

State regulation	State effective date	EPA approved date	Comments
* Subchapter 19, "Control and Prohibition of Air Pollution from Oxides of Nitrogen."	* April 20, 2009, as corrected on June 15, 2009 and July 6, 2009.	* August 3, 2010, 75 FR 45483.	* Subchapter 19 is approved into the SIP except for the following provisions: (1) Phased compliance plan through repowering in § 19.21 that allows for implementation beyond May 1, 1999; and (2) phased compliance plan through the use of innovative control technology in § 19.23 that allows for implementation beyond May 1, 1999.
* Subchapter 23, "Prevention of Air Pollution From Architectural Coatings."	* December 29, 2008 ...	* December 22, 2010, [insert <b>Federal Register</b> page citation].	* ...
* Subchapter 24, "Prevention of Air Pollution From Consumer Products."	* December 29, 2008 ...	* December 22, 2010, [insert <b>Federal Register</b> page citation].	* ...
* Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels."	* December 29, 2008 ...	* December 22, 2010, [insert <b>Federal Register</b> page citation].	* ...
* Subchapter 26, "Prevention of Air Pollution From Adhesives, Sealants, Adhesive Primers and Sealant Primers."	* December 29, 2008 ...	* December 22, 2010, [insert <b>Federal Register</b> page citation].	* ...
* Subchapter 34, "TBAC Emissions Reporting."	* December 29, 2008 ...	* December 22, 2010, [insert <b>Federal Register</b> page citation].	* ...
* ...	* ...	* ...	* ...

[FR Doc. 2010-32034 Filed 12-21-10; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2010-0981; FRL-8857-5]

**Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for the pesticides listed in Unit II. of the **SUPPLEMENTARY INFORMATION**. These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. Section 408(l)(6)

of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA.

**DATES:** This regulation is effective December 22, 2010. Objections and requests for hearings must be received on or before February 22, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (*see also* Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2010-0981. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (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 in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** See the table in this unit for the name of a specific contact person. The following information applies to all contact persons: Emergency Response Team, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

Pesticide/CFR citation	Contact person
Avermectin 180.449 .....	Marcel Howard, <a href="mailto:howard.marcel@epa.gov">howard.marcel@epa.gov</a> , (703) 305-6784.
Bifenazate 180.572, Fenoxaprop-ethyl 180.430, Fipronil 180.517, Propiconazole 180.434, Sulfentrazone 180.498	Andrea Conrath, <a href="mailto:conrath.andrea@epa.gov">conrath.andrea@epa.gov</a> , (703) 308-6356.
Boscalid 180.589, Fenpyroximate 180.566, Pyraclostrobin 180.582	Stacey Groce, <a href="mailto:groce.stacey@epa.gov">groce.stacey@epa.gov</a> , (703) 305-2505.

**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. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at <http://www.gpoaccess.gov/ecfr>.

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2010-0981 in the subject line on the first page of your submission. All requests must be in writing, and must be received by the Hearing Clerk on or before February 22, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2

may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA-HQ-OPP-2010-0981, 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 (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility'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 Facility telephone number is (703) 305-5805.

**II. Background and Statutory Findings**

EPA published a final rule in the **Federal Register** for each pesticide listed. The initial issuance of these final rules announced that EPA, on its own initiative, under section 408 of FFDCA, 21 U.S.C. 346a, was establishing time-limited tolerances.

EPA established the tolerances because FFDCA section 408(l)(6) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or time for public comment.

EPA received requests to extend the use of these chemicals for this year's growing season. After having reviewed these submissions, EPA concurs that emergency conditions exist. EPA assessed the potential risks presented by residues for each pesticide. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

The data and other relevant material have been evaluated and discussed in the final rule originally published to support these uses. Based on that data and information considered, the Agency reaffirms that extension of these time-limited tolerances will continue to meet the requirements of FFDCA section

408(l)(6). Therefore, the time-limited tolerances are extended until the date listed. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on the date listed, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on the commodity after that date will not be unlawful, provided the residue is present as a result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA, the tolerance was in place at the time of the application, and the residue does not exceed the level that was authorized by the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe. Tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

1. *Avermectin*. EPA has authorized under FIFRA section 18 the use of avermectin on lima bean for control of spider mites in California. This regulation extends a time-limited tolerance for residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer in or on bean, lima, seed at 0.005 parts per million (ppm) for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2013. A time-limited tolerance was originally published in the **Federal Register** of November 12, 2008 (73 FR 66775) (FRL-8387-8).

