

180.570. Seasonal application rates are not necessary when numerical tolerances are already established.

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm to the general population, including infants and children, from aggregate exposure to residues of isoxadifen-ethyl and its metabolite. Accordingly, EPA finds that the tolerances described above for residues of isoxadifen-ethyl and its metabolite will be safe. EPA is establishing tolerances for residues of isoxadifen-ethyl and its metabolite when it is used as an inert ingredient safener in pesticide formulations.

**IV. Statutory and Executive Order Reviews**

This final rule establishes a tolerance exemption 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 rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *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 6, 2000) do not apply to this rule. In addition, This 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).

**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: November 5, 2007.

**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. Section 180.570 is amended by revising paragraph (a) to read as follows:

**§ 180.570 Isoxadifen-ethyl; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of isoxadifen-ethyl (ethyl 5,5-diphenyl-2-isoxazoline-3-carboxylate, (CAS No. 163520-33-0), and its metabolite: 4,5-dihydro-5,5-diphenyl-3-isoxazolecarboxylic acid, when used as an inert ingredient (safener) in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field, grain .....	0.08
Corn, field, forage .....	0.20
Corn, field, stover .....	0.40
Corn, oil .....	0.50
Corn, pop, grain .....	0.04
Corn, pop, stover .....	0.25
Corn, sweet, forage .....	0.30
Corn, sweet, kernel plus cob with husk removed .....	0.04
Corn, sweet, stover .....	0.45

(2) Tolerances are established for the residues of isoxadifen-ethyl (3-isoxazolecarboxylic acid, 4,5-dihydro-5,5-diphenyl-, ethyl ester (CAS No. 164520-33-0)), and its metabolites 4,5-dihydro-5,5-diphenyl-3-isoxazolecarboxylic acid and β-hydroxy-β-benzenepropanenitrile when used as an inert ingredient (safener) in or on the following raw agricultural commodities:

Commodity	Parts per million
Rice, grain .....	0.10
Rice, hulls .....	0.50
Rice, straw .....	0.25

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**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2005-0119; FRL-8156-8]

**Cyprodinil; Time-Limited Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for residues of cyprodinil in or on onion, dry bulb; onion, green; and strawberry. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The tolerances will expire on December 31, 2009.

**DATES:** This regulation is effective November 14, 2007. Objections and requests for hearings must be received on or before January 14, 2008, 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-2005-0119. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in 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 either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP 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:** Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@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 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 Access Electronic Copies of this Document?*

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

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

Under section 408(g) of FFDCA, as amended by FQPA, 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-2005-0119 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 January 14, 2008.

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-2005-0119, 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'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**

In the **Federal Register** of September 28, 2007 (72 FR 55204-55207) (FRL-8147-1), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E5012) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635. The petition requested that 40 CFR 180.532 be amended by extending the time-limited tolerances to December 31, 2009 for residues of the fungicide cyprodinol, 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamine, in or on onion, dry bulb at 0.60 parts per million (ppm); onion, green at 4.0 ppm; and strawberry at 5.0 ppm. This notice referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available to the public in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see <http://www.epa.gov/pesticides/factsheets/riskassess.htm>.

### III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of cyprodinil on onion, dry bulb at 0.60 ppm; onion, green at 4.0 ppm; and strawberry at 5.0 ppm.

In the **Federal Register** of October 20, 2004 (69 FR 61599-61605, FRL-7682-1) the Agency published a Final rule establishing tolerances for residues of cyprodinil in or on almond, hulls; bean, dry; bean, succulent; and leafy greens subgroup 4A, except spinach. When the Agency conducted the risk assessments in support of this tolerance action it assumed that cyprodinil residues would be present on dry bulb onion, green onion and strawberry as well as on all foods covered by the proposed and established tolerances. Residues on dry bulb onion, green onion and strawberry were included because there were existing time-limited tolerances for these commodities. Therefore, extending the dry bulb onion, green onion and strawberry tolerances will not change the most recent estimated aggregate risks resulting from use of cyprodinil, as discussed in the October 20, 2004 **Federal Register**, cited above. Refer to the October 20, 2004 **Federal Register** document, cited above, for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon those risk assessments and the findings made in the **Federal Register** document in support of this action.

Based on the risk assessment discussed in the final rule published in the **Federal Register** of October 20, 2004, cited above, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyprodinil residues.

