

§ 180.34

40 CFR Ch. I (7-1-09 Edition)

(n) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. In addition, processing costs and fees will periodically be reviewed and changes will be made to the schedule as necessary. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the FEDERAL REGISTER as a final rule to become effective 30 days or more after publication, as specified in the rule. When changes are made based on periodic reviews, the changes will be subject to public comment.

(o) No fee required by this section shall be levied during the period beginning on October 1, 2003, and ending September 30, 2008.

[68 FR 24371, May 7, 2003, as amended at 69 FR 12544, Mar. 17, 2004; 70 FR 33363, June 8, 2005; 71 FR 35547, June 21, 2006]

**§ 180.34 Tests on the amount of residue remaining.**

(a) Data in a petition on the amount of residue remaining in or on a raw agricultural commodity should establish the residue that may remain when the pesticide chemical is applied according to directions registered under the Federal Insecticide, Fungicide, and Rodenticide Act, or according to directions contained in an application for registration. These data should establish the residues that may remain under conditions most likely to result in high residues on the commodity.

(b) The petition should establish the reliability of the residue data reported in it. Sufficient information should be submitted about the analytical method to permit competent analysts to apply it successfully.

(c) If the pesticide chemical is absorbed into a living plant or animal when applied (is systemic), residue data may be needed on each plant or animal on which a tolerance or exemption is requested.

(d) If the pesticide chemical is not absorbed into the living plant or animal when applied (is not systemic), it may be possible to make a reliable estimate of the residues to be expected on each commodity in a group of related commodities on the basis of less data than would be required for each

commodity in the group, considered separately.

(e) Each of the following groups of crops lists raw agricultural commodities that are considered to be related for the purpose of paragraph (d) of this section. Commodities not listed in this paragraph are not considered to be related for the purpose of paragraph (d) of this section.

- (1) Apples, crabapples, pears, quinces.
- (2) Avocados, papayas.
- (3) Blackberries, boysenberries, dewberries, loganberries, raspberries.
- (4) Blueberries, currants, gooseberries, huckleberries.
- (5) Cherries, plums, prunes.
- (6) Oranges, citrus citron, grapefruit, kumquats, lemons, limes, tangelos, tangerines.
- (7) Mangoes, persimmons.
- (8) Peaches, apricots, nectarines.
- (9) Beans, peas, soybeans (each in dry form).
- (10) Beans, peas, soybeans (each in succulent form).
- (11) Broccoli, brussels sprouts, cauliflower, kohlrabi.
- (12) Cantaloups, honeydew melons, muskmelons, pumpkins, watermelons, winter squash.
- (13) Carrots, garden beets, sugar beets, horseradish, parsnips, radishes, rutabagas, salsify roots, turnips.
- (14) Celery, fennel.
- (15) Cucumbers, summer squash.
- (16) Lettuce, endive (escarole), Chinese cabbage, salsify tops.
- (17) Onions, garlic, leeks, shallots (green, or in dry bulb form).
- (18) Potatoes, Jerusalem-artichokes, sweetpotatoes, yams.
- (19) Spinach, beet tops, collards, dandelion, kale, mustard greens, parsley, Swiss chard, turnip tops, watercress.
- (20) Tomatoes, eggplants, peppers, pimentos.
- (21) Pecans, almonds, brazil nuts, bush nuts, butternuts, chestnuts, filberts, hazelnuts, hickory nuts, walnuts.
- (22) Field corn, popcorn, sweet corn (each in grain form).
- (23) Milo, sorghum (each in grain form).
- (24) Wheat, barley, oats, rice, rye (each in grain form).
- (25) Alfalfa, Bermuda grass, bluegrass, brome grass, clovers, cowpea

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hay, fescue, lespedeza, lupines, orchard grass, peanut hay, peavine hay, rye grass, soybean hay, sudan grass, timothy, and vetch.

(26) Corn forage, sorghum forage.

(27) Sugarcane, cane sorghum.

[36 FR 22540, Nov. 25, 1971, as amended at 39 FR 28286, Aug. 6, 1974; 39 FR 28977, Aug. 13, 1974; 40 FR 6972, Feb. 18, 1975; 45 FR 82928, Dec. 17, 1980; 48 FR 29860, June 29, 1983; 60 FR 26635, May 17, 1995; 73 FR 75600, Dec. 12, 2008]

### § 180.35 Tests for potentiation.

Experiments have shown that certain cholinesterase-inhibiting pesticides when fed together to test animals are more toxic than the sum of their individual toxicities when fed separately. One substance potentiates the toxicity of the other. Important toxicological interactions also have been observed between pesticides and other substances. Wherever there is reason to believe that a pesticide chemical for which a tolerance is proposed may interact with other pesticide chemicals or other substances to which man is exposed, it may be necessary to require special experimental data regarding potentiation capacities to evaluate the safety of the proposed tolerance. This necessarily will be determined on a case-by-case basis.

### § 180.40 Tolerances for crop groups.

(a) Group or subgroup tolerances may be established as a result of:

(1) A petition from a person who has submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act.

(2) On the initiative of the Administrator.

(3) A petition by an interested person.

(b) The tables in §180.41 are to be used in conjunction with this section for the establishment of crop group tolerances. Each table in §180.41 lists a group of raw agricultural commodities that are considered to be related for the purposes of this section. Refer also to §180.1(h) for a listing of commodities for which established tolerances may be applied to certain other related and similar commodities.

(c) When there is an established or proposed tolerance for all of the rep-

resentative commodities for a specific group or subgroup of related commodities, a tolerance may be established for all commodities in the associated group or subgroup. Tolerances may be established for a crop group or, alternatively, tolerances may be established for one or more of the subgroups of a crop group.

(d) The representative crops are given as an indication of the minimum residue chemistry data base acceptable to the Agency for the purposes of establishing a group tolerance. The Agency may, at its discretion, allow group tolerances when data on suitable substitutes for the representative crops are available (e.g., limes instead of lemons).

(e) Since a group tolerance reflects maximum residues likely to occur on all individual crops within a group, the proposed or registered patterns of use for all crops in the group or subgroup must be similar before a group tolerance is established. The pattern of use consists of the amount of pesticide applied, the number of times applied, the timing of the first application, the interval between applications, and the interval between the last application and harvest. The pattern of use will also include the type of application; for example, soil or foliar application, or application by ground or aerial equipment.

(f) When the crop grouping contains commodities or byproducts that are utilized for animal feed, any needed tolerance or exemption from a tolerance for the pesticide in meat, milk, poultry and/or eggs must be established before a tolerance will be granted for the group as a whole. The representative crops include all crops in the group that could be processed such that residues may concentrate in processed food and/or feed. Processing data will be required prior to establishment of a group tolerance. Tolerances will not be granted on a group basis as to processed foods prepared from crops covered by the group tolerance.

(g) If maximum residues (tolerances) for the representative crops vary by more than a factor of 5 from the maximum value observed for any crop in the group, a group or subgroup tolerance will ordinarily not be established.