

Section 302 does not prescribe the treatment of the basis of the redeemed stock if the redemption is treated as a distribution to which section 301 applies. In 1955, the IRS and Treasury Department promulgated § 1.302-2(c), which states that “[i]n any case in which an amount received in redemption of stock is treated as a distribution of a dividend, proper adjustment of the basis of the remaining stock will be made with respect to the stock redeemed.” The regulation contains three examples illustrating a proper adjustment. In two examples, the redeemed shareholder continues to own stock of the redeeming corporation immediately after the redemption. In those cases, the basis of the redeemed shares shifts to, and increases the basis of the shares still owned by, the redeemed shareholder. In the third example, the redeemed shareholder does not directly own any stock of the redeeming corporation immediately after the redemption. He does, however, constructively own stock of the redeeming corporation immediately after the redemption because of his wife’s ownership of stock in the redeeming corporation. The example concludes that the redeemed shareholder’s basis in the shares surrendered in the redemption shifts to increase his wife’s basis in her shares of stock of the redeeming corporation.

The proposed regulations provide that the basis of redeemed stock will not shift to other shares directly owned by the redeemed shareholder or to shares owned by any other person whose ownership is attributed to the redeemed shareholder. Instead, the proposed regulations provide that when section 302(d) applies to a redemption of stock, to the extent the distribution is a dividend under section 301(c)(1), an amount equal to the adjusted basis of the redeemed stock is treated as a loss recognized on the date of the redemption. The loss, generally, would be taken into account either when the facts and circumstances that caused the redemption to be treated as a section 301 distribution no longer exist, or when the redeemed shareholder recognizes a gain on the stock of the redeeming corporation (to the extent of such gain).

The IRS and Treasury Department received many comments regarding the proposed regulations, several of which were critical of the approach of the proposed regulations. Generally, these comments expressed two predominant concerns. First, commentators stated that the approach of the proposed regulations was an unwarranted departure from current law. Second,

commentators were concerned that the interaction of the proposed regulations with the consolidated return rules could create the potential for two levels of tax instead of one in certain transactions. After considering all the comments, the IRS and Treasury Department have decided to withdraw the proposed regulations.

The IRS and Treasury Department are continuing to study the approach of the proposed regulations and other approaches on the treatment of the basis of redeemed stock and request further comments. In particular, the IRS and Treasury Department are interested in comments on whether a difference should be drawn between a redemption in which the redeemed shareholder continues to have direct ownership of stock in the redeemed corporation (whether the same class of stock as that redeemed or a different class) and a redemption in which the redeemed shareholder only constructively owns stock in the redeemed corporation. The IRS and Treasury Department are also interested in comments in the following two areas: (i) Whether a different approach is warranted for corporations filing consolidated income tax returns; and (ii) whether a different approach is warranted for section 304(a)(1) transactions.

Additionally, the IRS and Treasury Department are studying other basis issues that arise in redemptions that are treated as section 301 distributions. Specifically, the IRS and Treasury Department are studying whether, under section 301(c)(2), basis reduction should be limited to the basis of the shares redeemed or whether it is appropriate to reduce the basis of both the retained and redeemed shares before applying section 301(c)(3). The preamble to TD 9250, 71FR 8802, indicated that the IRS and Treasury Department believe that the better view of current law is that only the basis of the shares redeemed may be recovered under section 301(c)(2). However, the IRS and Treasury Department are considering other approaches. For example, another approach would be to allocate the section 301(c)(2) portion of the distribution pro rata among the redeemed shares and the retained shares. A third approach would be to shift the basis of the shares redeemed to the remaining shares and then reduce the basis of those shares pursuant to section 301(c)(2). The IRS and Treasury Department request comments about these approaches or other approaches regarding circumstances in which section 301(c)(2) applies.

Drafting Information

The principal author of this withdrawal notice is Theresa M. Kolish of the Office of the Associate Chief Counsel (Corporate).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirement.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking published in the **Federal Register** on October 18, 2002 (67 FR 64331) is hereby withdrawn.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E6-5811 Filed 4-18-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2006-0232; FRL-8065-7]

Wheat Bran; Proposed Revocation of the Inert Ingredient Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke, under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(e)(1), the existing exemption from the requirement of a tolerance for residues of the inert ingredient “wheat bran” under 40 CFR 180.910. The regulatory action proposed in this document contributes toward the Agency’s tolerance reassessment requirements under FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory action proposed in this document pertains to the proposed revocation of one tolerance which would be counted as a tolerance reassessment toward the August 2006 review deadline.

