

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) (Public Law 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).

**XII. 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 24, 2009.

**Lois Rossi,**  
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.

■ 2. In §180.920, the table is amended by adding alphabetically the following inert ingredient to read as follows:

**§ 180.920 Inert Ingredients used pre-harvest; exemptions from the requirement of a tolerance.**

Inert ingredients	Limits	Uses
dibenzylidene sorbitol (32647-67-9)		Thinning agent

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2009-0824; FRL-8801-9]

**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 January 6, 2010. Objections and requests for hearings must be received on or before March 8, 2010, 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-2009-0824. 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
Bifenthrin — § 180.442	Andrea Conrath <a href="mailto:conrath.andrea@epa.gov">conrath.andrea@epa.gov</a> (703) 308-9356
Avermectin — § 180.449	Andrew Ertman <a href="mailto:ertman.andrew@epa.gov">ertman.andrew@epa.gov</a> (703) 308-9367

Pesticide/CFR Citation	Contact Person
Boscalid — § 180.589 Mancozeb — § 180.176 Pendimethalin — § 180.361 Pyraclostrobin — § 180.582 Zoxamide — § 180.567	Stacey Groce <i>groce.stacey@epa.gov</i> (703) 305-505
Dinotefuran — § 180.603	Libby Pemberton <i>pemberton.libby@epa.gov</i> (703) 308-9364

## 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. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 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. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. 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-2009-0824 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before March 8, 2010.

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 that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2009-0824, 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 final rules 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 section 408(l)(6) of 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 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 a subsequent 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 section 408(b)(2) of FFDCA, and decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIRA 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 section 408(l)(6) of FFDCA. 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 section 408(l)(5) of FFDCA, 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 bulb onions for control of thrips in Colorado (40 CFR 180.449(b)). This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer in or on bulb onions at 0.005 parts per million (ppm) for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2012. A time-limited tolerance was originally published in the **Federal Register** of February 7, 2007 (72 FR 5624–5630) (FRL–8110–8).

2. *Bifenthrin*. EPA has authorized under FIFRA section 18 the use of bifenthrin on orchardgrass for control of the orchardgrass billbug in Oregon (40 CFR 180.442(b)). This regulation extends time-limited tolerances for residues of the insecticide bifenthrin, (2-methyl [1,1'-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate, in or on orchardgrass, forage at 2.5 ppm and orchardgrass, hay at 4.5 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2012. Time-limited tolerances were originally published in the **Federal Register** of July 26, 2002 (67 FR 48790) (FRL–7187–8), and revised in the **Federal Register** of June 11, 2008 (73 FR 33018) (FRL–8366–4).

3. *Boscalid*. EPA has authorized under FIFRA section 18 the use of boscalid on Endive, Belgian for control of the fungal pathogen, *Sclerotinia sclerotiorum* in California (40 CFR 180.589(b)). 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 Endive, Belgian at 16 ppm for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2010. A time-limited tolerance was originally published in the **Federal Register** of March 28, 2008 (73 FR 16553–16559) (FRL–8354–4).

4. *Dinotefuran*. EPA has authorized under FIFRA section 18 the use of dinotefuran on rice for control of rice stink bug (*Oebalus pugnax* (F.)) in Texas (40 CFR 180.603(b)). This regulation extends a time-limited tolerance for combined residues of the insecticide dinotefuran, N-methyl-N'-nitro-N''-(tetrahydro-3-furanyl)methylguanidine, and its metabolites DN, 1-methyl-3-(tetrahydro-3-furylmethyl)guanidine, and UF, 1-methyl-3-(tetrahydro-3-furylmethyl)urea, expressed as dinotefuran in or on rice, grain at 2.8 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2012. A time-limited tolerance was

originally published in the **Federal Register** of March 25, 2009 (74 FR 12596–12601) (FRL–8401–5).

5. *Mancozeb*. EPA has authorized under FIFRA section 18 the use of mancozeb on ginseng for control of phytophthora stem and leaf blight in Michigan and Wisconsin (40 CFR 180.176(b)). This regulation extends a time-limited tolerance for combined residues of the fungicide mancozeb (calculated as zinc ethylenebisdithiocarbamate and its metabolite, ethylenethiourea (ETU)), in or on ginseng, root at 2.0 ppm for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2010. A time limited tolerance was originally published in the **Federal Register** of October 9, 1998 (63 FR 54362) (FRL–6029–5).

