

[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide) in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/revocation date
Apple	0.25	05/01/2010
Apple, wet pomace	0.60	05/01/2010
Celery	7.0	05/01/2010
Cucumber	0.10	05/01/2010
Lettuce, head	4.0	05/01/2010
Lettuce, leaf	8.0	05/01/2010
Pear	0.30	05/01/2010
Pepper	0.50	05/01/2010
Spinach	13.0	05/01/2010
Squash	0.40	05/01/2010
Tomato	0.30	05/01/2010
Watermelon	0.20	05/01/2010

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

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.*
[Reserved]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2006-0995; FRL-8120-2]

Pendimethalin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of pendimethalin and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on beans; beans, forage; beans, hay; and peas (except field peas) to replace the current tolerances for bean, lima, seed; bean, lima, succulent; bean, forage; bean, hay; and pea, succulent. BASF Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 16, 2007. Objections and requests for hearings must be received on or before July 16, 2007, 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-2006-0995. 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](http://www.regulations.gov) web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](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 telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Philip V. Errico, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6663; e-mail address: errico.philip@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), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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 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 EPA's tolerance regulations at 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 the FFDCA, 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-2006-0995 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 as required by 40 CFR part 178 on or before July 16, 2007.

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 this copy, identified by docket ID number EPA-HQ-OPP-2006-0995, 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 telephone number is (703) 305-5805.

II. Petition for Tolerance

In the **Federal Register** of January 24, 2007 (72 FR 3130) (FRL-8109-7), 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 6F7149) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528. The petition requested that 40 CFR 180.361 be amended by establishing a tolerance for combined residues of the herbicide, pendimethalin [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzamine] and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on beans; beans, forage; beans, hay; and peas (except field peas) each at 0.1 parts per million (ppm). That notice referenced a summary of the petition prepared by BASF Corporation, 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.

These proposed tolerances seek to correct an inadvertent error made by EPA in 2001 when EPA amended the pendimethalin beans and peas tolerances following completion of the pendimethalin reregistration eligibility determination under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*, and FFDCA tolerance reassessment. (66 FR 63192, December 5, 2001). In an attempt to clarify the coverage of the then existing beans and peas tolerances, EPA mistakenly narrowed the scope of the existing tolerances. This action re-establishes the beans and peas tolerances with the same coverage that pre-dated the 2001 amendments and using the terms originally recommended by the tolerance reassessment decision. Specifically, the proposed amendments to the pendimethalin tolerance would replace the current tolerances for bean, lima, seed; bean, lima, succulent; bean, forage; bean, hay; with tolerances for beans; beans, forage; beans, hay and the current tolerance for pea, succulent with a tolerance for peas (except field peas). The terms beans and peas are defined under 40 CFR 180.1(g) to encompass bean and pea commodities not covered by the current tolerances.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the 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 the 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 the 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. . . ." These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in section 408(b)(2)(D), 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 the petitioned-for tolerance for combined residues of pendimethalin and its metabolite on beans; beans, forage; beans, hay; and peas (except field peas) each at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by pendimethalin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov>. The referenced document is available in the docket established by this action, which is

described under **ADDRESSES**, and is identified as EPA-HQ-OPP-2006-0995 in that docket.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm>.

A summary of the toxicological endpoints for pendimethalin used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 12, 2006 (71 FR 18628) (FRL-7770-4).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pendimethalin, EPA considered exposure under the petition for tolerances as well as all existing pendimethalin tolerances in (40 CFR 180.361). EPA assessed dietary exposures from pendimethalin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for pendimethalin; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer.* Pendimethalin is classified "Group C", possible human carcinogen, chemical based on a statistically significant increased trend and pair-wise comparison between the high dose group and controls for thyroid follicular cell adenomas in male and female rats. The Agency used a non-quantitative approach (i.e., non-linear, RfD approach) since mode of action studies are available that demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance, and also since pendimethalin was shown to be non-mutagenic in mammalian somatic cells and germ. The chronic risk assessment is considered to be protective of any cancer effects; therefore, a separate quantitative cancer aggregate risk assessment is not required.

iv. *Anticipated residue and percent crop treated (PCT) information.* Tolerance level residues were assumed for all food commodities with current and proposed pendimethalin tolerances, and it was assumed that all of the crops included in the analysis were treated (i.e. 100% crop treated).

