

(b) *Waiver.* The Commissioner may waive the requirements of this section if hardship is shown in a request for waiver filed in accordance with this paragraph (b). A determination of hardship will be based upon all of the facts and circumstances. One factor in determining hardship will be the reasonableness of the incremental cost to the partnership of complying with the magnetic media filing requirements. Other factors, such as equipment breakdowns or destruction of magnetic media filing equipment, also may be considered. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver will specify the type of partnership return and the period to which it applies. The waiver will also be subject to such terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a partnership fails to file a partnership return on magnetic media in the manner required and when required to do so by this section, the partnership will be deemed to have failed to file the return in the manner prescribed for purposes of the information return penalty under section 6721. See § 301.6724-1(c)(3) for rules regarding the waiver of penalties for undue economic hardship relating to filing returns on magnetic media.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media (such as electronic filing) specifically permitted under the applicable regulations, procedures, or publications.

(2) *Partnership.* The term *partnership* means a partnership as defined in § 1.761-1(a) of this chapter.

(3) *Partner.* The term *partner* means a member of a partnership as defined in section 7701(a)(2).

(4) *Partnership return.* The term *partnership return* means a form in Series 1065 (including Form 1065, U.S. Partnership Return of Income, and Form 1065-B, U.S. Return of Income for Electing Large Partnerships), along with the corresponding Schedules K-1 and all other related forms and schedules that are required to be attached to the Series 1065 form.

(5) *Partnerships with more than 100 partners.* A partnership has more than 100 partners if, over the course of the partnership's taxable year, the partnership had more than 100 partners,

regardless of whether a partner was a partner for the entire year or whether the partnership had over 100 partners on any particular day in the year. For purposes of this paragraph (d)(5), however, only those persons having a direct interest in the partnership must be considered partners for purposes of determining the number of partners during the partnership's taxable year.

(e) *Examples.* The following examples illustrate the provisions of paragraph (d)(5) of this section. In the examples, the partnerships utilize the calendar year, and the taxable year in question is 1999:

Example 1. Partnership P had five general partners and 90 limited partners on January 1, 1999. On March 15, 1999, 10 more limited partners acquired an interest in P. On September 30, 1999, the 10 newest partners sold their individual partnership interests to C, a corporation which was one of the original 90 limited partners. On December 31, 1999, P had the same five general partners and 90 limited partners it had on January 1, 1999. P had a total of 105 partners over the course of partnership taxable year 1999. Therefore, P must file its 1999 partnership return on magnetic media.

Example 2. Partnership Q is a general partnership that had 95 partners on January 1, 1999. On March 15, 1999, 10 partners sold their individual partnership interests to corporation D, which was not previously a partner in Q. On September 30, 1999, corporation D sold one-half of its partnership interest in equal shares to five individuals, who were not previously partners in Q. On December 31, 1999, Q had a total of 91 partners, and on no date in the year did Q have more than 100 partners. Over the course of the year, however, Q had 101 partners. Therefore, Q must file its 1999 partnership return on magnetic media.

Example 3. Partnership G is a general partnership with 100 partners on January 1, 1999. There are no new partners added to G in 1999. One of G's partners, A, is a partnership with 53 partners. A is one partner, regardless of the number of partners A has. Therefore, G has 100 partners and is not required to file its 1999 partnership return on magnetic media.

(f) *Effective date.* In general, this section applies to partnership returns for taxable years ending on or after December 31, 1999. However, electing large partnerships under section 775 and partnerships using foreign addresses on their Series 1065 forms are not required to file using magnetic media for taxable years ending before January 1, 2001.

Par. 6. Section 301.6031-1 is revised to read as follows:

§ 301.6031-1 Return of partnership income.

For provisions relating to the requirement of returns of partnership income, see § 1.6031(a)-1 of this

chapter. For provisions relating to magnetic media filing of partnership returns, see § 301.6011-3.

Par. 7. Section 301.6721-1 is amended by removing the third, fourth, and fifth sentences of paragraph (a)(2)(ii) and adding four sentences in their place to read as follows:

§ 301.6721-1 Failure to file correct information returns.

