index available in <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: For 40 CFR 180.1254 only contact: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460-0001; telephone number: (703) 308-8097; fax number: (703) 308-7026; e-mail address: bacchus.shanaz@epa.gov.

For other matters regarding EPA-HQ-OPP-2008-0923: Stephen Morrill, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection

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

SUPPLEMENTARY INFORMATION:**I. Does this Action Apply to Me?**

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Does this Technical Amendment Do?

This technical amendment revises § 180.1254 to reinstate text that was inadvertently omitted in a final rule that was published in the **Federal Register** of June 3, 2009 (74 FR 26527) (FRL-8417-9). The June 3, 2009 final rule revised § 180.1254, however; the revision omitted text which had been added as paragraph (b) in a final rule published in the **Federal Register** on October 1, 2008 (73 FR 56995).

III. Why is this Technical Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), (5 U.S.C. 553(b)(3)(B)), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because the omission was the result of clerical error and was neither proposed nor commented upon. Notice and comment is therefore unnecessary.

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This action only corrects the omission for a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive orders for the underlying rule is discussed in Unit III. of the final rule published on June 3, 2009 (74 FR 26527).

V. 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 180

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

Dated: January 21, 2010.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 321(q), 346a and 371.

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

§ 180.1254 *Aspergillus flavus* NRRL 21882; exemption from the requirement of a tolerance.

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

(b) An exemption from the requirement of a tolerance is established for residues of *Aspergillus flavus* NRRL 21882 on corn, field, forage; corn, field, grain; corn, field, stover; corn, field, aspirated grain fractions; corn, sweet, kernel plus cob with husk removed; corn, sweet, forage; corn, sweet, stover; corn, pop, grain; and corn, pop, stover. [FR Doc. 2010-2655 Filed 2-9-10; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[EPA-HQ-OPP-2009-0289; FRL-8809-9]

Acetamiprid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of acetamiprid in