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for pendimethalin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of pendimethalin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <http://www.epa.gov/oppfed1/models/water/index.htm>.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling

System (PRZM/EXAMS) and Screening Concentrations in Groundwater (SCI-GROW) models, the estimated environmental concentrations (EECs) of pendimethalin for peak exposures are estimated to be 39 parts per billion (ppb) for surface water and 0.024 ppb for ground water. The EECs for chronic exposures are estimated to be 4.8 ppb for surface water and 0.024 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 39 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pendimethalin is currently registered for the following residential non-dietary sites: Landscape, grounds plantings, ornamental crops, turf grass, and lawns. EPA assessed residential exposure using the following assumptions: Exposures are short-term in duration, and consist of dermal (for adults and children), and oral (hand-to-mouth, object-to-mouth, and soil ingestion, for children only). The Agency combines risk values resulting from separate exposure scenarios when it is likely they can occur simultaneously, based on the use-pattern and the behavior associated with the exposed population. The LOC for oral, dermal and inhalation exposure is an MOE of less than 300. The residential exposure estimate for adults, consisting of dermal exposure only, results in a total MOE of 740, and is therefore not of concern. The residential exposure for children results in a total MOE (dermal + oral) of 410 at an application rate of 2 lb ai/acre, and an MOE of 400 for an application rate of 3 lb ai/acre. Residential aggregate exposure is not of concern.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to

pendimethalin and any other substances and pendimethalin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pendimethalin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <http://www.epa.gov/pesticides/cumulative>.

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional (10X) tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* The database for pendimethalin does not indicate a potential for increased toxicological sensitivity from either prenatal or postnatal exposures.

3. *Conclusion.* In September 2006 we said the following: There was no evidence of qualitative or quantitative susceptibility in the submitted data. Additionally, exposure estimates are based on very conservative data and assumptions that will overstate exposure to pendimethalin. There is, however, a concern that perturbation of thyroid homeostasis may lead to hypothyroidism, and possibly result in adverse effects on the developing nervous system. Since thyroid toxicity parameters were not measured in the developmental toxicity studies, the Agency has requested a developmental thyroid assay be conducted to evaluate the impact of pendimethalin on thyroid hormones, structure, and/or thyroid hormone homeostasis during development. The Agency has retained the additional 10X FQPA safety factor in the form of a database uncertainty factor (UF[DB]) for the lack of the study, to be

applied in determining pendimethalin risks.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk.* No toxic effects attributable to a single dose were identified for pendimethalin. Therefore, an acute risk assessment is not warranted for this chemical.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pendimethalin from food and water will utilize 26% of the cPAD for the population group children 1-2. Based on the use pattern, chronic residential exposure to residues of pendimethalin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pendimethalin is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for pendimethalin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, water, and residential exposures aggregated result in aggregate MOEs of 580 for adult males, 520 for adult females, 310 for children for an application rate of 2 lbs ai/acre to residential turf, and 300 for children for an application rate of 3 lbs ai/acre to residential turf.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Based on currently requested uses, there are no scenarios that are likely to result in intermediate-term exposure (30 to 180 days, continuous). Therefore, an intermediate-

term risk assessment was not conducted.

5. *Aggregate cancer risk for U.S. population.* The Agency classifies pendimethalin as a "Group C" (possible human) carcinogen based on thyroid follicular cell adenomas in rats. A non-quantitative approach, non-linear RfD approach is used to assess the cancer risk using a chronic assessment, which is considered protective of any cancer effects: Because exposure to pendimethalin does not exceed the chronic RfD, pendimethalin is not expected to pose a cancer risk.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pendimethalin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Enforcement analytical methods using gas chromatography and an electron capture detector are available in the Pesticide Analytical Manual, Volume II.

B. International Residue Limits

There are no established or proposed Codex Maximum Residue Levels (MRLs) for pendimethalin residues. Therefore, there are no questions of compatibility with respect to Codex MRLs and U.S. tolerances.

C. Response to Comments

There were no responses to the Notice of Filing for the requested tolerance in beans and peas.

V. Conclusion

Therefore, the tolerance is established for combined residues of 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 beans; beans, forage; beans, hay; and peas (except field peas) all at 0.1 ppm each.

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: May 8, 2007.

Donald R. Stubbs,

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 180.361 is amended by revising the tolerances for “Bean, lima, seed”; “Bean, lima, succulent”; “Bean, forage”; “Bean, hay”; and “Pea, succulent”, which will be revoked due to an administrative error, with the entries to the table in paragraph (a) to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Beans	0.10
Beans, forage	0.10
Beans, hay	0.10
* * *	* *
Peas (except field peas)	0.10
* * *	* *

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[FR Doc. E7-9428 Filed 5-15-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2007-0160; FRL-8130-6]

Aspergillus flavus NRRL 21882 on Corn; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the *Aspergillus flavus* NRRL 21882 on corn when applied aerially once per season at the first sign of corn tasseling to reduce aflatoxin-producing *Aspergillus flavus*. Acta Group, 1203 Nineteenth St., NW., Suite 300, Washington, DC 20036-2401 on behalf of Circle One Global, Inc. One Arthur St. P.O. Box 28, Shellman, GA 39886-0028 submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Aspergillus flavus* NRRL 21882. The temporary tolerance exemption expires on May 2, 2009.

DATES: This regulation is effective May 16, 2007. Objections and requests for hearings must be received on or before June 15, 2007, 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-2007-0160. 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](http://www.regulations.gov) web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](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.