exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). 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*., or 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). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). In additions, since tolerance exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption 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. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the Comptroller General

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**. This 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: July 29, 1998.

Stephen L. Johnson,

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. Section 180.1193 is added to subpart D to read as follows:

§ 180.1193 Potassium dihydrogen phosphate; exemption from the requirement of a tolerance.

Potassium dihydrogen phosphate is exempted from the requirement of a tolerance in or on all food commodities when applied as a fungicide in accordance with good agricultural practices.

[FR Doc. 98–21520 Filed 8–11–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300683; FRL–6017–5]

RIN 2070–AB78

Zucchini Juice Added to Buffalo Gourd Root Powder; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of zucchini juice when used as an alternative source of the inert ingredient gustatory stimulant cucurbitacin in the pesticide formulations applied to various food commodities. MicroFlo Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170) requesting the exemption. This regulation eliminates the need to establish a maximum permissible level for residues of zucchini juice.

DATES: This regulation is effective August 12, 1998. Objections and requests for hearings must be received by EPA on or before October 13, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300683], 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) 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–300683], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), 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. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300683]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, c/o Product Manager (PM) 91, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 9th fl., CM #2 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)308-8291. e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1997 (62 FR

34278) (FRL–5719–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition by MicroFlo Company, 719 Second Street, Suite 12, Davis, CA 95616. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the Food Quality Protection Act (FQPA) of 1996. The petition requested that 40 CFR 180.1001(d) be amended by adding zucchini (*Cucurbita pepo*) juice to buffalo gourd (*Cucurbita foetidissima*) root powder's tolerance exemption when used in or on various food commodities at 3.4 grams of cucurbitacin per acre per season.

Inert ingredients are all ingredients that are not active as defined in 40 CFR 153.125, and include, but are not limited to the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Cucurbitacins, found in plants of the Family Cucutbitaceae, act specifically on Diabroticine beetles (corn rootworm and cucumber beetles) as movement arrestants and compulsive feeding stimulants. These have been used in pesticide products Slam/Adios and Adios AG, which were developed to replace highly toxic corn rootworm and cucumber beetle insecticides. When used along with cucurbitacin in the formulation, a much smaller amount of the pesticide active ingredient carbaryl is needed to achieve efficacy against these pests.

MicroFlo Company's current source of cucurbitacin is buffalo gourd root powder. The Agency established an exemption from the requirement of a tolerance for residues of buffalo gourd root powder (57 FR 40128, September 2, 1992). Now, MicroFlo Company is adding zucchini juice as an additional source of cucurbitacin, since production of buffalo gourd root powder is costly and unreliable, and a notice of filing was published on June 25, 1997, as mentioned above.

There were no comments received in response to the notice of filing.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for 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 and in residential settings, 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...'' EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

The data submitted in the petition and other relevant material have been evaluated and were considered in support of this tolerance exemption amendment.

II. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information 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.

Acute Toxicity

Acute mammalian toxicity data were submitted on zucchini juice as well as buffalo gourd root powder(BGRP). Submitted data were found to be acceptable and performed in accordance with the Subdivision M Guidelines. A summary of the comparative toxicology data shows a more favorable toxicological profile for the zucchini juice (*Cucurbita pepo* juice), as compared to the buffalo gourd root powder (*Cucurbita foetidissima* root powder), as a cucurbit source of cucurbitacins.

The acute mammalian toxicity studies indicate that the zucchini juice is practically non-toxic to mammals. The acute oral, acute dermal, acute inhalation, primary eye, and skin irritation are all toxicity category IV. No acute systemic toxicity, irritation or dermal sensitization was exhibited in the studies performed with the zucchini juice.

The pesticide inert ingredient zucchini juice and the associated component cucurbitacin do not meet the conditions of 40 CFR 158.690(b): based on the results of Tier I toxicology studies, neither Tier II nor III toxicology data are required.

Given the small amounts used and rapid degradation of zucchini juice and associated cucurbitacins, no chronic effects are expected. Neither the zucchini juice and associated cucurbitacins, nor metabolites, are known to, or expected to have any effect on the immune or endocrine systems. Zucchini juice and associated cucurbitacins are not carcinogenic.

III. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food*. Assumptions, for the purpose of this maximum dietary risk - worst case scenario, (case crop - corn; the example can be extended to other crops) include that the zucchini juice and thus, the cucurbitacin, is applied at the maximum label rate, the maximum number of times, the day of harvest, and all of the material applied to the field is concentrated in the grain; with no loss of zucchini juice nor cucurbitacin due to any environmental, physical, chemical microbial or milling/processing degradation. This will result in 2.4375 pounds of zucchini juice and 0.0073125 pounds (3.319875 grams) of cucurbitacins per acre.

The national average grain yield for corn is 120 - 130 bushels per acre. At 56 pounds per bushel, for the purpose of the calculation, that computes to 6,720 pounds per acre using the lower

yield value. The maximum label rates allow for the application of 3.4 grams of cucurbitacin per acre. Assuming all of the cucurbitacin is concentrated in the grain, cucurbitacin levels would be 0.00051 grams cucurbitacin per pound of grain corn. No adverse effects are anticipated at this low exposure rate.

