EPA-APPROVED VERMONT REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	* *	*	* *	* *
Vermont Executive Order 19–17.	Executive Code of Ethics.	12/4/2017	6/4/2020 [Insert **Federal Register** citation].	Prohibits all Vermont executive branch appointees (including the ANR Secretary) from taking ''any action in any matter in which he or she has either a Conflict of Interest or the appearance of a Conflict of Interest, until the Conflict is resolved.'' Submitted and approved as part of 2015 Ozone infrastructure SIP.

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VERMONT NON-REGULATORY

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
*	* *	*	* *	* *
Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS.	Statewide	11/19/2019	6/4/2020 [Insert **Federal Register** citation].	This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2) (A), (B), (C), (D), (E)(1), E(2), (F), (G), (H), (J1), (J2), (J3), (K), (L), and (M). This approval includes the Transport SIP for the 2015 Ozone NAAQS, which shows that Vermont does not significantly contribute to ozone nonattainment or maintenance in any other state.

[FR Doc. 2020–10059 Filed 6–3–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0686; FRL–10007–57]

Ea peptide 91398; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the Ea peptide 91398 on all food commodities when applied/used as a biochemical pesticide. Plant Health Care, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of Ea peptide 91398.

DATES: This regulation is effective June 4, 2020. Objections and requests for hearings must be received on or before August 3, 2020, 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: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0686, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-*

idx?®&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, 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–2018–0686 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 3, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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 (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0686, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of February 6, 2019 (84 FR 2115) (FRL–9987–08), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 8F8698) by Plant Health Care, Inc., 2626 Glenwood Ave., Suite 350, Raleigh, NC 26708. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of ''Peptides Derived from Harpin Protein'' (PDHP), a class of peptides that includes Ea peptide 91398. That document referenced a summary of the petition prepared by the petitioner Plant Health Care, Inc., which is available in the docket, *http://www.regulations.gov.* Three comments were received on the notice of filing. EPA's response to these comments is discussed in Unit III.C.

The petitioner defined PDHP as ''(1) consists of a peptide less than 5 kD in size, less than 40 amino acids in length, that is acidic (pI<7.0) and contains no cysteine residues; (2) the source(s) of genetic material encoding the protein are bacterial plant pathogens not known to be mammalian pathogens or any structurally, functionally similar peptide produced synthetically; (3) elicits the Natural Defense Mechanism (NDM), which is characterized as rapid, localized cell death in plant tissue after infiltration of the peptide into the intercellular spaces of plant leaves or roots; (4) is heat stable (retains NDM activity when heated to 65 °C for 20 minutes); (5) is readily degraded by a proteinase representative of environmental conditions as well as degradation by environmental factors such as oxidation and hydrolysis; (6) exhibits a rat acute oral toxicity (LD_{50}) of greater than 5,000 mg product/kg body weight.'' However, after review, the Agency determined that the petition and submitted data support an exemption from the requirement of tolerance only for Ea peptide 91398, and not the broader class of PDHP.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for 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) of FFDCA 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 dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . . '' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicity and exposure data on Ea peptide 91398 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for Ea Peptide 91398'' (Safety Determination). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

Ea peptide 91398 is a short synthetic peptide derived from harpin protein. The peptide has a non-toxic mode of action and functions as a plant response elicitor when applied to growing plants. Ea 91398 stimulates natural plant defense, growth, and metabolic mechanisms to provide protection against fungal and bacterial pathogens and against nematodes. The proposed uses include treatment of a wide range of agricultural crops by seed treatment or foliar applications.

Harpin proteins are sourced from a naturally-occuring bacterial plant pathogen, *Erwinia amylovora,* that has no known pathogenicity to mammals. EPA has previously registered other harpin proteins under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for similar uses and application methods. An exemption from the requirement of tolerance has been previously established for harpin proteins with a secondary structure consisting of α and β units (40 CFR 180.1204), although this exemption does not include Ea peptide 91398.

Data and scientific information submitted in support of the petition demonstrated that, with regard to humans, Ea peptide 91398 is not toxic, mutagenic, or allergenic via any route of exposure. Although there may be some exposure to residues when Ea peptide 91398 is used on food commodities in accordance with label directions and

good agricultural practices, dietary exposure to such residues presents no concern for adverse effects. Because no adverse effects to infants, children, and adults are anticipated, EPA determined that an additional Food Quality Protection Act (FQPA) safety factor is not necessary to protect infants and children from anticipated residues of Ea peptide 91398. These findings are discussed in more detail in the Safety Determination.

Based upon its evaluation in the Safety Determination, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of Ea peptide 91398. Therefore, an exemption from the requirement of a tolerance is established for residues of Ea peptide 91398 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Response to Comments

Three comments were received in response to the notice of filing. One expressed support for issuing the exemption from the requirement of a tolerance. Two commenters expressed support for rigorous testing of pesticides urged the Agency to consider effects on plants, animals, and humans or the ''collateral damage'' of pesticides. Under FIFRA and FFDCA, pesticide developers are required to submit data to EPA to determine potential effects to humans and the environment. Pesticides approved under FIFRA must be shown not to cause unreasonable adverse effects to humans or the environment. As described in the Safety Determination, such data have been submitted and reviewed for Ea peptide 91398. The Agency has concluded that these data support registration under FIFRA and an exemption from the requirement of a tolerance under FFDCA.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) 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 action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''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 action 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).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action 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 FFDCA section 408(n)(4). 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 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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 (NTTAA) (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), 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 action 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: May 14, 2020.

Richard Keigwin,

Director, 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. Add § 180.1376 to subpart D to read as follows:

§ 180.1376 Ea peptide 91398; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of Ea peptide 91398 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2020–11549 Filed 6–3–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R06–UST–2018–0702; FRL–10008–89–Region 6]

Louisiana: Final Approval of State Underground Storage Tank Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Louisiana's Underground Storage Tank (UST) program submitted by the State. EPA has determined that these