

this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP-2003-0209. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any 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 version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

*F. What Can I Do if I Wish the Agency to Maintain a Tolerance Exemption that the Agency Proposes to Revoke?*

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance exemption proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance exemption immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA. EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## II. Background

*A. What Action is the Agency Taking?*

EPA is proposing to revoke various exemptions from the requirement of a tolerance, as expressed in specific sections of 40 CFR part 180, for residues of the following active ingredients because of non-payment of maintenance fees and because there are no currently registered products to which the subject tolerance exemptions apply: Polyhedral occlusion bodies of *Autographa californica* NPV in 40 CFR 180.1125; Dihydroazadirachtin in 40 CFR 180.1169; Kontrol HV in 40 CFR 180.1063; *Metarhizium anisopliae* strain ESF1 in attractant stations in 40 CFR 180.1116; *Pseudomonas fluorescens* EG-1053 in 40 CFR 180.1088; *Pseudomonas fluorescens* NCIB 12089 in 40 CFR 180.1129; and *Puccinia canaliculata* ATCC 40199 in 40 CFR 180.1123.

It is EPA's general practice to propose revocation of those tolerance exemptions for residues of pesticide active ingredients on food for which there are no active registered uses under FIFRA, or for which there are no registered products to which the tolerance exemption applies, or for

tolerance exemptions that have been superseded, unless any person commenting on the proposal indicates a need for the tolerance exemption to cover residues in or on imported commodities or domestic commodities legally treated.

Following are the details of the final product cancellations for the above active ingredients and the number of tolerances that will be counted as reassessed once a final rule is issued.

1. *Dihydroazadirachtin*. Product 70051-29 canceled on August 25, 2000 for non-payment of maintenance fees. Announced on September 6, 2000 (67 FR 54114) (FRL-6737-7). According to Agency records, this product was the last FIFRA registered product containing the active ingredient Dihydroazadirachtin, which is exempt from the requirement of a tolerance in or on all raw agricultural commodities when applied as specified under 40 CFR 180.1169. The Agency believes that sufficient time has passed for stocks to have been exhausted and for treated commodities to have cleared channels of trade. Revocation of this tolerance exemption in a final rule will count as one tolerance reassessment.

2. *Kontrol HV*. Product 17217-2 canceled on July 21, 1998 for non-payment of 1998 maintenance fees. Announced on July 31 1998 (63 FR 41145) (FRL-6015-8). According to Agency records, this product was the last FIFRA registered product containing the active ingredient Kontrol HV, which is exempt from the requirement of a tolerance when used on cotton to control the tobacco budworm under 40 CFR 180.1063. The Agency believes that sufficient time has passed for stocks to have been exhausted and for treated commodities to have cleared channels of trade. Revocation of this tolerance exemption in a final rule will count as one tolerance reassessment.

3. *Metarhizium anisopliae* strain ESF1 in attractant stations. Product 64296-2 canceled on August 25, 2000 for non-payment of maintenance fees. Announced on September 6, 2000 (65 FR 54114) (FRL-6737-7). According to Agency records, this product was the last FIFRA registered product containing the active ingredient *metarhizium anisopliae* strain ESF1 for use in attractant stations. Currently, there are three tolerance exemptions in 40 CFR 180.1116 for *metarhizium anisopliae* ESF1 in or on all raw agricultural commodities, animal feed, and processed food when used in attractant stations. The Agency believes that sufficient time has passed for stocks to have been exhausted and for treated