

Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, 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 either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Paul Arnold, (215) 814-2194, or by e-mail at [arnold.paul@epa.gov](mailto:arnold.paul@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: April 17, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7-7920 Filed 4-24-07; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 174 and 180

[EPA-HQ-OPP-2005-0117; FRL-7742-3]

#### Proposed Administrative Revisions to Plant-Incorporated Protectant Tolerance Exemptions

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to move existing active and inert ingredient plant-incorporated protectant tolerance exemptions from 40 CFR part 180 (Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food) to 40 CFR part 174 (Procedures and Requirements for Plant-Incorporated Protectants) subpart W (Tolerances and Tolerance Exemptions). EPA is also proposing some conforming changes to the text of the individual exemptions, so that they are consistent with part 174, as well as some minor technical corrections to the wording of certain individual exemptions. This action is administrative in nature and no substantive changes are intended. We are proposing these administrative revisions to plant-incorporated protectant tolerance exemptions to take into account the promulgation of 40 CFR part 174, 66 FR 37814, July 19, 2001.

**DATES:** Comments, identified by docket ID number EPA-HQ-OPP-2005-0117, must be received on or before May 25, 2007.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2005-0117, 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 Building), 2777 S. Crystal Drive, 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.

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPP-2005-0117. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-

mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the docket index available in regulations.gov. 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 web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, *e.g.*, 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 either 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 Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are 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:** Mike Mendelsohn, Biopesticides and Pollution Prevention Division (BPPD) (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8715; fax number: (703) 308-8715; e-mail address: [mendelsohn.mike@epa.gov](mailto:mendelsohn.mike@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:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides 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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in [insert appropriate cite to either another unit in the preamble or a section in a rule]. 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. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions

or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

## II. Background

In 2001, EPA published a final rule, establishing certain basic parameters of its regulatory program under FIFRA for a specific class of pesticide products—plant-incorporated protectants. (66 FR 37772, July 19, 2001). EPA defined these products as pesticidal substances, along with the genetic material necessary to produce them, when produced and used in living plants. As part of that rule, EPA changed the name of this type of pesticide from “plant-pesticide” to “plant-incorporated protectant.” EPA also established a new part in the Code of Federal Regulations (CFR) specifically for plant-incorporated protectants. In the same issue of the **Federal Register**, EPA established a blanket tolerance exemption for all residues of nucleic acids that are part of a plant-incorporated protectant. (66 FR 37817, July 19, 2001). See 40 CFR 174.475.

In this notice, the Agency is proposing to make minor technical changes to conform the wording of certain individual tolerance exemptions with the above regulations.

This action is being proposed under sections 408 (e)(1)(B) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a (e)(1)(B).

Section 408(e)(1)(B) provides that the Administrator may issue a regulation modifying an exemption of a pesticide chemical residue from the requirement of a tolerance. 21 U.S.C. 346a (e)(1)(B). Because EPA is making no substantive modifications to the tolerance exemptions, the Agency has not made separate findings regarding the safety of the individual exemptions. EPA believes that the safety standard is applicable only where the Agency takes affirmative action to either substantively

modify the tolerance exemption, or has reviewed the tolerance exemption and determined to leave it in effect. EPA is taking neither action in this notice, but is merely making technical modifications to conform the wording of the individual exemptions to wording that is consistent with the surrounding regulations.

### A. What Action is the Agency Taking?

In 2001, EPA published a final rule, establishing certain basic parameters of its regulatory program under FIFRA for a specific class of pesticide products—plant-incorporated protectants. (66 FR 37772, July 19, 2001). EPA defined these products as pesticidal substances, along with the genetic material necessary to produce them, when produced and used in living plants. As part of that rule, EPA changed the name of this type of pesticide from “plant-pesticide” to “plant-incorporated protectant.” EPA also established a new part in the Code of Federal Regulations (CFR) specifically for plant-incorporated protectants. In the same issue of the **Federal Register**, EPA established a blanket tolerance exemption for all residues of nucleic acids that are part of a plant-incorporated protectant. (66 FR 37817, July 19, 2001). See 40 CFR 174.475.

