Commodities	Parts per million
Cereal grains group (except rice, wild rice, sweet corn and wheat, grain	20.0
Cereal grains group (except rice, wild rice, sweet corn and wheat), hay	15.0
Cereal grains group (except rice, wild rice, sweet corn and wheat), stover (fodder)	1.0
Cereal grains group (except rice, wild rice, sweet corn and wheat), straw	4.0
Soybeans	30.0
Soybean, forage	10.0
Soybean, hay	10.0

[FR Doc. 97–5415 Filed 3–4–97; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300456; FRL–5591–7]

RIN 2070–AC78

Tebufenozide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of the insecticide tebufenozide in or on the raw agricultural commodities peppers, non-brassica leafy vegetables (Crop Group 4 - celery, lettuce, spinach, swiss chard), turnips grown for foliage tops only, and brassica (cole) leafy vegetables (Crop Group 5 - broccoli, cabbage, cauliflower, collards, kale, kohlrabi, and mustard greens) in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of tebufenozide on peppers, leafy vegetables (except brassica), turnips grown for foliage tops only and brassica leafy vegetables in Texas; and lettuce, broccoli, cauliflower, cabbage and spinach in Arizona. This regulation establishes maximum permissible levels for residues of tebufenozide in these foods. These tolerances will expire on February 28, 1998.

DATES: This regulation becomes effective March 5, 1997. This regulation expires on February 28, 1998. Objections and requests for hearings must be received by EPA on May 5, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300456], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300456], should be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Highway., Arlington, VA. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300456]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Pat Cimino, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. (703) 308–8328, e-mail: cimino.pat@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the insecticide tebufenozide (benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide) in or on peppers at 0.5 part per million (ppm), leafy vegetables (except brassica) at 5.0 ppm, turnip tops at 5.0 ppm, and brassica (cole) leafy vegetables at 5.0 ppm. These tolerances will expire on February 28, 1998.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the FFDCA, 21 U.S.C. 301 et seq., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities were discussed in detail in the final rule establishing the time-limited tolerance for an emergency exemption for use of propiconazole on sorghum (61 CFR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) 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) 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, but does not include occupational exposure. Section 408(b)(2)(C) 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....''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State Agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

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 section 18 of FIFRA. Section 408(l)(6) also requires EPA to promulgate regulations by August 3, 1997, governing the establishment of tolerances and exemptions under section 408(l)(6) and requires that the

regulations be consistent with section 408(b)(2) and (c)(2) and FIFRA section 18.

Section 408(l)(6) allows EPA to establish tolerances or exemptions from the requirement for a tolerance, in connection with EPA's granting of FIFRA section 18 emergency exemptions, without providing notice or a period for public comment. Thus, consistent with the need to act expeditiously on requests for emergency exemptions under FIFRA, EPA can establish such tolerances or exemptions under the authority of section 408(e) and (l)(6) without notice and comment rulemaking.

In establishing section 18-related tolerances and exemptions during this interim period before EPA issues the section 408(l)(6) procedural regulation and before EPA makes its broad policy decisions concerning the interpretation and implementation of the new section 408, EPA does not intend to set precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Rather, these early section 18 tolerance and exemption decisions will be made on a case-by-case basis and will not bind EPA as it proceeds with further rulemaking and policy development. EPA intends to act on section 18-related tolerances and exemptions that clearly qualify under the new law.

II. Emergency Exemptions for Tebufenozide on Peppers, Leafy Vegetables (except Brassica), Turnip Tops, and Cole Leafy Vegetables (Brassica) and FFDCA Tolerances

On December 18, and 20, 1996, the Texas Department of Agriculture availed of itself the authority to declare the existence of a crisis situation within the State, thereby authorizing use under FIFRA section 18 of tebufenozide on leafy vegetables (non-brassica), turnip tops and brassica leafy vegetables to control the beet armyworm (BAW), respectively. The states of Texas and Arizona have also requested specific exemptions for use of this chemical to control beet armyworm on brassica and non-brassica leafy vegetable, turnip tops and peppers. Emergency conditions are determined to exist due to: (1) The BAW populations demonstrating resistance to registered insecticides causing control failures when these products are applied to BAW; (2) a mild winter and unusually dry, hot weather have increased the survival rate of the pest. Natural controls, such as disease, needed cooler, wetter conditions to have their greatest impact on this pest; and (3) the unusually large numbers of BAW. According to the Applicant, estimated yield losses due to BAW in peppers and non-brassica leafy vegetables could result in a 50% yield loss and a 30% yield for brassica (cole) leafy vegetables without the use of an effective pesticide.

