EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–7430	Presumptive reasonably available control technology guidelines for stationary sources of nitrogen oxides.	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7440	Standard for visible emissions	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7450	Standard for fugitive dust/emissions	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7480	Compliance	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7490	Test methods and procedures	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7500	Monitoring	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7510	Notification	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7520	Registration	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7530	Facility and control equipment maintenance or malfunction.	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation.
5–40–7540	Permits	12/15/06	1/19/11 [Insert page number where the document begins].	Added Regulation

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[FR Doc. 2011–484 Filed 1–18–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0032; FRL–8859–3]

Fluazinam; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluazinam in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective January 19, 2011. Objections and requests for hearings must be received on or before March 21, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (*see also* Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0032. 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: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; e-mail address: *nollen.laura@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 those engaged in the following activities:

- 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 to provide 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 EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0032 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 21, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2009–0032, 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. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 19, 2009 (74 FR 41898) (FRL–8426–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of two pesticide petitions: PP 9E7570 by Interregional Research Project Number 4 (IR–4), 500 College Rd. East, Suite 201 W, Princeton, NJ 08540; and PP 9F7571 by ISK Biosciences Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44077. PP 9E7570 requested that 40 CFR 180.574 be amended by establishing tolerances for residues of the fungicide fluazinam, (3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine), in or on carrot, root at 0.8 parts per million (ppm). PP 9F7571 requested that 40 CFR 180.574 be amended by establishing tolerances for residues of the fungicide fluazinam and the metabolite AMGT, (3-[[4-amino-3-[[3-chloro-5-(trifloromethyl)-2-pyridinyl]amino]-2-nitro-6-(trifluoromethyl) phenyl] thio]-2-(beta-D-glucopyranosyloxy) propionic acid), in or on the raw agricultural commodity apple at 1.7 ppm and wet apple pomace at 5.0 ppm, and by establishing tolerances for the combined residues of fluazinam and its metabolites, DAPA and AMPA, in the following animal tissues and meat byproducts at 0.03 ppm: Cattle, fat; cattle, kidney; cattle, liver; cattle, meat; cattle, meat byproducts; goat, fat; goat, kidney; goat, liver; goat, meat; goat, meat byproducts; horse, fat; horse, kidney; horse, liver; horse, meat; horse, meat byproducts; milk; sheep, fat; sheep, kidney; sheep, liver; sheep, meat; and sheep, meat byproducts. PP 9E7570 referenced a summary of the petition prepared on behalf of IR–4 by ISK Biosciences, the registrant; PP 9F7571 referenced a summary of the petition prepared by the registrant, ISK Biosciences. Petition summaries are available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notices of filing.

Based upon review of the data supporting the petition, EPA has revised several proposed tolerances and has determined that several other proposed tolerances are not necessary. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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."

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in 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 for fluazinam including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fluazinam follows.

In the **Federal Register** of May 12, 2010 (75 FR 26662) (FRL–8824–5), EPA published a Final Rule establishing tolerances for residues of the fungicide fluazinam in or on bushberry subgroup 13–07B at 7.0 pm; lettuce, head at 0.02 ppm; lettuce, leaf at 2.0 ppm; and onion, bulb, subgroup 3–07A at 0.20 ppm,

associated with PP 8E7506. When the Agency conducted the risk assessment in support of the May 12, 2010 tolerance action, it considered the use of fluazinam in or on carrot, root (PP 9E7570), apples and wet apple pomace (PP 9F7571), and fluazinam and its metabolites AMPA and DAPA in the following animal tissues and meat byproducts: Cattle, fat; cattle, kidney; cattle, liver; cattle, meat; cattle, meat byproducts; goat, fat; goat, kidney; goat, liver; goat, meat; goat, meat byproducts; horse, fat; horse, kidney; horse, liver; horse, meat; horse, meat byproducts; milk; sheep, fat; sheep, kidney; sheep, liver; sheep, meat; and sheep, meat byproducts (PP 9F7571). However, because of data deficiencies identified during the course of review, EPA was not able to recommend in favor of the tolerances associated with PP 9E7570 and PP 9F7571. The deficiencies related to an apple processing study, a cattle feeding study, and the analytical method for the metabolites AMPA and DAPA in fat, liver, and kidney.

In response to the noted data deficiencies, the registrant provided additional data for the apple processing study and a rebuttal to the cattle feeding study; after further review, EPA has determined that these studies are now acceptable. Additionally, in response to the analytical method data deficiency, the registrant submitted a revised analytical method and independent laboratory validation, which EPA has concluded is adequate as an enforcement method for residues of fluazinam, AMPA, and DAPA and their sulfamate conjugates in kidney, liver, and fat. Detailed considerations regarding EPA's resolution of these data deficiencies are discussed in the document, "Fluazinam, Petitions for the Establishment of Tolerances and Registration of New Uses on Apples and Carrots. HED's Conclusions Regarding Registrant's Response to Data Deficiencies" which is available at *http://regulations.gov* in docket EPA–HQ–OPP–2009–0032.