In this notice, the Agency is proposing to make minor technical changes to conform the wording of certain individual tolerance exemptions with the above regulations.

The Agency is proposing to move the following tolerance exemptions listed under 40 CFR part 180 (Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food) to 40 CFR part 174 in order to consolidate all plant-incorporated protectant specific regulations in the same part.

Old Section	Redesignated as New section
180.1134	174.521
180.1147	174.509
180.1151	174.522
180.1155	174.510
180.1173	174.511
180.1174	174.523
180.1182	174.512
180.1183	174.513
180.1184	174.514
180.1185	174.515

Old Section	Redesignated as New section
180.1186	174.516
180.1190	174.524
180.1192	174.517
180.1214	174.518
180.1215	174.519
180.1216	174.525
180.1217	174.520
180.1249	174.526
180.1252	174.527

The Agency is also proposing to make some conforming changes to the wording of the exemptions, so that they are consistent with the provisions already in part 174. These changes consist of revising the term “plant-pesticides” in these exemptions to “plant-incorporated protectants” and changing the term “vegetative insecticidal protein” to the more broad term “plant-incorporated protectant.”

Further, for these exemptions, as well as those found under 40 CFR 174.452, 174.453, 174.454, 174.455, 174.456, 174.457, and 174.458 (proposed to be redesignated as §§ 174.501, 174.502, 174.503, 174.504, 174.505, 174.506, and 174.528, respectively) EPA is also proposing to delete the references to the “genetic material necessary for its production” and “regulatory regions,” as well as the definitions of these terms, from individual tolerance exemptions. As noted in Unit II.A., EPA established a blanket tolerance exemption for nucleic acids, which includes the residues of genetic material necessary for the production of pesticidal substances in living plants, and residues of the genetic material necessary to produce any inert ingredient. See 40 CFR 174.475 (proposed to be redesignated as § 174.507). Retaining the references to the genetic material necessary for the production of the individual substances, and to regulatory regions in the text of the individual exemptions would be wholly duplicative of 40 CFR 174.475, and has the potential to cause confusion as to the intended scope of that provision. Accordingly, the Agency is removing these references. These deletions will in no way affect the legal status of such residues, given the provisions at 40 CFR 174.475.

Similarly, inclusion of the definitions of these terms in the individual exemptions becomes unnecessary once the exemptions are moved to part 174,

as the terms are defined at § 174.3, which is generally applicable to all regulations contained in part 174. Moreover, the wording of the definitions varies slightly between some of the individual tolerance exemptions. While the Agency does not believe that there is any substantive difference between the different formulations, to avoid any confusion, EPA has chosen to delete the definitions from the individual tolerance exemptions. The deletion of these definitions from the individual tolerance exemptions will in no way affect the legal status of the residues exempted.

Further, for these exemptions and for 40 CFR 174.451 *Scope and Purpose*, (proposed to be redesignated as § 174.500) EPA is proposing to change the terms “plant raw agricultural commodities,” “Raw agricultural commodities,” “raw agricultural commodities, in food, and in animal feeds,” “plant RACs,” and “plant commodities” to read “food commodities.” While the Agency does not believe that there is any substantive difference between the different formulations, to avoid any confusion, EPA is proposing to use the one term “food commodities.” This change will in no way affect the legal status of the residues exempted.

EPA is proposing to change the term “delta-endotoxin” to “Cry protein” and to remove any subspecies designations for *Bacillus thuringiensis* PIPs. The terms “delta-endotoxin” and “Cry protein” are redundant. While the Agency does not believe that there is any substantive difference between these different formulations, to avoid any confusion, EPA has chosen to use the one term “Cry protein” without a subspecies designation. This change will in no way affect the legal status of the residues exempted.

EPA is proposing to add the term “enzyme” to descriptions of current PIP inert ingredients to clarify the function of these proteins and make classification easier for the layman. While the Agency does not believe that there is any substantive difference between these and the current naming formulations, to clarify the function of these proteins and make classification easier for the layman, EPA has chosen to add the term “enzyme.” This change will in no way affect the legal status of the residues exempted.

