

Administrator, EPA Region 2, submitting the SIP revision for parts 235 and 239 respectively.

■ 3. In § 52.1679, the table is amended by revising the entries for Title 6, Part 235 and Part 239 to read as follows:

**§ 52.1679 EPA-approved New York State regulations.**

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 235, Consumer Products ..	10/15/09	5/28/10 [Insert FR page citation].	
Part 239, Portable Fuel Container Spillage Control.	7/30/09	5/28/10 [insert FR page citation].	The specific application of provisions associated with alternate test methods, variances and innovative products, must be submitted to EPA as SIP revisions.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 131**

[EPA-HQ-OW-2007-93; FRL-9156-5]

RIN NA2040

**Withdrawal of Federal Antidegradation Policy for all Waters of the United States Within the Commonwealth of Pennsylvania**

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

**ACTION:** Final Rule.

**SUMMARY:** EPA is taking final action on a 2008 proposal to withdraw the Federal antidegradation policy for all waters of the United States within the Commonwealth of Pennsylvania. We are withdrawing the Federal antidegradation policy to allow Pennsylvania to implement its own antidegradation policy. Pennsylvania has adequately demonstrated that its antidegradation policy protects all waters of the United States at a level consistent with the Federal requirements under the Clean Water Act. Therefore, the Federal antidegradation policy is redundant.

**DATES:** This final rule is effective on June 28, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2007-93. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the OW Docket Center. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566-2426, and the Docket address is OW Docket, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. 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 is (202) 566-1744.

**FOR FURTHER INFORMATION CONTACT:**

Janita Aguirre at EPA Headquarters, Office of Water (4305T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 (telephone: 202-566-1149, fax: 202-566-0409 or e-mail: [aguirre.janita@epa.gov](mailto:aguirre.janita@epa.gov)) or Denise Hakowski at EPA Region 3 (3WP30), 1650 Arch Street, Philadelphia, Pennsylvania 19103 (telephone: 215-814-5726, fax: 215-814-2318 or e-mail: [hakowski.denise@epa.gov](mailto:hakowski.denise@epa.gov)).

**SUPPLEMENTARY INFORMATION:**

**I. Potentially Affected Entities**

Citizens concerned with water quality in Pennsylvania may be interested in this rulemaking. Entities discharging pollutants to the surface waters of Pennsylvania could be indirectly affected by this rulemaking since water quality standards are used in determining National Pollutant Discharge Elimination System (NPDES) permit limits. Because this action withdraws a redundant Federal antidegradation policy, the effect of this rulemaking should be insignificant. Categories and entities which may ultimately be affected include:

Category .....	Examples of potentially affected entities.
Industry .....	Industries discharging pollutants to surface waters in Pennsylvania.
Municipalities ....	Publicly-owned treatment works discharging pollutants to surface waters in Pennsylvania.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding NPDES-regulated entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action.

**II. Background**

Section 303 (33 U.S.C. 1313) of the Clean Water Act (CWA or Act) directs States, with oversight by EPA, to adopt water quality standards to protect the public health and welfare, enhance the quality of water and serve the purposes of the CWA. Under section 303, States are required to develop water quality standards for their navigable waters, and Section 303(c) and EPA's implementing regulations at 40 CFR part 131 require State and Tribal water quality standards to include the designated use or uses to be made of the waters, water quality criteria sufficient to protect those uses, and an antidegradation policy. Under the CWA and EPA's regulations, States are required to review their water quality standards at least once every three years and, if appropriate, revise or adopt new standards. The results of this triennial review must be submitted to EPA, and EPA must approve or disapprove any new or revised standards. Section 303(c) of the CWA authorizes the EPA Administrator to promulgate water quality standards to supersede State standards that EPA has disapproved or in any case where the Administrator determines that a new or

revised standard is needed to meet the CWA's requirements.