Since EPA considered the additional uses proposed by PP 9E7570 and PP 9F7571 in its most recent risk assessments, establishing tolerances on these commodities will not change the estimated aggregate risks resulting from use of fluazinam, as discussed in the May 12, 2010 (75 FR 26662) (FRL–8824–5) **Federal Register**. Therefore, 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 fluazinam residues. Refer to the May 12, 2010 **Federal Register** document, available at *http://www.regulations.gov,* 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.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement methodology, gas chromatography with electron capture detection (GC/ECD), is available to enforce the tolerance expression for plant commodities. For livestock commodities, an adequate enforcement method, liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS), is available to enforce the tolerance expression for residues of fluazinam, AMPA, and DAPA and their sulfamate conjugates in bovine liver, fat, and milk.

The methods 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.*

B. International Residue Limits

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

The Codex has not established MRLs for fluazinam in or on apple or carrot. However, these tolerance petitions have been evaluated as a joint review with Canada, and the United States and Canada have agreed that the appropriate tolerance levels for carrot, roots is 0.70 ppm and apple is 2.0 ppm.

C. Revisions to Petitioned-For Tolerances

Based on analysis of the data supporting the petitions, EPA has revised the proposed tolerances in or on carrot, roots from 0.8 ppm to 0.70 ppm; apples from 1.7 ppm to 2.0 ppm; and the following proposed tolerances from 0.03 ppm to 0.05 ppm: Cattle, fat; cattle, meat byproducts; goat, fat; goat, meat byproducts; horse, fat; horse, meat byproducts; sheep, fat; and sheep, meat byproducts. EPA revised these tolerance levels based on analysis of the residue data using the Agency's Tolerance Spreadsheet in accordance with the Agency's "Guidance for Setting Pesticide Tolerances Based on Field Trial Data."

Additionally, based on the results of an animal feeding study and the calculated dietary burden for dairy cattle, EPA has determined that the proposed tolerances of 0.03 ppm for the meat of cattle, goat, horse, and sheep are not necessary. The Agency has further determined that the proposed tolerances of 0.03 ppm for the liver and kidney of cattle, goat, horse, and sheep are not necessary because tolerances are being established for meat byproducts of cattle, goat, horse, and sheep; EPA previously determined that individual tolerances are not needed for liver and kidney when a tolerance is being established for meat byproducts.

V. Conclusion

Therefore, tolerances are established for residues of fluazinam, (3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine), in or on carrot, roots at 0.70 ppm; apple at 2.0 ppm; apple, wet pomace at 5.0 ppm; and tolerances are established for residues of fluazinam and its metabolites AMPA and DAPA in or on cattle, fat at 0.05 ppm; cattle, meat byproducts at 0.05 ppm; goat, fat at 0.05 ppm; goat, meat byproducts at 0.05 ppm; horse, fat at 0.05 ppm; horse, meat byproducts at 0.05 ppm; sheep, fat at 0.05 ppm; and sheep, meat byproducts at 0.05 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety*

Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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: January 7, 2011.

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 180.574 is amended by alphabetically adding the following commodities to the table in paragraph (a)(1), and by adding paragraph (a)(3) to read as follows:

§ 180.574 Fluazinam; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Apple	2.0
Apple, wet pomace	5.0
* * * * *	
Carrot, roots	0.70
* * * * *	

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(3) Tolerances are established for residues of fluazinam (3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine), including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only fluazinam, AMPA (2-(6-amino-3-chloro-α,α,α-trifluoro-2-nitro-p-toluidino)-3-chloro-5-(trifluoromethyl) pyridine), DAPA (3-chloro-2-(2,6-diamino-3-chloro-α,α,α.-trifluoro-p-toluidino)-5-(trifluoromethyl)pyridine), and their sulfamate conjugates.

Commodity	Parts per million
Cattle, fat	0.05
Cattle, meat byproducts	0.05
Goat, fat	0.05
Goat, meat byproducts	0.05
Horse, fat	0.05
Horse, meat byproducts	0.05
Sheep, fat	0.05
Sheep, meat byproducts	0.05

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[FR Doc. 2011–1019 Filed 1–18–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2008–0001; 92220–1113–0000–C6]

RIN 1018–AU67

Endangered and Threatened Wildlife and Plants; Removal of *Erigeron maguirei* (Maguire Daisy) From the Federal List of Endangered and Threatened Plants; Availability of Final Post-Delisting Monitoring Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service/USFWS), are removing the plant *Erigeron maguirei* (commonly referred to as Maguire daisy) from the List of Endangered and Threatened Plants. The best scientific and commercial data available indicate that this species has recovered and no longer meets the definition of endangered or threatened under the Endangered Species Act of 1973, as amended (ESA). Our review of the status of this species shows that populations are stable, threats are addressed, and adequate regulatory mechanisms are in place so that the species is not currently, and is not likely to again become, an endangered species within the foreseeable future in all or a significant portion of its range. Finally, we announce the availability of the final post-delisting monitoring plan for Maguire daisy.

DATES: This rule becomes effective on February 18, 2011.

ADDRESSES: Copies of the final post-delisting monitoring plan are available by request from the Utah Field Office (*see* **FOR FURTHER INFORMATION CONTACT**) or online at: *http://www.fws.gov/mountain-prairie/species/plants/*