EPA is proposing to update *Bacillus thuringiensis* derived plant-incorporated protectant exemptions to conform to updated nomenclature as determined by the *Bacillus thuringiensis* Pesticidal Crystal Proteins Nomenclature Committee, a non-governmental

scientific committee, [http://www.biols.susx.ac.uk/home/Neil\\_Crickmore/Bt/](http://www.biols.susx.ac.uk/home/Neil_Crickmore/Bt/). The changes will standardize the tolerance exemption descriptions by listing the “residues of” portion of the exemption first and by listing field corn, sweet corn, and popcorn as corn; corn, field; corn, sweet; and corn, pop. Those changes will in no way affect the legal status of the residues exempted.

EPA is proposing to redesignate § 180.1183, *Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) and the genetic material necessary for its production*, as § 174.513 and to add language to the exemption to clarify that residues in or on all food commodities are covered under this regulation. The phrase “in or on all raw agricultural commodities” was inadvertently excluded from the regulatory text of this exemption. However, the preamble to the rule clearly stated the Agency’s intention to exempt residues of this product in or on all raw agricultural commodities. See 62 FR 43650, August 15, 1997. In addition, EPA’s findings and supporting analyses concerning the safety of these residues addressed residues in or on all raw agricultural commodities. The inclusion of the phrase “all food commodities” in the individual tolerance exemption will in no way affect the legal status of the residues covered by the regulation.

Finally, EPA proposing to redesignate § 180.1174, *CP4 Enolpyruvylshikimate-3-phosphate (CP4 EPSPS) and the genetic material necessary for its production in all plants*, as § 174.523 and to add language to the exemption to clarify that this PIP inert ingredient is a synthase. The word “synthase” corresponds to the last “S” in “CP4 EPSPS” and was inadvertently excluded from the exemption. However, the proposed rule clearly stated “synthase” in describing the ingredient. See 60 FR 54689, October 25, 1995. The inclusion of the phrase “synthase” in the individual tolerance exemption will in no way affect the legal status of the residues covered by the regulation.

The specific tolerance exemptions EPA is proposing to move to part 174, as they currently appear in the CFR, follow immediately below. The proposed revised tolerance language appears at the end of the document, as proposed regulatory text. While EPA believes that it has accurately transferred each of the tolerance exemptions included in this proposed rule, the Agency would appreciate readers notifying EPA of discrepancies, omissions or technical problems by submitting them to the address or e-mail

address under **FOR FURTHER INFORMATION CONTACT.**

*B. What is the Agency's Authority for Taking this Action?*

This action is being proposed under sections 408 (e)(1)(B) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a (e)(1)(B).

Section 408(e)(1)(B) provides that the Administrator may issue a regulation modifying an exemption of a pesticide chemical residue from the requirement of a tolerance, 21 U.S.C. 346a (e)(1)(B).

### III. Statutory and Executive Order Reviews

*A. Executive Order 12866*

Under Executive Order 12866, 58 FR 51735, October 4, 1993, the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental

jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities since this action is administrative in nature and no substantive changes are being made.

### IV. Congressional Review Act

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 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

*40 CFR Part 174*

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements, Plant-incorporated protectants.

*40 CFR Part 180*

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

Dated: April 12, 2007.

**Janet L. Andersen,**

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

Therefore, Title 40, chapter I of the Code of Federal Regulations is proposed to be 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. In the following table, the sections in the first column are transferred to 40

CFR part 174, subpart W and redesignated as the sections in the second column.