In June 1994, EPA disapproved Pennsylvania's antidegradation regulation after determining the regulation was not consistent with the Federal antidegradation regulation found at 40 CFR 131.12. When the Pennsylvania Department of Environmental Protection (PADEP) did not act within the statutory timeframe to address EPA's findings, EPA promulgated a Federal antidegradation policy for all waters of the United States within the Commonwealth of Pennsylvania at 40 CFR 131.32 on December 9, 1996 (61 FR 64816). In August 1999, PADEP submitted to EPA revisions to its antidegradation policy found in 25 Pa. Code Chapter 93. On March 17, 2000, EPA approved most of the revisions to Pennsylvania's regulations as meeting the requirements of Federal regulations at 40 CFR 131.12(a)(1) and 131.12(a)(2), but withheld action on Section 93.4b, PADEP's Exceptional Value (EV) Waters designation, or Tier 3, until PADEP ensured that EV designated waters would be protected at the level consistent with Federal regulations at 40 CFR 131.12(a)(3). In 2003, PADEP published "Water Quality Antidegradation Implementation Guidance" (Document Number 391-0300-002). In it, PADEP provides guidance to its staff and information to help the regulated community and the public understand the implementation of the antidegradation policy in Pennsylvania. Based on a review of the document in combination with the PADEP's antidegradation regulation, EPA approved PADEP's antidegradation policy for Tier 3 waters on March 7, 2007. Because Pennsylvania now has an EPA-approved antidegradation policy meeting the Federal requirements at 40 CFR 131.12, the Federal antidegradation regulation promulgated by EPA for Pennsylvania is no longer needed and EPA is withdrawing it with this action.

### III. Statutory and Executive Order Review

#### A. Executive Order 12866 (Regulatory Planning and Review)

This action withdraws Federal requirements applicable in Pennsylvania and imposes no regulatory requirements or costs on any person or entity. It does not interfere with the action or planned action of another agency, and does not have any budgetary impacts or raise novel legal or policy issues. Thus, it has been determined that this rule is not a "significant regulatory action" under the

terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to Office of Management and Budget (OMB) review.

#### B. Paperwork Reduction Act

This action does not impose any new information collection burden because it is administratively withdrawing Federal requirements that no longer need to apply in Pennsylvania. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR part 131 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040-0049. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of a rule that is subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements or costs on any small entity. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities.

#### D. Unfunded Mandates Reform Act

Title III of the Unfunded Mandates Reform Act (UMRA) (Pub. L. 104-4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, Tribal, or local governments or the private sector because it imposes no enforceable duty on any of these entities. Thus, today's rule is not subject to the requirements of UMRA sections 202 and 205 for a written statement and small government agency plan.

Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and is therefore not subject to UMRA section 203.

#### E. Executive Order 13132 (Federalism)

This rule does not have federalism implications. It will not have substantial

direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

#### F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This rule does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule imposes no regulatory requirements or costs on any Tribal government. It does not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

#### G. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)

This rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it is not economically significant and EPA has no reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

#### H. Executive Order 13211 (Actions That Significantly Affect Energy Supply, Distribution or Use)

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

#### I. National Technology Transfer Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use

available and applicable voluntary consensus standards.

The requirements of section 12(d) of the NTTAA do not apply because this rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As explained above, EPA has approved Pennsylvania's antidegradation policy because it is consistent with 40 CFR 131.12. This rule withdraws a redundant antidegradation policy.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on June 28, 2010.

**List of Subjects in 40 CFR Part 131**

Environmental protection, Antidegradation, Water quality standards.

Dated: May 21, 2010.

**Lisa P. Jackson**,  
*Administrator.*

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 131—WATER QUALITY STANDARDS**

■ 1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

**§ 131.32 [Removed and Reserved]**

■ 2. Section 131.32 is removed and reserved.

[FR Doc. 2010-12933 Filed 5-27-10; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2009-0268; FRL-8826-4]

**Boscalid; Pesticide Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of boscalid in or on multiple commodities which are identified and discussed later in this document. This regulation additionally revises established tolerances in or on fruit, stone, group 12; hog, fat; poultry, fat; and poultry, meat byproducts. Finally, this regulation deletes the time-limited tolerance on tangerine as it expired on December 31, 2008. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective May 28, 2010. Objections and requests for hearings must be received on or before July 27, 2010, 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-2009-0268. 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:**

Shaja Joyner, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3194; e-mail address: [joyner.shaja@epa.gov](mailto:joyner.shaja@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 [www.gpoaccess.gov/ecfr](http://www.gpoaccess.gov/ecfr).