As part of its assessment of these applications for emergency exemption, EPA assessed the potential risks presented by residues of tebufenozide on brassica (cole), non-brassica leafy vegetables, turnip tops and peppers. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided to grant the section 18 exemptions only after concluding that the necessary tolerance under FFDCA section 408(l)(6) would clearly be consistent with the new safety standard and with FIFRA section 18. This tolerance for tebufenozide will permit the marketing of brassica (cole) and non-brassica leafy vegetables, turnip tops and peppers treated in accordance with the provisions of the section 18 emergency exemptions. Consistent with the need to move quickly on the emergency exemptions and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e) as provided in section 408(l)(6). Although these tolerances will expire on February 28, 1998, under FFDCA section 408(l)(5), residues of tebufenozide not in excess of the amount specified in the tolerance remaining in or on brassica (cole) , and non-brassica leafy vegetables, turnip tops and peppers after that date will not be unlawful, provided the pesticide is applied during the term of, and in accordance with all the conditions of, the emergency exemptions. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

EPA has not made any decisions about whether tebufenozide meets the requirements for registration under FIFRA section 3 for use on brassica (cole) and non-brassica leafy vegetables, turnip tops and peppers or whether a permanent tolerance for tebufenozide on these crops would be appropriate. This action by EPA does not serve as a basis for registration of tebufenozide by a State for special local needs under FIFRA section 24(c). Nor does this action serve as the basis for any State other than Texas or Arkansas to use this product on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR 180.166. For additional information regarding the emergency exemptions for tebufenozide, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. For many of these studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered by EPA to pose no appreciable risk.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or margin of exposure calculation based on the appropriate

NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, and other non-occupational exposures, such as where residues leach into groundwater or surface water that is consumed as drinking water. Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100 percent of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

IV. Aggregate Risk Assessments, Cumulative Risk Discussion, and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. Tebufenozide is not registered by EPA for indoor or outdoor residential use. Existing food and feed use tolerances for tebufenozide are listed in 40 CFR 180.482. At this time EPA is not in possession of a registration application for tebufenozide on brassica (cole) and non-brassica leafy vegetables, turnip tops, and peppers. However, based on the information submitted to the Agency thus far, EPA has sufficient data to assess the hazards of tebufenozide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for the time-limited tolerances for residues of tebufenozide on brassica (cole) leafy vegetables at 5.0 ppm, non-brassica leafy vegetables at 5.0 ppm, turnip tops at 5.0 ppm and peppers at 0.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

1. *Chronic toxicity*. Based on the available chronic toxicity data, the EPA's Office of Pesticide Programs (OPP) has established the RfD for tebufenozide at 0.018 milligrams/kilogram/day (mg/kg/day). The RfD is based on a 1–year feeding study in dogs with a NOEL of 1.8 mg/kg/day and an uncertainty factor of 100. Decreased red blood cells, hematocrit, and hemoglobin and increased heinz bodies, reticulocytes, and platelets were observed at the Lowest-Observed Effect Level (LOEL) of 8.7 mg/kg/day.

2. *Acute toxicity*. No appropriate acute dietary endpoint was identified by OPP. This risk assessment is not required.

3. *Carcinogenicity*. Using its Guidelines for Carcinogen Risk Assessment published September 24, 1986 (51 FR 33992), OPP has classified tebufenozide as a Group ''E'' chemical (no evidence of carcinogenicity for humans) based on the results of carcinogenicity studies in two species. There was no evidence of carcinogenicity in a 2–year rat study and an 18–month mouse study.

B. Aggregate Exposure

Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide. Permanent tolerances currently exist for residues on apples and walnuts (see 40 CFR 180.482).

For purposes of assessing the chronic dietary exposure from tebufenozide, EPA assumed tolerance level residues and 100 percent of crop treated refinements to estimate the TMRC from all established existing food uses for tebufenozide as well as the proposed use on leafy vegetables, turnip tops and peppers. Neither peppers nor any of the commodities comprising Crop Group 4 (Non-brassica leafy vegetables) and 5 (Brassica Cole Leafy vegetables) are considered livestock feed items; thus, there is no reasonable expectation that measurable residues of tebufenozide will occur in meat, milk, poultry, or eggs under the terms of these emergency exemptions. Although, turnip tops potentially are a ruminant feed item, conversation with the Texas Department of Agriculture indicates that the turnip tops treated under this section 18 are destined for fresh market use only. Nonetheless, even if those turnip tops were fed to ruminants, potential residue levels in animal commodities would most likely be undetectable. For purposes of this section 18 registration only, OPP concludes that tolerances for animal commodities are not needed.

Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational sources. Based on the available studies used in EPA's assessment of environmental risk, tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. There are no established Maximum Concentration Levels for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide. There is no entry for tebufenozide in the ''Pesticides in Groundwater Database'' (EPA 734–12–92–001, September 1992).

The Agency does not have available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels, in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RFD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for consumption of contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause tebufenozide to exceed the RFD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with tebufenozide in water, even at the higher levels the Agency is considering

as a conservation upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

C. Cumulative Exposure to Substances with Common Mechanisms of Toxicity

Section 408(b)(2)(D)(v) 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.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also policies and methodologies for conducting cumulative risk assessments. While the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodology to fully resolve the scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will enable the Agency to apply common mechanism issues to its pesticide risk assessments. At present, however, the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments.

In making individual tolerance decisions, the Agency will determine whether:

1. It has sufficient information to determine that a pesticide does not appear to share a common mechanism of toxicity with other substances.

2. It is unable to conclude that a pesticide does not share a common mechanism of toxicity with other substances.

For pesticides falling into the first category, the Agency will explain its determination and factor the determination into the tolerance decision. For pesticides falling into the second category, the Agency will conclude that it does not have sufficient available information concerning common mechanism of toxicity to scientifically apply that information to the tolerance decision, the tolerance decision will be reached based upon the best available and useful information for the individual chemical, and a risk assessment will be performed for the individual chemical assuming that no common mechanism of toxicity exists. However, tolerance decisions falling into the second category will be reexamined by the Agency after EPA establishes methodologies and procedures for integrating information concerning common mechanism into its risk assessments. In such circumstances, related registration actions may be conditioned upon the provision of such data as may be necessary to evaluate common mechanism of toxicity issues in a risk assessment.

Tebufenozide falls into the second category and at this time, the Agency has not made a determination that tebufenozide and other substances that may have a common mode of toxicity would have cumulative effects. EPA has not yet determined whether to include this chemical in a cumulative risk assessment. This tolerance determination does not take into account common mechanism issues. The Agency will reexamine tolerances for tebufenozide, after the Agency has developed a methodology for applying common mechanism of toxicity issues to risk assessments.

Given the time limited nature of this request, the need to make emergency exemption decisions quickly, and the significant scientific uncertainty at this time about how to define common mode of toxicity, the Agency will make its safety determination for these tolerances based on those factors which it can reasonably integrate into a risk assessment. For purposes of these tolerances only, the Agency is considering only the potential risks of tebufenozide in its aggregate exposure.

D. Safety Determinations for U.S. Population

EPA has concluded that chronic dietary exposure to tebufenozide will utilize 27% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to tebufenozide in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues.

E. Determination of Safety for Infants and Children

In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, EPA considered data from developmental toxicity studies in the rat and rabbit and a reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

Developmental (pre-natal) toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was >1,000 mg/kg/day the highest dose tested (HDT), which demonstrates that no toxicity was present for tebufenozide.

In the two-generation reproductive toxicity study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day), which indicates that post-natal toxicity in the production studies occurs only in the presence of significant parental toxicity.

These developmental and reproduction studies indicate that tebufenozide does not have additional sensitivity for infants and children in comparison to other exposed groups. The TMRC value for the most highly exposed infant and children subgroup (non-nursing infants <1 year old) occupies 61% of the RfD. However, this calculation assumes 100% crop treated and uses tolerance level residues for all commodities. Refinement of the dietary risk assessment by using percent crop treated and anticipated residue data would greatly reduce dietary exposure. Therefore, this risk assessment is an over-estimate of dietary risk. Consideration of anticipated residues and percent crop treated would likely result in an anticipated residue contribution (ARC) which would occupy a percent of the RfD that is likely to be significantly lower than the currently calculated TMRC value. Therefore, taking into account the completeness and reliability of the toxicity data and the conservative exposure assessment, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to tebufenozide residues.

FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. EPA has concluded that the database on this pesticide is sufficiently complete regarding potential effects on infants and children and that the studies demonstrate no additional sensitivity in infants and children. Therefore, EPA concludes that an additional uncertainty factor is not warranted and that the RfD at 0.018 mg/kg/day based on a 100–fold safety is adequate for protecting infants and children.

