

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
<b>Subchapter G: Consumer-Related Sources</b>				
<b>Division 1: Automotive Windshield Washer Fluid</b>				
Section 115.600	Consumer Products Definitions ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.610	Applicability ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.612	Control Requirements ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.613	Alternate Control Requirements ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.615	Testing Requirements ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.616	Recordkeeping and Reporting Requirements.	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.617	Exemptions ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.619	Counties and Compliance Schedules.	01/28/04	02/10/05	[Insert date of FR publication].
<b>Division 2: Portable Fuel Containers</b>				
Section 115.620	Definitions ..	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.621	Applicability ..	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.622	Performance Standards and Testing Requirements.	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.626	Labeling ..	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.627	Exemptions ..	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.629	Affected Counties and Compliance Schedules.	10/27/04	02/10/05	[Insert date of FR publication].

[FR Doc. 05-2616 Filed 2-9-05; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2005-0025; FRL-7690-6]

**Pesticides; Removal of Expired Time-limited Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending 40 CFR part 180 to remove time-limited tolerances for several pesticides that were originally established to support emergency exemptions issued under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These time-limited tolerances are being removed from 40 CFR part 180 because they have since expired. The expired time-limited tolerances are obsolete and therefore unnecessary and are being removed with this final rule to ensure that the regulatory listings of tolerances is properly updated.

**DATES:** This regulation is effective February 10, 2005. Objections and requests for hearings must be received on or before April 11, 2005.

**ADDRESSES:** EPA has established a docket for this action under Docket ID number OPP-2005-0025. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Dan Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington,

DC 20460; telephone number: (703) 308-9366; and e-mail address: [rosenblatt.dan@epa.gov](mailto:rosenblatt.dan@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 pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 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 Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

*C. How Can I Submit an Objection or Request a Hearing Under FFDCA?*

Although section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA), allows any person to file an objection or request a hearing when the Agency issues a final tolerance action under section 408, EPA does not expect that anyone will file an objection or request a hearing for this particular rule because the tolerances being revoked here are obsolete. If, for some reason, anyone wishes to file an objection or request for a hearing under section 408(g), please follow the EPA procedural regulations which govern the submission of objections and requests for hearings that appear in 40 CFR part 178. Note that the period for filing objections is now 60 days, rather than 30 days.

## II. Authority

*A. What is EPA's Authority for Revoking these Tolerances?*

This final rule is issued pursuant to section 408(e) of FFDCA, as amended by the FQPA (21 U.S.C. 346a(e)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a)).

*B. Why is EPA Issuing this as a Final Rule?*

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public

interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the actions taken in this final rule represent technical corrections to the regulations and do not involve substantive Agency action.

The removal of an expired time-limited tolerance from 40 CFR part 180 represents a simple correction of the regulations, and does not involve any substantive Agency action. The expiration date for the time-limited tolerance is set when the Agency issues the final rule that originally establishes, or a subsequent final rule that amends, the specific time-limited tolerance. Once that time-limited tolerance expires, the associated listing in 40 CFR part 180 is obsolete and must be removed to reflect that expiration.

For these reasons, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

## III. Overview of Today's Action

*A. What Action is EPA Taking?*

For each pesticide chemical and commodity combination listed below, EPA previously established a time-limited tolerance, under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170). EPA established the tolerances because section 408(l)(6) of the 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 section 18 of FIFRA. These time-limited tolerances are being removed from 40 CFR part 180 today because they have since expired making these time-limited tolerances obsolete.

*B. Which Time-Limited Tolerances are Obsolete?*

The time-limited tolerances for the following pesticide chemicals on specific commodities are being removed from 40 CFR part 180 because the time-limited tolerances have expired for the pesticide and commodity covered by the time-limited tolerance. Therefore, the time-limited tolerance is obsolete and no longer necessary:

1. *Aluminum tris*. The time-limited tolerance for succulent pea is being removed from § 180.415 because it expired on September 31, 2000.

2. *Azoxystrobin*. Time-limited tolerances for chickpea seed, lychee and pepper are being removed from § 180.507 because they expired on December 31, 2003.

3. *Bifenthrin*. Time-limited tolerances for peanut and potato are being removed from § 180.442 because they expired on or before December 31, 2003.