Old Section	Redesignated as New section
180.1134	174.521
180.1147	174.509
180.1151	174.522
180.1155	174.510
180.1173	174.511
180.1174	174.523
180.1182	174.512
180.1183	174.513
180.1184	174.514
180.1185	174.515
180.1186	174.516
180.1190	174.524
180.1192	174.517
180.1214	174.518
180.1215	174.519
180.1216	174.525
180.1217	174.520
180.1249	174.526
180.1252	174.527

### §§ 180.1227 and 180.1242 [Removed]

3. Section 180.1227 and 180.1242 are removed.

### PART 174—[AMENDED]

4. The authority citation for part 174 continues to read as follows:

**Authority:** 7 U.S.C. 136 - 136y; 21 U.S.C. 346a and 371.

### § 174.21 [Amended]

5. Section 174.21 is amended as follows:

i. In paragraph (b) by revising the reference "§§ 174.475 through 174.479" to read "§§ 174.507 through 174.508."

ii. In paragraph (c) by revising the reference "§§ 174.485 through 174.490" to read "§ 174.705."

### §§ 174.475 and 174.479 [Redesignated as §§ 174.507 and 174.508]

6. Sections 174.475 and 174.479 are redesignated as §§ 174.507 and 174.508, respectively.

**§§ 174.480 and 174.485 [Redesignated as § 174.700 and 174.705]**

7. Sections 174.480 and 174.485 are redesignated as § 174.700 and § 174.705, respectively and remain in subpart X.

8. Sections 174.451, 174.452, 174.453, 174.454, 174.455, 174.456, and 174.457 are redesignated as §§ 174.500, 174.501, 174.502, 174.503, 174.504, 174.505, and 174.506, respectively, and revised to read as follows:

**§ 174.500 Scope and purpose.**

This subpart lists the tolerances and exemptions from the requirement of a tolerance for residues of plant-incorporated protectants in or on food commodities.

**§ 174.501 *Bacillus thuringiensis* VIP3A protein; temporary exemption from the requirement of a tolerance.**

Residue of *Bacillus thuringiensis* VIP3A protein are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in cotton seed, cotton oil, cotton meal, cotton hay, cotton hulls, cotton forage, and cotton gin byproducts. This temporary exemption from the requirement of a tolerance expires May 1, 2007.

**§ 174.502 *Bacillus thuringiensis* Cry1A.105 protein in corn; temporary exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1A.105 protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 524-EUP-97 which is being issued under 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 June 30, 2009; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

**§ 174.503 *Bacillus thuringiensis* Cry2Ab2 protein in corn; temporary exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry2Ab2 protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed

commodities of corn; corn, field; corn, sweet; and corn, pop. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 524-EUP-97 which is being issued under 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 June 30, 2009; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

**§ 174.504 *Bacillus thuringiensis* Cry1F protein in cotton; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1F protein in cotton are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in food and feed commodities of cotton.

**§ 174.505 *Bacillus thuringiensis* modified Cry3A protein (mCry3A) in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* modified Cry3A protein (mCry3A) in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

**§ 174.506 *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins in corn are exempted from the requirement of a tolerance when used as plant-incorporated protectants in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

9. Newly redesignated §§ 174.509 through 174.527 are revised to read as follows:

**§ 174.509 *Bacillus thuringiensis* Cry3A protein; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry3A protein are exempted from the requirement of a tolerance when used as a plant-incorporated protectant in potatoes.

**§ 174.510 *Bacillus thuringiensis* Cry1Ac protein in all plants; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1Ac protein in all plants are exempt from the requirement of a tolerance

when used as plant-incorporated protectants in all food commodities.

**§ 174.511 *Bacillus thuringiensis* Cry1Ab protein in all plants; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1Ab protein in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectants in all food commodities.

**§ 174.512 Coat Protein of Potato Virus Y; exemption from the requirement of a tolerance.**

Residues of Coat Protein of Potato Virus Y are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.513 Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene); exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of the plant-incorporated protectant Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene) in or on all food commodities.

**§ 174.514 Coat Protein of Watermelon Mosaic Virus-2 and Zucchini Yellow Mosaic Virus; exemption from the requirement for a tolerance.**

Residues of Coat Protein of Watermelon Mosaic Virus-2 and Zucchini Yellow Mosaic Virus are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.515 Coat Protein of Papaya Ringspot Virus; exemption from the requirement of a tolerance.**

Residues of Coat Protein of Papaya Ringspot Virus are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.516 Coat protein of cucumber mosaic virus; exemption from the requirement of a tolerance.**

Residues of Coat Protein of Cucumber Mosaic Virus are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in or on all food commodities.

