

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

[EPA-HQ-OPP-2024-0413; FRL-12300-01-OCSPP]

**Extension of Time-Limited Tolerances for Emergency Exemptions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for residues of the pesticides sodium salt of acifluorfen in or on Beet, sugar, roots and Beet, sugar, leaves; thiamethoxam in or on Rice, grain and Rice, straw; and clothianidin in or on Rice, grain. These actions are in response to EPA's granting of emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. In addition, 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 October 25, 2024. Objections and requests for hearings must be received on or before December 24, 2024 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:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2024-0413, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Charles Smith, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: [RDfrNotices@epa.gov](mailto:RDfrNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*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 Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.

*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-2024-0413, 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 December 24, 2024. 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 (excluding any Confidential Business Information (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 the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2024-0413, by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting

comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

**II. Background and Statutory Findings**

EPA previously published final rules in the **Federal Register** establishing time-limited tolerances for the chemicals and commodities listed below, under FFDCA section 408, 21 U.S.C. 346a. 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 at EPA's own initiative and without providing notice or time for public comment.

EPA received requests to extend the emergency uses of the sodium salt of acifluorfen and thiamethoxam for this year's growing season. The use of thiamethoxam may also result in residues of its major metabolite, clothianidin, which is measured and regulated separately. The estimated potential residue level of clothianidin in or on rice grain from the emergency exemption use of thiamethoxam is higher, at 0.5 ppm, than the tolerance established at 40 CFR 180.586(a) of 0.01 ppm in or on rice grain, associated with a different registered use pattern. Therefore, a time-limited tolerance (associated with this emergency exemption use of thiamethoxam) was previously established at 0.5 ppm in or on rice grain at 40 CFR 180.586(b). After having reviewed these submissions, EPA concurs that emergency conditions continue to exist. EPA assessed the potential risks presented by residues for each chemical in or on the listed commodities. 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 were discussed in the final rules originally establishing the time-limited tolerances. Based on the data and information considered, the Agency affirms 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 December 31, 2027. Although these tolerances will expire and are revoked on December 31, 2027, under FFDCA section 408(l)(5), residues of the pesticides not in excess of the amounts specified in the tolerances remaining in or on the commodities after that date will not be unlawful, provided the residues are 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 residues do not exceed the level that was authorized by the tolerance. EPA will take action to revoke the tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Time-limited tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

**Sodium salt of acifluorfen.** Pursuant to requests by the Michigan, Minnesota, and North Dakota Departments of Agriculture, EPA has authorized under FIFRA section 18 the use of the sodium salt of acifluorfen on sugar beets for control of glyphosate-resistant pigweed species, Palmer amaranth and waterhemp, in their respective States. This regulation extends the time-limited tolerances for residues of the herbicide sodium salt of acifluorfen, including its metabolites and degradates, in or on Beet, sugar, roots at 0.1 parts per million (ppm), and Beet, sugar, leaves at 0.1 ppm, for an additional 3-year period. The tolerances will expire and are revoked on December 31, 2027. The time-limited tolerances were originally published in the **Federal Register** of March 31, 2022 (87 FR 18717) (FRL–9657–01–OCSPP).

**Thiamethoxam.** Pursuant to a request from the Texas Department of Agriculture, EPA has authorized under FIFRA section 18 the use of thiamethoxam on rice for control of the rice delphacid in Texas. This regulation extends the time-limited tolerances for residues of thiamethoxam, including its metabolites and degradates, in or on Rice, grain at 6 ppm, and Rice, straw at 2 ppm, for an additional 3-year period. The tolerances will expire and are

revoked on December 31, 2027. The time-limited tolerances were originally published in the **Federal Register** of October 7, 2019 (84 FR 53326) (FRL–9996–14).

**Clothianidin.** Pursuant to a request from the Texas Department of Agriculture, EPA has authorized under FIFRA section 18 the use of thiamethoxam on rice for control of the rice delphacid in Texas. Residues of clothianidin, a major metabolite of thiamethoxam, could occur in rice grain as a result of this use, and a separate time-limited tolerance was established. This regulation extends the time-limited tolerance for residues of clothianidin in or on Rice, grain at 0.5 ppm for an additional 3-year period. The tolerance will expire and is revoked on December 31, 2027. The time-limited tolerance was originally published in the **Federal Register** of October 7, 2019 (84 FR 53331) (FRL–9996–15).

### 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 United Nations 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 MRLs for sodium salt of acifluorfen.

The Codex established MRLs for thiamethoxam on rice commodities on February 6, 2023. Since these were not in place when EPA established the subject time-limited tolerances, there were no issues with harmonization at that time (October 7, 2019). However, the Codex and EPA residue definitions for thiamethoxam are different. EPA's definition is for thiamethoxam plus its metabolite (CGA–322704), while the Codex definition is for thiamethoxam only. Additionally, the Codex MRLs are based upon a different use pattern than that for the emergency exemption use in the U.S. Therefore, because of these differences, it is not possible to harmonize the time-limited tolerances

for thiamethoxam with the Codex MRLs. Since EPA has determined these time-limited tolerances are safe, EPA is extending the expiration dates for these time-limited tolerances despite the lack of harmonization with the related Codex MRLs.

For clothianidin, the time-limited tolerance of 0.5 ppm in or on Rice, grain is consistent and harmonized with the existing Codex MRL of 0.5 ppm.

### IV. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(e) at EPA's own initiative to support use authorized under emergency exemptions. 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 action has been exempted from review under Executive Order 12866, this action 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 action 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 time-limited tolerances and exemptions that are established under FFDCA section 408(e) at EPA's own initiative to support use authorized under emergency exemptions, 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 action 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 FFDCA section 408(n)(4). 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 action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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 (NTTAA) (15 U.S.C. 272 note).

**V. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA has submitted 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 the rule in the **Federal Register**. This action 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: October 21, 2024.

**Charles Smith,**

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

Therefore, for reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

**PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.383, in paragraph (b), by revising table 2 to read as follows:

**§ 180.83 Sodium salt of acifluorfen; tolerances for residues.**

\* \* \* \* \*  
(b) \* \* \*

TABLE 2 TO PARAGRAPH (b)

Commodity	Parts per million	Expiration date
Beet, sugar, roots .....	0.1	12/31/2027
Beet, sugar, leaves .....	0.1	12/31/2027

\* \* \* \* \*

■ 3. Amend § 180.565, in paragraph (b), by revising the table to read as follows:

**§ 180.565 Thiamethoxam; tolerances for residues.**

\* \* \* \* \*

(b) \* \* \*

TABLE 2 TO PARAGRAPH (b)

Commodity	Parts per million	Expiration date
Rice, grain .....	6	12/31/2027
Rice, straw .....	2	12/31/2027

\* \* \* \* \*

■ 4. Amend § 180.586, in table 3 to paragraph (b), by revising the entry for “Rice, grain” to read as follows:

**§ 180.586 Clothianidin; tolerances for residues.**

\* \* \* \* \*  
(b) \* \* \*

TABLE 3 TO PARAGRAPH (b)

Commodity	Parts per million	Expiration date
* * * * * Rice, grain .....	0.5	12/31/2027

\* \* \* \* \*