

for this action as described under **ADDRESSES**. Based upon its evaluation, 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 VNT1 protein. Therefore, an exemption from the requirement of a tolerance is established for residues of VNT1 protein in potato when used as a plant-incorporated protectant in accordance with the terms of registration.

#### B. Analytical Enforcement Methodology

EPA has determined that 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. Nonetheless, an analytical method was provided by J.R. Simplot for the detection of VNT1 protein in potato. This method utilizes a quantitative polymerase chain reaction (qPCR) to detect the presence of the *Rpi-vnt1* gene in pSIM1678 transformed plants (pSIM1678 is the transformation vector used by the registrant to incorporate the *Rpi-vnt1* gene into potato varieties). There are numerous homologs of *Rpi-vnt1* present in potato and tomato varieties and other wild *Solanum* species that may result in non-specific amplification when using primers designed to amplify *Rpi-vnt1*. To distinguish between plants that naturally contain homologous sequences and those transformed with pSIM1678, a second method amplifies a unique junction between the *Rpi-vnt1* terminator and the AGP promoter present in the pSIM1678 T-DNA. This second method is intended to confirm the presence or absence of pSIM1678 if there are false positive detection of *Rpi-vnt1* homologs.

#### C. Revisions to Requested Tolerance Exemption

The current temporary tolerance exemption for VNT1 protein in potato (40 CFR 174.534) approved by EPA on December 17, 2015, will be changed to a permanent tolerance exemption.

#### IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. 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 exemption in this action, 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. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA 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, EPA 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 EPA's 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 174

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

Dated: January 18, 2017.

**Jack Housenger**,  
Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

#### PART 174—[AMENDED]

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

**Authority:** 7. U.S.C. 136–136y; 21 U.S.C. 321(q), 346a and 371.

■ 2. Revise § 174.534 to read as follows:

#### § 174.534 VNT1 protein; exemption from the requirement of a tolerance.

Residues of VNT1 protein in potato are exempt from the requirement of a tolerance when the *Rpi-vnt1* gene that express the VNT1 protein is used as a plant-incorporated protectant in potato.

[FR Doc. 2017–03580 Filed 2–23–17; 8:45 am]

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## SURFACE TRANSPORTATION BOARD

### 49 CFR Part 1250

[Docket No. EP 724 (Sub-No. 4)]

#### United States Rail Service Issues—Performance Data Reporting

#### Correction

In rule document 2017–02492, appearing on pages 9529–9529, in the issue of Tuesday, February 7, 2017, make the following correction:

On page 9529, in the third column, the signature block should read as follows:

Decided: January 27, 2017.

By the Board, Acting Chairman Begeman, Vice Chairman Miller, and Commissioner Elliott.

**Brendetta S. Jones**,  
Clearance Clerk.

[FR Doc. C1–2017–02492 Filed 2–23–17; 8:45 am]

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