**§ 174.517 *Bacillus thuringiensis* Cry9C protein in corn; exemption from the requirement of a tolerance.**

The plant-incorporated protectant *Bacillus thuringiensis* Cry9C protein in corn is exempted from the requirement of a tolerance for residues, only in corn used for feed; as well as in meat, poultry, milk, or eggs resulting from animals fed such feed.

**§ 174.518 *Bacillus thuringiensis* Cry3Bb1 protein in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry3Bb1 protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectants in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

**§ 174.519 *Bacillus thuringiensis* Cry2Ab2 protein in cotton; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry2Ab2 protein in cotton is exempt from the requirement of a tolerance when used as a plant-incorporated protectant in the food and feed commodities, cotton seed, cotton oil, cotton meal, cotton hay, cotton hulls, cotton forage, and cotton gin byproducts.

**§ 174.520 *Bacillus thuringiensis* Cry1F protein in corn; exemption from the requirement of a tolerance.**

Residues of *Bacillus thuringiensis* Cry1F protein in corn are exempt from the requirement of a tolerance when used as plant-incorporated protectants in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

**§ 174.521 Neomycin phosphotransferase II; exemption from the requirement of a tolerance.**

Residues of the neomycin phosphotransferase II (NPTII) enzyme are exempted from the requirement of a tolerance in all food commodities when used as a plant-incorporated protectant inert ingredient.

**§ 174.522 Phosphinothricin Acetyltransferase (PAT); exemption from the requirement of a tolerance.**

Residues of the Phosphinothricin Acetyltransferase (PAT) enzyme are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

**§ 174.523 CP4 Enolpyruvylshikimate-3-phosphate (CP4 EPSPS) synthase in all plants; exemption from the requirement of a tolerance.**

Residues of the CP4 Enolpyruvylshikimate-3-phosphate (CP4 EPSPS) synthase enzyme in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

**§ 174.524 Glyphosate Oxidoreductase GOX or GOXv247 in all plants; exemption from the requirement of a tolerance.**

Residues of the Glyphosate Oxidoreductase GOX or GOXv247

enzyme in all plants are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

**§ 174.525 *E. coli* B-D-glucuronidase enzyme as a plant-incorporated protectant inert ingredient; exemption from the requirement of a tolerance.**

Residues of *E. coli* B-D-glucuronidase enzyme are exempt from the requirement of a tolerance when used as a plant-incorporated protectant inert ingredient in all food commodities.

**§ 174.526 Hygromycin B phosphotransferase (APH4) marker protein in all plants; exemption from the requirement of a tolerance.**

Residues of the Hygromycin B phosphotransferase (APH4) enzyme in all plants are exempt from the requirement of a tolerance when used as a plant-incorporated protectant inert ingredient in cotton.

**§ 174.527 Phosphomannose isomerase in all plants; exemption from the requirement of a tolerance.**

Residues of the phosphomannose isomerase (PMI) enzyme in plants are exempt from the requirement of a tolerance when used as plant-incorporated protectant inert ingredients in all food commodities.

10. Section 174.458 is redesignated as § 174.528 and revised to read as follows:

**§ 174.528 *Bacillus thuringiensis* Vip3Aa20 protein; 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.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 101

[WT Docket No. 07-54; RM-11043; FCC 07-38]

### Amendment of the Commission's Rules To Modify Antenna Requirements for the 10.7-11.7 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, we seek comment on modifying the Commission's Rules to permit the installation of smaller antennas by Fixed Service (FS) operators in response to a petition for rulemaking filed by FiberTower, Inc. (FiberTower). In particular, we seek comment on whether these modifications would serve the public interest by facilitating the efficient use of the 11 GHz band while protecting other users in the band from interference due to the use of smaller antennas.

**DATES:** Comments must be filed on or before May 25, 2007, and reply comments must be filed on or before June 11, 2007.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by WT Docket No. 07-54, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Brian Wondrack at 202-418-2487.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of*