

**§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).** (a) \* \* \*

TABLE 1 TO PARAGRAPH (a)

Pesticide chemical	CAS Reg. No.	Limits
Tetraacetythylenediamine (TAED)	10543-57-4	None.

\* \* \* \* \*  
 [FR Doc. 2024-19448 Filed 8-28-24; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2023-0455; FRL-12194-01-OCSP]

**Lactic Acid and L-Lactic Acid; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation removes the duplicative exemption from the requirement of a tolerance for residues of lactic acid and l-lactic acid, herein referred to as l-lactic acid, when applied/used in dairy processing equipment and food processing equipment and utensils. In addition, the Agency is amending an existing exemption from the requirement of a tolerance for lactic acid to also include l-lactic acid. The Agency is also establishing exemptions from the requirement of a tolerance for residues of l-lactic acid when used as a fruit and vegetable wash in or on all raw agricultural commodities, and for indirect or inadvertent residues of l-lactic acid in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with l-lactic acid (*i.e.*, troughs). These tolerance exemptions are established on the Agency's own initiative under the Federal, Food, Drug, and Cosmetic Act (FFDCA), in order to implement the tolerance actions EPA identified during its review of this chemical as part of the Agency's registration review program

under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

**DATES:** This regulation is effective August 29, 2024. Objections and requests for hearings must be received on or before October 28, 2024, 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-2023-0455, is available at <https://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 and for the OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Anita Pease, Antimicrobials Division (7510M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-0736; email address: [pease.anita@epa.gov](mailto:pease.anita@epa.gov) or [ADFRNotices@epa.gov](mailto:ADFRNotices@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:

- Food manufacturing (NAICS code 311),
- Pesticide manufacturing (NAICS code 32532),
- Restaurant kitchen cleaning services (NAICS code 561720),
- Milk production, dairy cattle (NAICS code 112120),
- Food processing machinery and equipment wholesalers (NAICS code 423830).

*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 Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.

*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-2023-0455 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 October 28, 2024. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b). Notwithstanding the procedural requirements of 40 CFR 178.25(b), the Office of the Administrative Law Judges has issued an order urging parties to file and serve

documents with the Tribunal by electronic means only. See *Revised Order Urging Electronic Filing and Service* (dated June 22, 2023), <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>.

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-2023-0455, by one of the following methods:

- **Federal eRulemaking Portal:** <https://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 <https://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

## II. Background

### A. Proposed Rule

In the **Federal Register** of November 13, 2023 (88 FR 77544) (FRL-11520-01-OCSPP), EPA proposed to remove a duplicative exemption from the requirement of a tolerance for residues of L-lactic acid, referred to as lactic acid in the proposed rule, when applied to dairy-processing equipment and food-processing equipment and utensils. Specifically, the action proposed removing the duplicative entry at 40 CFR 180.940(b). In addition, EPA proposed an amendment to 40 CFR 180.1090 to establish exemptions from the requirement of a tolerance for residues of lactic acid when used as a fruit and vegetable wash in or on all agricultural commodities, and for indirect or inadvertent residues of lactic acid in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming

into contact with hard non-porous surfaces treated with lactic acid (*i.e.*, troughs).

As noted in the proposal, the *L-lactic Acid Interim Registration Review Decision* (L-lactic Acid ID) identified the need for these exemptions based on existing registered pesticide uses and concluded that there were no risks of concern associated with these uses. Consequently, EPA concluded that the exemptions from the requirement of a tolerance for residues of l-lactic acid, when used as a fruit and vegetable wash in or on all raw agricultural commodities, and for indirect or inadvertent residues of lactic acid in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (*i.e.*, troughs) would be safe. Electronic copies of the L-lactic Acid ID and other documents are available in EPA docket number EPA-HQ-OPP-2020-0552 at <https://www.regulations.gov>.

### B. What is the Agency's authority for taking this action?

Under section 408(e) of the FFDCA, EPA can establish an exemption from the requirement of a tolerance for residues of a pesticide chemical after publishing a proposed rule and providing 60-day period for public comment. 21 U.S.C. 346a(e). EPA published the proposed rule on May 5, 2023, and provided 60 days for public comment (until July 5, 2023).

## III. Final Rule

### A. Comments

The proposed rule received one anonymous public comment requesting the Agency consider adding another CAS number for l-lactic acid. The comment can be accessed electronically via <https://www.regulations.gov> using document ID EPA-HQ-OPP-2023-0455-0002. The proposed rule identified CAS # 50-21-5, which represents lactic acid. The commenter suggested adding CAS # 79-33-4, which represents lactic acid's biologically important stereoisomer, l-lactic acid, for clarity. L-lactic acid has two optical isomers. One is known as L-(+)-Lactic acid, and the other, its mirror image, is D-(-)-Lactic acid. L-(+)-Lactic acid is the isomer that imparts biocidal activity.

This comment does not change any Agency analysis of risk findings for l-lactic acid. The Agency agrees with the commenter that CAS # 79-33-4 should be included in this final rule for the exemption of the requirement of a tolerance.

### B. Determination of Safety

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 requires 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. . . ."

As noted in the proposed rule, EPA has reviewed the available scientific data and other relevant information as part of registration review and in support of this action. Based on that review, EPA's proposed rule concluded that the exemptions would be safe.