4. *Bromoxynil*. Time-limited tolerances for timothy hay and forage are being removed from § 180.324 because they expired on June 30, 2003.

5. *Clethodim*. The time-limited tolerances for tall fescue hay and forage are being removed from § 180.458 because they expired on June 30, 2004.

6. *Cymoxanil*. The time-limited tolerance for dried cone hop is being removed from § 180.503 because it expired on December 31, 2003.

7. *Cyprodinil*. The time-limited tolerance for caneberries is being removed from § 180.532 because it expired on December 31, 2003.

8. *Cyfluthrin*. Time-limited tolerances for grape and raisin are being removed from § 180.436 because they expired on June 30, 2003.

9. *Dimethomorph*. Time-limited tolerances for cantaloupe, cucumber, squash, and watermelon are being removed from § 180.493 because they expired on December 31, 2003.

10. *Fluroxypyr 1-methylheptyl ester*. Time-limited tolerances for cattle kidney, goat kidney, grass forage and hay, hog kidney, horse kidney, milk and sheep kidney are being removed from § 180.535 because they expired on December 31, 2004.

11. *Imidacloprid*. Time-limited tolerances for garden beet roots and tops, blueberry, cranberry, prune, and legume vegetable are being removed from § 180.472 because they expired on or before June 30, 2004.

12. *Metolachlor*. Time-limited tolerances for grass forage and hay, spinach, tomato, tomato paste and tomato puree are being removed from § 180.368 because they expired on or before December 31, 2004.

13. *Methoxyfenozide*. Time-limited tolerances for field corn forage, grain and stover and corn oil are being removed from § 180.544 because they expired on December 31, 2003.

14. *Norflurazon*. Time-limited tolerances for Bermuda grass hay and forage are being removed from § 180.356 because they expired on November 30, 2002.

15. *Propamocarb*. Time-limited tolerances for tomato and tomato paste are being removed from § 180.499 because they expired on December 31, 2003.

17. *Pymetrozine*. The time-limited tolerance for pecan is being removed from § 180.556 because it expired on December 31, 2002.

18. *Pyriproxyfen*. The time-limited tolerance for stone fruit (group 12) is being removed from § 180.510 because it expired on December 31, 2002.

19. *Spinosad*. The time-limited tolerance for cranberry is being removed from § 180.495 because it expired on June 30, 2003.

20. *Sulfentrazone*. The time-limited tolerance for chickpea seed is being removed from § 180.498 because it expired on December 31, 2004.

21. *Tebuconazole*. The time-limited tolerance for hops is being removed from § 180.474 because it expired on December 31, 2003.

22. *Tebufenozide*. Time-limited tolerances for egg, grass forage and hay, longan, lychee, peanut, peanut hay, peanut meal, peanut oil, poultry fat, poultry meat, poultry meat byproducts, sunflower seed, foliage of legume vegetable (group 7) and legume vegetable (group 6) are being removed from § 180.482 because they expired on or before December 31, 2003.

23. *Triflumizole*. The time-limited tolerance for filbert is being removed from § 180.476 because it expired on June 30, 2004.

24. *Zinc phosphide*. The time-limited tolerance for wheat aspirated grain fractions is being removed from § 180.284 because it expired on December 31, 2003.

#### IV. Regulatory Assessment Requirements

This final rule removes obsolete time-limited tolerances that were previously established under FFDCA section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted tolerance actions like this revocation from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), or Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see discussion in Unit II.B. of this preamble), it is not subject to the

regulatory flexibility provisions of the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA)(Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal government and States or Indian tribes. As a result, this action does not require any action under Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Nor does it require 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); or Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988). 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). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 et seq.). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996).

#### V. Submission to Congress and the Comptroller General

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, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows

the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated in Unit II.B., EPA has made such a good cause finding for this rule, including the reasons therefor, and established an effective date of February 10, 2005. 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: January 30, 2005.

**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), 346(a) and 371.

#### § 180.284 [Amended]

■ 2. In § 180.284 in the table in paragraph (b), remove the entry for wheat, aspirated grain fractions.