### IV. Other Considerations

#### A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography (HPLC)/ultra-violet (UV) Method AG-631B) is available to enforce the tolerance expression. The method is substantially identical to earlier methods (Methods AG-631, AG-631A and REM 141.01) that have been adequately validated by independent laboratories and the Agency. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

#### B. International Residue Limits

Codex maximum residue limits (MRLs) have been established for residues of cyprodinil in or on strawberries at 2 ppm and dry bulb onions at 0.3 ppm. The Codex MRLs are lower than the time-limited tolerances in the United States (5.0 ppm on strawberry and 0.6 ppm on dry bulb onions) in part because of differences in use patterns here and in Europe. The U.S. tolerances are based on higher seasonal application rates and/or shorter pre-harvest intervals. The higher U.S. tolerances also reflect uncertainties in the submitted field trial data for these crops. To address these uncertainties, EPA required additional field trials on strawberries and onions as a condition of registration. The new field trials have been submitted and are undergoing review at the Agency. In its decision regarding permanent tolerances for strawberry and dry bulb onions, EPA will consider international residue limits, including Codex MRLs, and make every effort to harmonize if possible.

### V. Conclusion

Therefore, these tolerances are extended for residues of cyprodinil, 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamine, in or on onion, dry bulb at 0.6 ppm; onion, green at 4.0 ppm; and strawberry at 5.0 ppm.

### VI. 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 rule has been exempted from review under

Executive Order 12866, this rule is not subject to Executive Order 13211, *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 6, 2000) do not apply to this rule. In addition, This 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).

**VII. 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: November 2, 2007.

**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.

■ 2. Section 180.532 is amended by revising the table in paragraph (a)(2) to read as follows:

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

- (a) \* \* \*
- (2) \* \* \*

Commodity	Parts per million	Expiration/revocation date
Onion, bulb .....	0.60	12/31/09
Onion, green .....	4.0	12/31/09
Strawberry .....	5.0	12/31/09

\* \* \* \* \*

[FR Doc. E7-22233 Filed 11-13-07; 8:45 am]

**BILLING CODE 6560-50-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 070709299-7300-01]

**RIN 0648-AV75**

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Temporary Haddock Size Limit Extension**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; emergency action extended, and request for comments.

**SUMMARY:** NMFS continues the haddock minimum size implemented by an August 10, 2007, emergency final rule that is set to expire on February 6, 2008. Specifically, this temporary rule continues the commercial minimum haddock size of 18 inches (45.7 cm) that was reduced from the previous minimum size of 19 inches (48.3 cm). This action is taken pursuant to NOAA's authority to issue emergency measures under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The intent of this extension is to continue measures intended to reduce regulatory discards of Georges Bank (GB) and Gulf of Maine (GOM) haddock to prevent excessive waste and comply with the goals of reducing discards and maintaining the rebuilding programs of the Northeast (NE) Multispecies Fishery Management Plan (FMP), while helping to achieve optimum yield at the same time. This action is intended to reduce discarding and maintain consistency with the FMP and the Magnuson-Stevens Act.

**DATES:** The expiration date of the emergency rule published August 10, 2007 (72 FR 44979), is extended to August 10, 2008. NMFS will accept comments through December 14, 2007.

**ADDRESSES:** You may submit comments, identified by 0648-AV75, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-rulemaking Portal.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Haddock Size Limit Extension."

- Fax: (978) 281-9135.

Instructions: All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publically accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Warren, Fishery Policy Analyst, (978) 281-9347, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

**Background**

This temporary final rule extends the emergency commercial minimum haddock size of 18 inches (45 cm), authorized by section 305(c) of the Magnuson-Stevens Act, in order to reduce excessive discarding of GB and GOM haddock. The historical commercial haddock minimum size of 19 inches (48.3 cm) was reduced by temporary emergency action to 18 inches (45 cm) on August 10, 2007 (72 FR 44979). That Secretarial action was taken in response to the New England Fishery Management Council (Council) vote on June 21, 2007, to recommend that the Secretary of Commerce take action to lower the minimum size of haddock to 17 inches (43.2 cm) for vessels fishing on GB. A written request from the Council to NMFS for such action was dated June 25, 2007.

Available information from the Council and data from observed trips to the Eastern U.S./Canada Area indicated that there were large amounts of discarding of haddock occurring because only a small fraction of the haddock from an exceptionally large year class being caught on GB has reached the minimum size of 19 inches (48.3 cm). Observer data showed a discard-to-kept ratio of over 1 lb (0.45 kg) of haddock discarded to every pound of haddock landed. Cumulative haddock discards from the Eastern U.S./Canada Area from May 1, 2007, through October 24, 2007, were estimated at approximately 700,000 lb (318 mt).

The reason for these large amounts of discards is that the very large 2003 year class of haddock, which is the largest since 1963, is growing more slowly than previously anticipated. Recent survey data indicate an average GB haddock