6. *Pendimethalin*. EPA has authorized under FIFRA section 18 the use of pendimethalin on Bermuda grass for control of common sandbur and other sandbur species (*Cenchrus echinatus*), in Texas and Oklahoma (40 CFR 180.361(b)). This regulation extends time-limited tolerances for combined residues of the herbicide, pendimethalin, N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine, and its metabolite 4-[[1-(ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on Bermuda grass forage and hay at 25 ppm and 60 ppm, respectively, for an additional 1-year period. These tolerances will expire and are revoked on December 31, 2010. Time-limited tolerances were originally published in the **Federal Register** of March 18, 2009 (74 FR 11489–11494) (FRL–8400–1).

7. *Pyraclostrobin*. EPA has authorized under FIFRA section 18 the use of pyraclostrobin on Endive, Belgian for control of the fungal pathogen, *Sclerotinia sclerotiorum* in California (40 CFR 180.582(b)). This regulation extends a time-limited tolerance for combined residues of the fungicide pyraclostrobin (carbamic acid), 2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl methoxy-methyl ester, and its desmethoxy metabolite, methyl-N-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate), expressed as parent compound, in or on Endive, Belgian at 11 ppm for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2010. A time-limited tolerance was originally published in the **Federal Register** of April 23, 2008 (73 FR 21839–21843) (FRL–8359–7).

8. *Zoxamide*. EPA has authorized under FIFRA section 18 the use of zoxamide on ginseng for control of phytophthora stem and leaf blight in Michigan and Wisconsin (40 CFR

180.567(b)). This regulation extends a time-limited tolerance for residues of the fungicide zoxamide, 3, 5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide, in or on ginseng at 0.06 ppm for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2010. A time-limited tolerance was originally published in the **Federal Register** of March 31, 2004 (69 FR 16800) (FRL–7349–3).

### III. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to petitions 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 tolerances 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) (Public Law 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).

#### IV. 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 24, 2009.

**Lois Rossi,**

*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.

#### § 180.176 [Amended]

■ 2. In § 180.176, in the table to paragraph (b), amend the entry for ginseng root by revising the expiration date "12/31/09" to read "12/31/10."

#### § 180.361 [Amended]

■ 3. In § 180.361, in the table to paragraph (b), amend the entry for Bermuda grass, forage, and Bermuda grass, hay by revising the expiration dates "12/31/09" to read "12/31/10."

#### § 180.442 [Amended]

■ 4. In § 180.442, in the table to paragraph (b), amend the entries for orchardgrass, forage and orchardgrass, hay by revising the expiration dates "12/31/09" to read "12/31/12."

#### § 180.449 [Amended]

■ 5. In § 180.449, in the table to paragraph (b), amend the entry for onion, bulb by revising the expiration date "12/31/09" to read "12/31/12."

#### § 180.567 [Amended]

■ 6. In § 180.567, in the table to paragraph (b), amend the entry for ginseng by revising the expiration date "12/31/09" to read "12/31/10."

#### § 180.582 [Amended]

■ 7. In § 180.582, in the table to paragraph (b), amend the entry for Endive, Belgian by revising the expiration date "12/31/09" to read "12/31/10."

#### § 180.589 [Amended]

■ 8. In § 180.589, in the table to paragraph (b), amend the entry for Endive, Belgian by revising the expiration date "12/31/09" to read "12/31/10."

#### § 180.603 [Amended]

■ 9. In § 180.603, in the table to paragraph (b), amend the entry for rice, grain by revising the expiration date "12/31/09" to read "12/31/12."

[FR Doc. E9-31279 Filed 1-5-10; 8:45 am]

**BILLING CODE 6560-50-S**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[EPA-HQ-OPP-2009-0662; FRL-8801-1]

#### Acrylic acid-benzyl methacrylate-1-propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt copolymer; Tolerance Exemption

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of acrylic acid-benzyl methacrylate-1-propanesulfonic

acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt copolymer; when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. Akzo Nobel Surface Chemistry LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of acrylic acid-benzyl methacrylate-1-propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt copolymer on food or feed commodities.

**DATES:** This regulation is effective January 6, 2010. Objections and requests for hearings must be received on or before March 8, 2010, 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-2009-0662. 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:** Alganesh Debesai, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8353; e-mail address: [debesai.alganesh@epa.gov](mailto:debesai.alganesh@epa.gov).

#### 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