2. *Drinking water exposure.* Cucurbitacins are insoluble in water and transfer of the zucchini juice to drinking water is highly unlikely. No leaching or groundwater contamination is expected to result from registered uses according to good agricultural practice. No uses are registered for application to bodies of water and none are being sought.

B. Other Non-Occupational Exposure

Registered uses are limited to agricultural crop production use.

IV. 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.''

Consideration of a common mode of toxicity is not appropriate given that the zucchini juice is practically non-toxic to mammals and no information indicates that toxic effects would be cumulative with any other compounds. Further, no other pesticides or substances are registered with this mode of action.

V. Determination of Safety for Infants and Children

The use sites for the zucchini juice are all agricultural for control of Diabroticine beetles. Therefore, nondietary exposure to infants and children is not expected. The fact that zucchini juice is practically non-toxic to mammals; and exposure is not likely to occur from use, lead EPA to conclude that there is a reasonable certainty that no harm will result to infants and children from exposure to residue of zucchini juice. Because of the lack of toxicity for zucchini juice, EPA has not used the a safety factor analysis is evaluating the risk posed by the compound. This lack of toxicity also supports not applying an additional tenfold safety factor to protect infants and children.

VI. Determination of Safety for U.S. Population

The fact that zucchini juice is practically non-toxic to mammals, and previous Agency actions of granting a temporary exemption (November 30, 1990, 55 FR 49700), and establishing a permanent exemption from the requirement of a tolerance (September 2, 1992, 57 FR 40128), for buffalo gourd root powder as a source of cucurbitacin, support an amendment to the existing tolerance exemption. EPA concludes that zucchini juice is not likely to present a dietary risk under any reasonably foreseeable circumstances. Accordingly, EPA finds that exempting zucchini juice from the requirement for a tolerance will be safe in that there is a reasonable certainty of no harm from aggregate exposure to zucchini juice.

VII. CODEX Maximum Residue Level

No international tolerances of tolerance exemptions have been sought.

VIII. Existing Tolerance or Tolerance Exemptions for This Compound

Prior EPA findings of significant relevance to this petition include an exemption from the requirements of a tolerance for residues of buffalo gourd root powder (*Cucurbita foetidissima* root powder) when used as an inert ingredient (gustatory stimulant) in pesticide formulations applied to growing crops only, at application rates not to exceed 2.5 lbs/acre/season (3.4 gm/acre/season of cucurbitacin). The proposed rule was published on July 9, 1992 (57 FR 30454), and the final rule was published on September 2, 1992 (57 FR 40128).

IX. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d)and 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 governs 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 October 13, 1998, 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 under the ''ADDRESSES'' section (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(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (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 a 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(s) 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 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.

X. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP-300683]. A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM ı2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Electronic comments can 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 request, 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.

XI. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) 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). 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*., or 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). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). In additions, since tolerance exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption 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. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

XII. Submission to Congress and the Comptroller General

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**. This 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: July 29, 1998.

Stephen L. Johnson,

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.

§ 180.1001 [Amended]

2. In § 180.1001, in paragraph (d), the table is amended by adding the phrase '' ; or, Zucchini juice (*Cucurbita pepo* juice)'' after ''Buffalo gourd root powder (*Cucurbita foetidissima* root powder)'' in the ''Inert Ingredients'' column.

[FR Doc. 98–21521 Filed 8–11–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket No. 96–45; FCC 98–120]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order changes the funding year for the schools and libraries universal service support mechanism from a calendar year cycle to a fiscal year cycle. This Order also adjusts the amount of money available for schools and libraries, and rural health care providers for the period from January 1, 1998 through June 30, 1999. In addition, this Order establishes rules of priority when a filing window is in effect.

EFFECTIVE DATE: August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Irene Flannery, Common Carrier Bureau, (202) 418–7400 or Adrian Wright, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96–45, adopted June 12, 1998 and released June 22, 1998. The full text is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, D.C.

I. Summary of Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96–45

A. Adjustment in Funding Year for Schools and Libraries Support Mechanism

1. Upon reconsideration on our own motion, we find that it is in the public interest to change the funding year for the schools and libraries universal service support mechanism from a calendar year cycle (January 1–December 31) to a fiscal year cycle that will run from July 1–June 30. Moreover, we conclude that the transition to a fiscal year should be implemented immediately. In order to accommodate the transition to a fiscal year funding cycle, the first funding period will be the 18-month period that runs from January 1, 1998 through June 30, 1999. The second funding cycle, therefore, will begin on July 1, 1999. Applications submitted during the initial 75-day filing window and approved for funding by Schools and Libraries Corporation (SLC), therefore, will be funded through June 30, 1999, to the extent permitted by funding constraints. Parties seeking support for the following fiscal year may begin to file applications on October 1, 1998. We direct SLC, in consultation with the Common Carrier Bureau, to establish a filing window for the next fiscal year, to open no later than October 1, 1998. We also conclude that SLC should determine the length of that window and resolve other administrative matters necessary to implement a filing window.