V. Other Considerations

The metabolism of tebufenozide in plants is adequately understood for the purposes of this tolerance. There are no Mexican, Canadian or Codex International maximum residue levels established for residues of tebufenozide. There is a practical analytical method (liquid chromatography with ultraviolet detection) for detecting and measuring levels of tebufenozide in or on food with a limit of detection that allows monitoring of food with residues at or above the level set by the tebufenozide tolerance. EPA has provided information on this method to FDA. The method is available to anyone who is interested in pesticide residue enforcement from: By mail, Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm 1128, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–305–5805.

VI. Conclusion

Therefore, tolerances in connection with the FIFRA section 18 emergency exemptions are established for residues of tebufenozide at 0.5 ppm in peppers, 5.0 ppm in/on leafy vegetables (brassica and non-brassica-cole), and 5.0 ppm in/on turnip tops grown for foliage tops only. These tolerances will expire on February 28, 1998.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 5, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

A record has been established for this rulemaking under docket number [OPP–300456]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 am to 4 pm, Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing requests, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in '' ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, since this action does not impose any information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because FFDCA section 408(l)(6) permits establishment of this regulation without a notice of proposed rulemaking, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 604(a), do not apply.

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), EPA 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: February 25, 1997.

Peter Caulkins,

Acting Director, 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. 346a and 371.

2. In § 180.482, the section heading and the table in paragraph (b) are revised to read as follows:

§ 180.482 Tebufenozide; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/Revocation Date
Leafy Vegetable (Cole -brassica)	5.0	February 28, 1998
Leafy Vegetables (non-brassica)	5.0	February 28, 1998
Peppers	0.5	February 28, 1998
Turnip Tops	5.0	February 28, 1998

[FR Doc. 97–5414 Filed 3–4–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

Connection of Telephone Equipment to the Telephone Network; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains corrections to the final regulations which related to the connection of terminal equipment to the telephone network. (61 FR 42386 August 15, 1996)

EFFECTIVE DATE: March 5, 1997.

FOR FURTHER INFORMATION CONTACT: William von Alven, (202) 418–2342.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections relate to the means of connection of equipment making use of the Public Switched Digital Service (PSDS) and the Integrated Services Digital Network (ISDN).

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of correction.

List of Subjects in 47 CFR Part 68

Communications equipment, Telephone.

Accordingly, 47 CFR Part 68 is amended by making the following correction:

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for Part 68 continues to read as follows:

Authority: Secs. 1, 4, 5, 201–5, 208, 215, 218, 226, 227, 303, 313, 403, 404, 410, 602 of the Communications Act of 1934 as amended, 47 U.S.C. 151. 154. 155. 201–5, 208, 215, 218, 226, 227, 303, 314, 403, 410, 602, 610.

§ 68.308 [Corrected]

2. Section 68.308 is amended by revising the heading to the introductory text of paragraph (h)(3) and adding new paragraph (h)(4) to read as follows:

§ 68.308 Signal power limitations.

* * * * *

(h) * * *

(3) *PSDS Types II and III Maximum Output Pulse Templates.*

* * * * *

(4) *Limitations on Terminal Equipment Connected to ISDN BRA.* If registered terminal equipment connecting to ISDN BRA services contains a digital-to-analog converter, or generates signals directly in digital form, which are intended for eventual conversion into voiceband analog signals, the encoded analog content of the digital signal must be limited. The maximum equivalent power of the encoded analog signals, other than live voice as derived from a zero-level-decoder test configuration, shall not exceed –12 dBm when averaged over a three second interval. The maximum equivalent power of encoded analog signals, as derived by a zero-level decoder test configuration, for network control signaling, shall not exceed –3 dBm when averaged over any three-second interval.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–5352 Filed 3–4–97; 8:45 am]

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47 CFR Part 73

[MM Docket No. 96–9; RM–8736]

Radio Broadcasting Services; Ukiah, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule; Petition for reconsideration.

SUMMARY: This document dismisses a petition for partial reconsideration filed on behalf of LifeTalk Broadcasting Association (''LifeTalk'') of the Report and Order in this proceeding, which allotted Channel 246A to Ukiah, California, as that community's fourth local commercial FM transmission service, rather than reserving Channel 246A for noncommercial educational use, as requested by LifeTalk. See 61 FR 58340, November 14, 1996. LifeTalk subsequently requested the withdrawal of its petition for partial reconsideration. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 96–9, adopted February 21, 1997, and released February 28, 1997.