■ 3. In § 180.324, paragraph (b) is removed and reserved as follows:

#### § 180.324 Bromoxynil; tolerances for residues.

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 4. In § 180.356, paragraph (b) is removed and reserved as follows:

#### § 180.356 Norflurazon; tolerances for residues.

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 5. In § 180.368, paragraph (b) is removed and reserved as follows:

**§ 180.368 Metholachlor; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 6. In § 180.415, paragraph (b) is removed and reserved as follows:

**§ 180.415 Aluminum tris (O-ethylphosphate); tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 7. In § 180.436, paragraph (b) is removed and reserved as follows:

**§ 180.436 Cyfluthrin; tolerances for residues**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

**§ 180.442 [Amended]**

■ 8. In § 180.442 in the table in paragraph (b), remove the entries for peanut and potato.

■ 9. In § 180.458, paragraph (b) is removed and reserved as follows:

**§ 180.458 Clethodim; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 10. In § 180.472, the table in paragraph (b) is revised to read as follows:

**§ 180.472 Imidacloprid; tolerances for residues.**

(b) \* \* \*

Commodity	Parts per million	Expiration/revocation date
Almond .....	0.05	12/31/05
Almond, hulls ....	4.0	12/31/05
Soybean, seed ..	1.0	12/31/06

\* \* \* \* \*

**§ 180.474 [Amended]**

■ 11. In § 180.474, in the table in paragraph (b), remove the entry for hop.

■ 12. In § 180.476, paragraph (b) is removed and reserved as follows:

**§ 180.476 Triflumizole; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 13. In § 180.482, the table in paragraph (b) is revised to read as follows:

**§ 180.482 Tebufenozide; tolerances for residues.**

\* \* \* \* \*

(b) \* \* \*

Commodity	Parts per million	Expiration/revocation date
Beet, garden, roots .....	0.3	12/31/05
Beet, garden, tops .....	9.0	12/31/05
Grape .....	3.0	12/31/05
Sweet potato, roots .....	0.25	12/31/05

\* \* \* \* \*

■ 14. In § 180.493, paragraph (b) is removed and reserved as follows:

**§ 180.493 Dimethomorph; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

**§ 180.495 [Amended]**

■ 15. In § 180.495, in the table in paragraph (b), remove the entry for cranberry.

**§ 180.498 [Amended]**

■ 16. In § 180.498, in the table in paragraph (b), remove the entry for chickpea, seed.

■ 17. In § 180.499, paragraph (b) is removed and reserved as follows:

**§ 180.499 Propamocarb hydrochloride; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

■ 18. In § 180.503, paragraph (b) is removed and reserved as follows:

**§ 180.503 Cymoxanil, tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

**§ 180.507 [Amended]**

■ 19. In § 180.507, the table in paragraph (b) is Amended by removing the entries for chickpea, seed; lychee; and pepper.

**§ 180.510 [Amended]**

■ 20. In § 180.510, in the table in paragraph (b), remove the entry for Fruit, stone, group 12.

■ 21. In § 180.532, paragraph (b) is removed and reserved as follows:

**§ 180.532 Cyprodinil; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

**§ 180.535 [Amended]**

■ 22. In § 180.535, in the table in paragraph (b), remove the entries, cattle, kidney; goat, kidney; grass, forage; grass, hay; hog, kidney; horse, kidney; milk and sheep, kidney.

**§ 180.544 [Amended]**

■ 23. In § 180.544, in the table in paragraph (b), remove the entries, corn, field, forage; corn, field, grain; corn, field, stover; and corn, oil.

■ 24. In § 180.556, paragraph (b) is removed and reserved as follows:

**§ 180.556 Pymetrisone; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.*  
[Reserved]

\* \* \* \* \*

[FR Doc. 05–2614 Filed 2–9–05; 8:45 a.m.]

BILLING CODE 6560–50–S

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Part 214**

[Docket No. FRA–2001–10426]

RIN 2130–AA48

**Railroad Workplace Safety**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Interim final rule.

**SUMMARY:** FRA is amending regulations on Railroad Workplace Safety to clarify an ambiguous provision concerning the circumstances under which life vests or buoyant work vests are required for bridge workers working over water.

**DATES:** *Effective Date:* This rule becomes effective April 11, 2005.

*Written Comments:* Written comments must be received no later than March 28, 2005. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

**ADDRESSES:** You may submit comments, identified by DOT DMS Docket Number FRA–2001–10426, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the