DATES: Comments must be received on or before June 19, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2006-0232, 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 (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Hand Delivery:* OPP Regulatory Public Docket, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

• **Important Note:** OPP will be moving to a new location the first week of May 2006. As a result, from Friday, April 28 to Friday, May 5, 2006, the OPP Regulatory Public Docket will NOT be accepting any deliveries at the Crystal Mall #2 address and this facility will be closed to the public. Beginning on May 8, 2006, the OPP Regulatory Public Docket will reopen at 8:30 a.m. and deliveries will be accepted in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA 22202. The mail code for the mailing address will change to (7502P), but will otherwise remain the same. The OPP Regulatory Public Docket telephone number and hours of operation will remain the same after the move.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2006-0232. 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 www.regulations.gov or e-mail. The Federal www.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 www.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. 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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket at the location identified under "Delivery" and "Important Note." The hours of operation for 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:

Karen Angulo, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 306-0404; e-mail address: angulo.karen@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. 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 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 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 and Statutory Findings

A. What Action is the Agency Taking?

The Agency is proposing to revoke the inert ingredient tolerance exemption for "wheat bran" under 40 CFR 180.910. This action completes EPA's revocation of the wheat bran tolerance exemption as initially discussed in the **Federal Register** Notice of January 15, 2002, (67

FR 1925) (FRL-6807-8). In that Notice, EPA identified several inert ingredients as allergen-containing food commodities, including wheat bran, and stated that their tolerance exemptions needed to be removed. Unfortunately, wheat bran's tolerance exemption was not revoked in the final rule (May 24, 2002, 67 FR 36534) (FRL-6834-8) because of an administrative error. No comments were received on the proposed or the final rule. Therefore, wheat bran's tolerance exemption was not revoked in the final rule for any reason but omission.

As background, EPA revoked the inert ingredient tolerance exemptions identified in the **Federal Register** of May 24, 2002 (67 FR 36534) (FRL-6834-8), in order to be protective of sub-populations that are known to be sensitive to allergen-containing food commodities. This action was done in concordance with the current science and medical understanding of the allergenic potential of these food commodities. The Federal Food, Drug, and Cosmetic Act (FFDCA) section 201(qq) defines a "major food allergen" as one of eight foods or a food ingredient that contains protein derived from one of the following foods: Milk, eggs, fish crustacean shellfish, tree nuts, peanuts, wheat, and soybeans. These foods and food ingredients are known to contain the allergenic protein that can cause allergic responses in some people, such as celiac disease. FFDCA section 202(6) states: "(A) celiac disease is an immune-mediated disease that causes damage to the gastrointestinal tract, central nervous system, and other organs; (B) the current recommended treatment is avoidance of gluten in foods that are associated with celiac disease." As part of the Food Allergen Labeling and Consumer Protection Act (FALCPA), which amended FFDCA in 2004, the U.S. Food and Drug Administration is now in the process of defining the term "gluten-free" and is expected to issue the definition in a final rule in 2008.

EPA fully intended to revoke the tolerance exemption for wheat bran under 40 CFR 180.910 with the other allergen-containing food commodity tolerance exemptions in the 2002 proposed and final rules identified above. Therefore, the Agency is now moving to complete its original intended action and is proposing herein to revoke the exemption from the requirement of a tolerance for wheat bran under 40 CFR 180.910.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

C. When do These Actions Become Effective?

EPA is proposing the revocation of the current wheat bran tolerance exemption under 40 CFR 180.910 become effective on the date of publication of the final rule in the **Federal Register**. Any commodities listed in this proposal treated with pesticide products containing the inert ingredient wheat bran, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticide chemicals in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that: (1) The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2006, to reassess the tolerances and exemptions from tolerances that were in existence on August 2, 1996. This document proposes to revoke one inert ingredient tolerance exemption, which will be counted in a final rule as a tolerance reassessments toward the August 2006, review deadline under FFDCA section 408(q), as amended by FQPA in 1996.

III. Are the Proposed Actions Consistent with International Obligations?

The tolerance revocation in this proposal is not discriminatory and is designed to ensure that both domestically produced and imported foods meet the food safety standard established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the internet at <http://www.epa.gov/>. On the Home Page select "Laws, Regulations, and Dockets," then select "Regulations and Proposed Rules" and then look up the entry for this document under "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to revoke a specific tolerance established under FFDCA section 408.

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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). 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); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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 of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published in the **Federal Register** on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed action will not have a significant negative economic impact on a substantial number of small

entities. Specifically, the Agency has concluded in a memorandum dated May 25, 2001 that for import tolerance revocation there is a negligible joint probability of certain defined conditions holding simultaneously which would indicate an RFA/SBREFEA concern and require more analysis. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct

effects on one or more Indian tribes, 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.” This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: April 5, 2006.

Meredith F. Laws,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I 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.

§ 180.910 [Amended]

2. Section 180.910 is amended by removing from the table the entry for “Wheat bran.”

[FR Doc. E6–5877 Filed 4–18–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0253; FRL–8058–3]

Mono- and bis-(1H, 1H, 2H, 2H-perfluoroalkyl) phosphates where the alkyl group is even numbered and in the C6-C12 range; Proposed Revocation of Pesticide Inert Ingredient Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke, under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(e)(1), the existing exemption from the requirement of a tolerance for residues of the inert ingredient mono- and bis-(1H, 1H, 2H, 2H-perfluoroalkyl) phosphates where the alkyl group is