EPA's assessment of the potential for risks from exposure to these pesticide chemicals and conclusions about the safety of these exemptions remains unchanged. Therefore, based on the lack of any aggregate risks of concern, EPA concludes that these exemptions from the requirement of a tolerance for residues of l-lactic acid, are safe, *i.e.*, there is a reasonable certainty that no harm will result from aggregate exposures to l-lactic acid, when used in accordance with the terms of the respective exemptions. In addition, EPA has determined that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C).

## IV. Conclusion

Therefore, exemptions from the requirement of a tolerance are established for residues of l-lactic acid when used as a fruit and vegetable wash in or on all raw agricultural commodities, and for indirect or inadvertent residues of l-lactic acid in or

on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (*i.e.*, troughs). In addition, EPA is adding CAS # 79–33–4 to table 1 to 40 CFR 180.940(a) to capture lactic acid's biologically important stereoisomer, l-lactic acid. EPA is also removing the existing exemption in 40 CFR 180.940(b) for residues of lactic acid, as it is unnecessary and redundant of existing exemptions.

## V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders#influence>.

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) under Executive Orders 12866 (58 FR 51735, October 4, 1993), and 13563 (76 FR 3821, January 21, 2011) because it establishes tolerance exemptions under FFDCA section 408.

### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.*, because it does not contain any information collection activities.

### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule has no net burden on small entities subject to the rule. As discussed in the proposed rule, this takes into account the EPA analysis for the establishment and modification of tolerances. Furthermore, the Agency did not receive any comments on these conclusions as presented in the proposed rule.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does

not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

### E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132, August 10, 1999 (64 FR 43255). It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175, November 9, 2000 (65 FR 67249), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) directs Federal agencies to include an evaluation of health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potential effective and reasonably feasible alternatives. This action is also not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (See Unit V.A.) and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. However, EPA's *Policy on Children's Health* applies to this action.

This rule finalizes tolerance actions under the FFDCA, which requires 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. . . .” (FFDCA 408(b)(2)(C)). Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific and other data and other relevant

information in support of these final tolerance actions. The Agency's consideration is documented in the pesticide specific registration review decision documents. See the discussion in Unit III. and access the chemical specific registration review documents in each chemical docket at <https://www.regulations.gov>.

### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

### I. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards under NTTAA section 12(d), 15 U.S.C. 272.

### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or indigenous peoples) and low-income populations. As discussed in more detail in the pesticide specific risk assessments conducted as part of the registration review for the pesticides identified in Unit II., EPA has considered the safety risks for the pesticides subject to this rulemaking and in the context of the tolerance actions set out in this rulemaking. EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. Furthermore, EPA believes that this action is not likely to result in new disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples.

### K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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: August 22, 2024.

**Anita Pease,**  
Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

**PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD**

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

Authority: 21 U.S.C. 321(q), 346a and 371.

- 2. Amend § 180.940 by:
  - a. In table 1 to paragraph (a), removing the entry for “Lactic Acid”, and adding, in alphabetical order, the entry for “Lactic acid (including l-lactic acid)”; and
  - b. In the table in paragraph (b), removing the entry for “Lactic Acid”.

The addition reads as follows:

**§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).**

\* \* \* \* \*  
(a) \* \* \*

Pesticide chemical	CAS Reg. No.	Limits
* * * * *	* * * * *	* * * * *
Lactic acid (including l-lactic acid).	50–21–5, 79–33–4	When ready for use, the end-use concentration is not to exceed 10,000 ppm in antimicrobial formulations applied to food-contact surfaces in public eating places.
* * * * *	* * * * *	* * * * *

■ 3. Revise and republish § 180.1090 to read as follows:

**§ 180.1090 Lactic acid, including l-lactic acid; exemption from the requirement of a tolerance.**

(a) Lactic acid (2-hydroxypropanoic acid), including l-lactic acid is exempted from the requirement of a tolerance when used as a plant growth regulator or fruit and vegetable wash in or on all raw agricultural commodities.

(b) An exemption from the requirement of a tolerance is established for indirect or inadvertent residues of lactic acid (2-hydroxypropanoic acid), including l-lactic acid, in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (i.e., troughs).

[FR Doc. 2024–19456 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA–R01–RCRA–2023–0612; FRL 11619–02–R1]

**Rhode Island: Final Authorization of State Hazardous Waste Management Program; Revisions and Corrections**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

**SUMMARY:** The State of Rhode Island Department of Environmental Management (RIDEM) has applied to the Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed Rhode Island’s application and has determined that Rhode Island’s hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Additionally, this document corrects errors made in the State authorization citations published in the March 12, 1990, March 5, 1992, October 2, 1992, and August 9, 2002 **Federal Register**. The EPA is authorizing the State program revisions through this final action. In the “Proposed Rules” section of this **Federal Register**, the EPA is also publishing a separate document that serves as the proposal to authorize these revisions. Unless the EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Rhode Island’s revisions to its hazardous waste program will take effect.

**DATES:** This final authorization is effective on October 28, 2024, unless the EPA receives adverse written comment by September 30, 2024. Should the EPA receive such comments, it will publish a timely document either: withdrawing the final action or affirming the publication and responding to comments.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–

RCRA–2023–0612, at <https://www.regulations.gov/>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov/). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Liz McCarthy or Joe Hayes, RCRA Waste Management and Lead Branch; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07–1), Boston, MA 02109–3912; phone: (617) 918–1447 or (617) 918–1362; email: [mccarthy.liz@epa.gov](mailto:mccarthy.liz@epa.gov) or [Hayes.Joseph@epa.gov](mailto:Hayes.Joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:**