

Environmental Protection Agency

§ 180.9

www.epa.gov/edocket no later than publication in the FEDERAL REGISTER of the notice of the petition filing.

(e) The Administrator shall notify the petitioner within 15 days after its receipt of acceptance or nonacceptance of a petition, and if not accepted the reasons therefor. If petitioner desires, the petitioner may supplement a deficient petition after notification as to deficiencies. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified.

(f) A notice of the filing of a petition for a pesticide chemical residue tolerance that the Administrator determines has met the requirements of paragraph (b) of this section shall be published in the FEDERAL REGISTER by the Administrator within 30 days after such determination. The notice shall state the name of the pesticide chemical residue and the commodities for which a tolerance is sought and announce the availability of a description of the analytical methods available to the Administrator for the detection and measurement of the pesticide chemical residue with respect to which the petition is filed or shall set forth the petitioner's statement of why such a method is not needed. The notice shall explicitly reference the specific address in the Agency's Electronic Docket (*http://www.epa.gov/edocket*) where the full text of the summary required in paragraph (b) of this section and refer interested parties to this document for further information on the petition. The full text of the summary may be omitted from the notice.

(g) The Administrator may request a sample of the pesticide chemical at any time while a petition is under consideration. The Administrator shall specify in its request for a sample of the pesticide chemical, a quantity which it deems adequate to permit tests of analytical methods used to determine residues of the pesticide chemical and of methods proposed by the petitioner for removing any residues of the chemical that exceed the tolerance proposed.

(h) The Administrator shall determine, in accordance with the Act, whether to issue an order that establishes, modifies, or revokes a tolerance

regulation (whether or not in accord with the action proposed by the petitioner), whether to publish a proposed tolerance regulation and request public comment thereon under §180.29, or whether to deny the petition. The Administrator shall publish in the FEDERAL REGISTER such order or proposed regulation. After receiving comments on any proposed regulation, the Administrator may issue an order that establishes, modifies, or revokes a tolerance regulation. An order published under this section shall describe briefly how to submit objections and requests for a hearing under part 178 of this chapter. A regulation issued under this section shall be effective on the date of publication in the FEDERAL REGISTER unless otherwise provided in the regulation.

[70 FR 33360, June 8, 2005]

§ 180.8 Withdrawal of petitions without prejudice.

In some cases the Administrator will notify the petitioner that the petition, while technically complete, is inadequate to justify the establishment of a tolerance or the tolerance requested by petitioner. This may be due to the fact that the data are not sufficiently clear or complete. In such cases, the petitioner may withdraw the petition pending its clarification or the obtaining of additional data. This withdrawal may be without prejudice to a future filing. A deposit for fees as specified in §180.33 shall accompany the resubmission of the petition.

[70 FR 33361, June 8, 2005]

§ 180.9 Substantive amendments to petitions.

After a petition has been filed, the petitioner may submit additional information or data in support thereof, but in such cases the petition will be given a new filing date.

[70 FR 33361, June 8, 2005]

ADVISORY COMMITTEES

ESTABLISHMENT, MODIFICATION, AND REVOCATION OF TOLERANCE ON INITIATIVE OF ADMINISTRATOR; JUDICIAL REVIEW; TEMPORARY TOLERANCES; MODIFICATION AND REVOCATION OF TOLERANCES; FEES

§ 180.29 Establishment, modification, and revocation of tolerance on initiative of Administrator.

(a) Upon the Administrator's own initiative, the Administrator may propose, under FFDCA section 408(e), the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance, or a regulation modifying or revoking an existing tolerance or exemption.

(b) The Administrator shall provide a period of not less than 60 days for persons to comment on the proposed regulation, except that a shorter period for comment may be provided if the Administrator for good cause finds that it would be in the public interest to do so and states the reasons for the finding in the notice of proposed rulemaking.

(c) After reviewing any timely comments received, the Administrator may by order establish, modify, or revoke a tolerance regulation, which order and regulation shall be published in the FEDERAL REGISTER. An order published under this section shall state that persons may submit objections and requests for a hearing in the manner described in part 178 of this chapter.

(d) Any final regulation issued under this section shall be effective on the date of publication in the FEDERAL REGISTER unless otherwise provided in the regulation.

[70 FR 33361, June 8, 2005]

§ 180.30 Judicial review.

(a) Under FFDCA section 408(h), judicial review is available in the United States Courts of Appeal as to the following actions:

(1) Regulations establishing general procedures and requirements under FFDCA section 408(e)(1)(C).

(2) Orders issued under FFDCA section 408(f)(1)(C) requiring the submission of data.

(3) Orders issued under FFDCA section 408(g)(2)(C) ruling on objections to establishment, modification, or revocation of a tolerance or exemption under FFDCA section 408(d)(4), or any regulation that is the subject of such an order. The underlying action here is Agency disposition of a petition seeking the establishment, modification, or revocation of a tolerance or exemption.

(4) Orders issued under FFDCA section 408(g)(2)(C) ruling on objections to the denial of a petition under FFDCA section 408(d)(4).

(5) Orders issued under FFDCA section 408(g)(2)(C) ruling on objections to the establishment, modification, suspension, or revocation of a tolerance or exemption under FFDCA section 408(e)(1)(A) or (e)(1)(B). The underlying action here is the establishment, modification, suspension, or revocation of a tolerance or exemption upon the initiative of EPA including EPA actions pursuant to FFDCA sections 408(b)(2)(B)(v), 408(b)(2)(E)(ii), 408(d)(4)(C)(ii), 408(l)(4), and 408(q)(1).

(6) Orders issued under FFDCA section 408(g)(2)(C) ruling on objections to the revocation or modification of a tolerance or exemption under FFDCA section 408(f)(2) for noncompliance with requirements for the submission of data.

(7) Orders issued under FFDCA section 408(g)(2)(C) ruling on objections to rules issued under FFDCA sections 408(n)(3) and 408(d) or (e) regarding determinations pertaining to State authority to establish regulatory limits on pesticide chemical residues.

(8) Orders issued under FFDCA section 408(g)(2)(C) ruling on objections to orders issued under FFDCA section 408(n)(5)(C) authorizing States to establish regulatory limits not identical to certain tolerances or exemptions.

(b) Any issue as to which review is or was obtainable under paragraph (a) of this section shall not be the subject of judicial review under any other provision of law. In part, this means that, for the Agency actions subject to the objection procedure in FFDCA section 408(g)(2), judicial review is not available unless an adversely affected party exhausts these objection procedures,