

§ 179.125

40 CFR Ch. I (7–1–06 Edition)

Division of the Office of General Counsel, or by any other person who is a representative of OPPTS in the hearing. A person may not be designated as a judicial officer in a hearing if he or she performed any prosecutorial or investigative functions in connection with that hearing or any other factually related hearing.

(b) The Administrator may delegate to the judicial officer all or part of the Administrator's authority to act in a given proceeding under this part. Such a delegation does not prevent the judicial officer from referring any motion or case to the Administrator when appropriate.

[55 FR 50293, Dec. 5, 1990, as amended at 57 FR 28087, June 24, 1992]

Subpart G—Judicial Review

§ 179.125 Judicial review.

(a) The Administrator's final decision is final agency action reviewable in the courts as provided by FFDCA section 408(h), as of the date of publication of the order in the FEDERAL REGISTER. The failure of a person to file a petition for judicial review within the period ending on the 60th day after the date of the publication of the order constitutes a waiver under FFDCA section 408(h) of the right to judicial review of the order and of any regulation promulgated by the order.

(b) The record for judicial review of a final decision under this part consists of the record described in § 179.130.

[55 FR 50293, Dec. 5, 1990, as amended at 70 FR 33360, June 8, 2005]

§ 179.130 Administrative record.

(a) For purposes of judicial review, the record of a hearing that culminates in a final decision of the Administrator under § 179.105(d) or § 179.112(c) ruling on an objection shall consist of:

(1) The objection ruled on (and any request for hearing that was included with the objection).

(2) Any order issued under § 180.7(g) of this chapter to which the objection related, and:

(i) The regulation or petition denial that was the subject of that order.

(ii) The petition to which such order responded.

(iii) Any amendment or supplement of the petition.

(iv) The data and information submitted in support of the petition.

(v) The notice of filing of the petition.

(3) Any order issued under § 180.29(f) of this chapter to which the objection related, the regulation that was the subject of that order, and each related Notice of Proposed Rulemaking.

(4) The comments submitted by members of the public in response to the Notice of Filing or Notice of Proposed Rulemaking, and the information submitted as part of the comments, the Administrator's response to comments and the documents or information relied on by the Administrator in issuing the regulation or order.

(5) All other documents or information submitted to the docket for the rulemaking in question under parts 177 or part 180 of this chapter.

(6) The Notice of Hearing published under § 179.20.

(7) All notices of participation filed under § 179.42.

(8) Any FEDERAL REGISTER notice issued under this part that pertains to the proceeding.

(9) All submissions filed under § 179.80.

(10) Any document of which official notice was taken under § 179.95.

(b) The record of the administrative proceeding is closed:

(1) With respect to the taking of evidence, when specified by the presiding officer.

(2) With respect to pleadings, at the time specified in § 179.98(a) for the filing of briefs.

(c) The presiding officer may reopen the record to receive further evidence at any time before the filing of the initial decision.

[55 FR 50293, Dec. 5, 1990, as amended at 70 FR 33360, June 8, 2005]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN FOOD

EDITORIAL NOTE: An alphabetical listing of pesticide chemicals appears at the end of this table of contents.