(a) * * *

(2) * * *

(ii) * * * However, no penalty is imposed under paragraph (a)(1) of this section solely by reason of any failure to comply with the requirements of section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns (the 250-threshold requirement) or in the case of a partnership with more than 100 partners, more than 100 information returns (the 100-threshold requirement) (collectively, the threshold requirements). Each Schedule K-1 considered in applying the 100-threshold requirement will be treated as a separate information return. These threshold requirements apply separately to each type of information return required to be filed. Further, these threshold requirements apply separately to original and corrected returns. * * *

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Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 169-0097 EC; FRL-6179-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision—San Joaquin Valley Unified Air Pollution Control District; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published September 14, 1998 (63 FR 49053). On September 14, 1998, EPA proposed a limited approval and limited disapproval of revisions to the California State Implementation Plan controlling oxides of nitrogen emissions in the San Joaquin Valley Unified Air

Pollution Control District. At the request of the Western States Petroleum Association, EPA is extending the comment period for 30 days.

DATES: The comment period is extended until November 13, 1998.

ADDRESSES: Comments should be submitted to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday at (415) 744-1202.

Dated: October 8, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300690; FRL-6019-7]

RIN 2070-AC18

Certain Plant Regulators, Cytokinins, Auxins, Gibberellins, Ethylene, and Pelargonic Acid; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish exemptions from the requirement of a tolerance for residues of the active ingredients cytokinins, auxins, gibberellins, ethylene, and pelargonic acid in or on all food commodities, when used as plant regulators on plants, seeds, or cuttings and on all food commodities after harvest. EPA also proposes to remove any existing crop-specific tolerances and/or exemptions from the requirement of a tolerance for the subject active ingredients as well as considering such tolerances to be reassessed as required by the Food Quality Protection Act of 1996 (FQPA). EPA is proposing this regulation on its own initiative to facilitate the addition of new crops, application rates, and uses to the labels of products containing the listed active ingredients when used as plant regulators.

DATES: Comments, identified by the docket control number [OPP-300690], must be received on or before December 22, 1998.

ADDRESSES: By mail, submit written comments 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, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit VI of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document 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 comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Denise Greenway, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 9th fl., Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202; (703) 308-8263; greenway.denise@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA proposes to amend 40 CFR part 180 by establishing exemptions from the requirement of a tolerance for the active ingredients cytokinins (specifically: aqueous extract of seaweed meal and kinetin); auxins (specifically: indole-3-acetic acid and indole-3-butyric acid); gibberellins [gibberellic acids (GA₃ and GA₄ + GA₇), and sodium or potassium gibberellate]; ethylene; and pelargonic acid, in or on all food commodities, when used as plant regulators on plants, seeds or cuttings and on all food commodities, after harvest, in accordance with good agricultural practices. EPA concurrently proposes the revision or revocation and removal of any existing crop-specific tolerances and/or exemptions from the requirement of tolerances for the listed active ingredients when used as plant regulators. In taking this action EPA will consider those tolerances and/or exemptions to be reassessed (Federal

Food, Drug, and Cosmetic Act, 408(q) as amended by the FQPA of 1996).

The Agency has selected this group of plant regulators as the subject of this proposal due to their non-toxic mode of action, toxicity profile, low application rates, and the expectation that plant regulator uses will not significantly increase their intake above normally consumed levels. There are additional plant regulator active ingredients which may meet the selection criteria. The Agency may, in the future, propose a similar document addressing other candidate plant regulator active ingredients.

All of the subject active ingredients are currently registered plant regulators, with the exception of indole-3-acetic acid. The Agency discourages the establishment (or existence) of tolerances, or exemptions from the requirement of a tolerance, for active ingredients for which there are no registered pesticide products. Therefore, any Final Rule subsequent to this proposal will not include indole-3-acetic acid (a naturally occurring analog of indole-3-butyric acid) in the tolerance exemption for auxins, unless during the comment period specific requests that it be included are received. Such requests must document the intention of the commentor to promptly submit upon publication of the Final Rule an application to register a plant regulator product containing indole-3-acetic acid as an active ingredient.

The Agency is making this proposal upon its own initiative to facilitate the addition of new crops, application rates, and uses to the labels of products containing the listed active ingredients when used as plant regulators. A plant regulator is defined by EPA as "...any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof..." (FIFRA sec. 2 (v)). Additionally, plant regulators are characterized by their low rates of application; high application rates of the same compounds often are herbicidal.

I. Risk Assessment and Statutory Findings

New section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement of 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) 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