2. *Bifenazate*. EPA has authorized under FIFRA section 18 the use of bifenazate on Timothy grass for control of Banks grass mite in Nevada. This regulation extends time-limited tolerances for combined residues of the miticide bifenazate [1-methylethyl 2-(4-methoxy [1,1'-biphenyl]-3-yl) hydrazinecarboxylate and its metabolite, diazinecarboxylic acid, (2-(4-methoxy-[1,1'-biphenyl]-3-yl, 1-methylethyl ester) (expressed as bifenazate) in or on Timothy forage at 50 ppm and Timothy hay at 150 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2013. Time-limited tolerances were extended in the **Federal Register** of December 19, 2007 (72 FR 71802) (FRL-8339-2).

3. *Boscalid*. EPA has authorized under FIFRA section 18 the use of boscalid on Belgian endive for control of the fungal pathogen, *Scelerotinia sclerotiorum* in California. This regulation extends a time-limited tolerance for residues of the fungicide boscalid (3

pyridinecarboxamide, 2-chloro-N-(4'-chloro[1,1'-biphenyl]-2-yl)) in or on Belgian endive at 16 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2013. A time-limited tolerance was extended in the **Federal Register** of May 28, 2010 (75 FR 29907) (FRL-8826-4).

4. *Fenpyroximate*. EPA has authorized under FIFRA section 18 the use of fenpyroximate for control of varroa mites in beehives in Nebraska. This regulation extends a time-limited tolerance for combined residues of the insecticide fenpyroximate [(E)-1,1-dimethylethyl 4-[[[(1,3-dimethyl-5-phenoxy-1H-pyrazol-4-yl) methylene] amino]oxy]methyl]benzoate] in or on honey at 0.10 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2013. A time-limited tolerance was originally published in the **Federal Register** of May 9, 2007 (72 FR 26317) (FRL-8127-3).

5. *Fenoxaprop-ethyl*. EPA has authorized under FIFRA section 18 the use of fenoxaprop-ethyl in or on grass grown for seed for control of noxious weed species in Oregon. This regulation extends time-limited tolerances for combined residues of the herbicide fenoxaprop-ethyl [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazol-2-yl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one]] in or on grass forage and grass hay at 0.05 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2013. Time-limited tolerances were originally published in the **Federal Register** of June 13, 2008 (73 FR 33714) (FRL-8366-6).

6. *Fipronil*. EPA has authorized under FIFRA section 18 the use of fipronil on turnip and rutabaga for control of cabbage maggot in Oregon. This regulation extends time-limited tolerances for combined residues of the insecticide fipronil [5-amino-1-(2,6-dichloro-4-(trifluoromethyl) phenyl)-4-((1R,S)- trifluoromethyl)sulfinyl)-1H-pyrazole-3-carbonitrile and its 2 metabolites MB45950 (5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl)-4-[(trifluoromethyl)thio]-1H-pyrazole-3-carbonitrile) and MB46136 (5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl)-4-[(trifluoromethyl)sulfonyl]-1H-pyrazole-3-carbonitrile) and its photodegradeate MB46513 (5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl)-4-[(1R,S)-(trifluoromethyl)]-1H-pyrazole-3-carbonitrile)] in or on turnip at 1.0 ppm and rutabaga at 1.0 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2013. These time-

limited tolerances were originally published in the **Federal Register** of August 22, 2007 (72 FR 46906) (FRL-8142-6).

7. *Propiconazole*. EPA has authorized under FIFRA section 18 the use of propiconazole in or on nectarine and peach, postharvest for control of sour rot in California. This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole [1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid] in or on nectarine at 2.0 ppm and peach at 2.0 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2013. These time-limited tolerances were originally published in the **Federal Register** of April 25, 2007 (72 FR 20436) (FRL-8121-2).

