

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: March 23, 2007.

**James Jones,**

*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 174.458 is added to subpart W to read as follows:

#### § 174.458 *Bacillus thuringiensis* Vip3Aa20 protein and the genetic material necessary for its production in corn; temporary exemption from the requirement of a tolerance.

Residues of *Bacillus thuringiensis* Vip3Aa20 protein in corn are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; corn, pop. This temporary exemption from the requirement of tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 67979–EUP–6, which is being issued in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked March 31, 2008; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the temporary tolerance exemption is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

[FR Doc. E7–6256 Filed 4–3–07; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2006–0731; FRL–8120–4]

### Diphenylamine; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of diphenylamine in or on pear. Interregional Research Project Number 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective April 4, 2007. Objections and requests for hearings must be received on or before June 4, 2007, 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-2006-0731. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](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 telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3194; e-mail address: [brothers.shaja@epa.gov](mailto:brothers.shaja@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), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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 Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this "**Federal Register**" document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

#### C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, 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-2006-0731 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before June 4, 2007.

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 that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2006-0731, by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (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'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 telephone number is (703) 305-5805.

## II. Petition for Tolerance and Proposed Rule

The Interregional Research Project Number 4 (IR-4) submitted a petition (PP# 0E6107) for a tolerance for the pesticide diphenylamine under section 408 of the FFDCA, 21 U.S.C. 346a. Specifically, the petition requested that 40 CFR 180.190 be amended by establishing a tolerance for residues of the plant growth regulator diphenylamine, in or on pear (post harvest) at 5.0 parts per million (ppm). However, neither IR-4 nor Atomchem North American Incorporated, the registrant, submitted all required elements of a petition in support of establishing a tolerance. Because the petition was incomplete, EPA did not publish a Notice of Filing for the petition. Instead, in the **Federal Register** of December 6, 2006 (71 FR 70703) (FRL-8104-1), EPA issued a proposed rule pursuant to section 408(e) of

FFDCA, 21 U.S.C. 346a(e). The proposed rule included EPA's explanation of why the proposed diphenylamine tolerance regulation met the safety standard.

The Northwest Horticulture Council submitted two comments in favor of the establishment of diphenylamine on pear.

There was also a comment submitted by a private citizen who opposed the authorization to sell to any pesticide that leaves a residue on food. The Agency has previously responded to this commenter's claims regarding the validity of use animal testing to determine a pesticide's potential toxicity. Refer to **Federal Register** of (70 FR 1349, January 7, 2005). This commenter also claimed the Agency was "negligent" for only conducting 90-day testing on rats. The commenter is mistaken, however, because EPA examined other rat studies involving lifetime exposure and multiple generations of rats. (71 FR 70703) (FRL-7691-4), December 6, 2006).

The final comment opposed the proposed regulation simply on the grounds that there are "too many bugs" and too many pesticide regulations. This comment supplied no rationale or supporting information and thus no response is warranted.

## III. Action on Tolerance Petition and Proposed Regulation

Based on the rationale and findings set forth in the proposed rule, a tolerance is established for the residues of diphenylamine in or on pear at 5.0 ppm.

## IV. Statutory and Executive Order Reviews

This final rule establishes a tolerance 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 rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *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).

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. Establishing a pesticide tolerance or an exemption from the requirement of a pesticide tolerance is, in effect, the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including small entities.

This 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 6, 2000) do not apply to this rule. In addition, This 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).

## 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: March 21, 2007.

**Donald R. Stubbs**,  
*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. 321(q), 346a and 371.

2. Section 180.190 is amended by alphabetically adding the following commodity to the table in paragraph (a) to read as follows:

**§ 180.190 Diphenylamine; tolerances for residues.**

(a) \* \* \*

	Commodity	Parts per million
Pear (post harvest)	* * * * *	5.0

\* \* \* \* \*  
[FR Doc. E7-5804 Filed 4-3-07; 8:45 am]  
**BILLING CODE 6560-50-S**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 07-1349; MB Docket No. 02-177; RM-10489]

**Radio Broadcasting Services; Milano, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; dismissal of petition for reconsideration.

**SUMMARY:** The staff approves the withdrawal of a petition for reconsideration in this FM allotment rulemaking proceeding and finds no reason for further consideration of the matters raised therein. *See*

**SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 02-177, adopted March 16, 2007, and released March 20, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

The *Report and Order* in this proceeding dismissed a counterproposal in this rulemaking proceeding filed by Roy. E. Henderson, requesting the upgrade and reallocation of his Station KLTR(FM) from Channel 297A, Caldwell, Texas, to Channel 297C3 at Bedias, Texas. The counterproposal was dismissed because it was technically defective. The withdrawal of the petition for reconsideration complies with Section 1.420(j) of the Commission's rules because Henderson has documented that he has not and will not receive any consideration in exchange for the withdrawal of his petition. *See* 69 FR 34114 (June 18, 2004).

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the petition for reconsideration was dismissed).

Federal Communications Commission.

**John A. Karousos**,  
*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-6225 Filed 4-3-07; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[FCC 06-117]

**National Broadcast Television Ownership Rules**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission conforms its rules to comply with the Consolidated Appropriations Act, 2004 (Appropriations Act). The Appropriations Act, among other things, directs the Commission to modify the national television ownership limit to specify 39 percent as the maximum aggregate national audience reach of any single television station owner. The Appropriations Act also adds a new section to the Telecommunications Act of 1996, which the Commission now implements.

**DATES:** Effective May 4, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mania Baghdadi, Industry Analysis Division, Media Bureau, Federal Communications Commission, (202) 418-2330. Press inquiries should be directed to Clyde Ensslin, (202) 418-0506.

**SUPPLEMENTARY INFORMATION:**

**Initial Paperwork Reduction Act of 1995 Analysis**

This document does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

**Synopsis of Order**

1. On January 22, 2004, President Bush signed into law the Consolidated Appropriations Act, 2004, H.R. 2673 ("the Appropriations Act").<sup>1</sup> Section

<sup>1</sup> Consolidated Appropriations Act, 2004, Public Law 108-199, § 629, 118 Stat. 3 (2004).