8. *Pyraclostrobin*. EPA has authorized under FIFRA section 18 the use of pyraclostrobin in or on Belgian endive for control of the fungal pathogen, *Scelerotinia sclerotiorum* in California. This regulation extends a time-limited tolerance for residues of the fungicide pyraclostrobin [(carbamic acid), 2[[[1(4 chlorophenyl) 1Hpyrazol3yl]oxy]methyl]phenyl methoxymethyl ester, and its desmethoxy metabolite, methylN[[[1(4chlorophenyl) pyrazol 3yl]oxy]otolyl] carbamate]] expressed as parent compound, in or on endive, Belgian at 11 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2010. A time limited tolerance was extended in the **Federal Register** of January 6, 2010 (75 FR 770) (FRL-8801-9).

9. *Sulfentrazone*. EPA has authorized under FIFRA section 18 the use of sulfentrazone on flax for control of kochia and ALS-resistant kochia in North Dakota and South Dakota. This regulation extends a time-limited tolerance for combined residues of sulfentrazone [N-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]methanesulfonamide, and its metabolites 3-hydroxymethyl sulfentrazone (HMS) and 3-desmethyl sulfentrazone (DMS)] in or on flax seed at 0.20 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2013. A time-limited tolerance was extended in the **Federal Register** of December 19, 2007 (72 FR 71802) (FRL-8339-2).

10. *Sulfentrazone*. EPA has authorized under FIFRA section 18 the use of sulfentrazone on strawberries for control of broadleaf weeds in Washington, Oregon, Wisconsin and

Michigan. This regulation extends a time-limited tolerance for combined residues of sulfentrazone [N-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]methanesulfonamide, and its metabolites 3-hydroxymethyl sulfentrazone (HMS) and 3-desmethyl sulfentrazone (DMS)] in or on strawberries at 0.60 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2013. A time-limited tolerance was extended in the **Federal Register** of December 19, 2007 (72 FR 71802) (FRL-8339-2).

### III. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for avermectin, bifenazate, boscalid, fenoxaprop-ethyl, fenpyroximate, fipronil, propiconazole, pyraclostrobin, and sulfentrazone.

### IV. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. 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 final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any

information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, 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). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

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).

#### V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

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

Dated: December 10, 2010.

**Daniel J. Rosenblatt,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is 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.

##### § 180.430 [Amended]

■ 2. In § 180.430, in the table to paragraph (b), amend the entries for "Grass, forage" and "Grass, hay" by revising the expiration dates "12/31/10" to read "12/31/13."

##### § 180.434 [Amended]

■ 3. In § 180.434, in the table to paragraph (b), amend the entries for "Nectarine" and "Peach" by revising the expiration dates "12/31/10" to read "12/31/13."

##### § 180.449 [Amended]

■ 4. In § 180.449, in the table to paragraph (b), amend the entry for "Bean, lima, seed" by revising the expiration date "12/31/10" to read "12/31/13."

##### § 180.498 [Amended]

■ 5. In § 180.498, in the table to paragraph (b), amend the entries for "Flax, seed" and "Strawberry" by revising the expiration dates "12/31/10" to read "12/31/13."

##### § 180.517 [Amended]

■ 6. In § 180.517, in the table to paragraph (b), amend the entries for "Rutabaga" and "Turnip" by revising the expiration dates "12/31/10" to read "12/31/13."

##### § 180.566 [Amended]

■ 7. In § 180.566, in the table to paragraph (b), amend the entry for "Honey" by revising the expiration date "12/31/10" to read "12/31/13."

##### § 180.572 [Amended]

■ 8. In § 180.572, in the table to paragraph (b), amend the entries for

"Timothy, forage," and "Timothy, hay" by revising the expiration dates "12/31/10" to read "12/31/13."

#### § 180.582 [Amended]

■ 9. In § 180.582, in the table to paragraph (b), amend the entry for "Endive, Belgian" by revising the expiration date "12/31/10" to read "12/31/13."

#### § 180.589 [Amended]

■ 10. In § 180.589, in the table to paragraph (b), amend the entry for "Endive, Belgian" by revising the expiration date "12/31/10" to read "12/31/13."

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2009-0775; FRL-8855-7]

### Flutolanil; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of flutolanil in or on Brassica leafy vegetable group 5 and turnip greens. The Interregional Research Project Number 4 requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 22, 2010. Objections and requests for hearings must be received on or before February 22, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (*see also* Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2009-0775. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (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 in Rm. S-