

(5) If a product is intended for or involves foliar application to agricultural crops, forests or shade trees, or mosquito abatement treatments, and contains a pesticide toxic to pollinating insects, the label must bear appropriate label cautions.

(6) If a product is intended for outdoor use other than aquatic applications, the label must bear the caution, "Keep out of lakes, ponds or streams. Do not contaminate water by cleaning of equipment or disposal of wastes."

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-301194; FRL-6814-2]

RIN 2070-AB78

Extension of Tolerances for Emergency Exemptions; Multiple Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for the various pesticides listed in this document. These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) 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.

DATES: This regulation is effective December 14, 2001. Objections and requests for hearings, identified by docket control number OPP-301194, must be received by EPA on or before January 14, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, electronically, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301194 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: See the listing below for the name of a specific contact person. The following information applies to all contact persons: Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9366.

Pesticide/CFR cite	Contact person
Maneb, 180.110 Zinc phosphide, 180.284 Clopyralid, 180.431 Propiconazole, 180.434 Fenpropathrin, 180.466 Imazapic-ammonium, 180.490	Libby Pemberton pemberton.libby@epa.gov
Avermectin, 180.449 Difenoconazole, 180.475	Dan Rosenblatt rosenblatt.dan@epa.gov
Carboxin, 180.301 Propyzamide, 180.317 Metolachlor, 180.368 Metsulfuron-methyl, 180.428 Bifenthrin, 180.442 HOE 107892, 180.509 Fludioxonil, 180.516	Andrew Ertman ertman.andrew@epa.gov
Fenbuconazole, 40 CFR 180.480	Shaja R. Brothers brothers.shaja @epa.gov
Cyprodinil, 180.532 Desmidipham, 180.353	Stephen Schaible schaible.stephen@epa.gov
Mancozeb, 180.176 Thiabendazole, 180.242 Emamectin benzoate, 180.505	Meredith Laws laws.meredith@epa.gov
Tebuconazole, 180.474	Andrea Conrath conrath.andrea@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide

manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301194. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available

for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA published final rules in the **Federal Register** for each chemical/commodity listed in this document. The initial issuance of these final rules announced that EPA, on its own initiative, under FFDCA section 408, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) was establishing time-limited tolerances.

EPA established the tolerances because FFDCA 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 FIFRA section 18. Such tolerances can be established without providing notice or time for public comment.

EPA received requests to extend the use of these chemicals for this year's growing season. After having reviewed these submissions, EPA concurs that emergency conditions exist. EPA assessed the potential risks presented by residues for each chemical/commodity. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

The data and other relevant material have been evaluated and discussed in the final rule originally published to support these uses. Based on that data and information considered, the Agency reaffirms that extension of these time-limited tolerances will continue to meet the requirements of FFDCA section 408(l)(6). Therefore, the time-limited tolerances are extended until the date listed in this document. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on the date listed, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on the commodity after that date will not be unlawful, provided the residue is present as a result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA,

the tolerance was in place at the time of the application, and the residue does not exceed the level that was authorized by the tolerance. 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.

Tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

Avermectin. EPA has authorized under FIFRA section 18 the use of avermectin on spinach for control of leafminers in California. This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin, a mixture of avermectins containing greater than or equal to 80% avermectin B1a (5-0-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1 and its delta 8,9-isomer in or on spinach at 0.05 parts per million (ppm) for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on August 19, 1997 (62 FR 44089) (FRL-5737-1).

Avermectin. EPA has authorized under FIFRA section 18 the use of avermectin on avocado for control of thrips in California. This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin, a mixture of avermectins containing greater than or equal to 80% avermectin B1a (5-0-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1 and its delta 8,9-isomer in or on avocado at 0.02 ppm for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on April 7, 1999 (64 FR 16843) (FRL-6070-6).

Bifenthrin. EPA has authorized under FIFRA section 18 the use of bifenthrin on peanuts for control of spider mites in Oklahoma. This regulation extends a time-limited tolerance for residues of the insecticide bifenthrin ((2-methyl [1,1'-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2-dimethylcyclopropanecarboxylate) in or on peanuts, nutmeats at 0.05 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal**

Register on January 25, 2000 (65 FR 3860) (FRL-6485-2).

Carboxin. EPA has authorized under FIFRA section 18 the use of carboxin on onion seed for control of onion smut in California. This regulation extends a time-limited tolerance for combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on onions, dry bulb at 0.2 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on February 3, 1997 (62 FR 4911) (FRL-5584-5).

Clopyralid. EPA has authorized under FIFRA section 18 the use of clopyralid on flax for control of Canada thistle and perennial sowthistle in North Dakota. This regulation extends a time-limited tolerance for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or of flax see at 0.5 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on November 17, 1999 (64 FR 62588) (FRL-6388-5).

Cyprodinil. EPA has authorized under FIFRA section 18 the use of cyprodinil on caneberrries for control of gray mold in Oregon and Washington. This regulation extends a time-limited tolerance for residues of the fungicide cyprodinil in or on caneberrries at 10 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on June 30, 1999 (64 FR 35032) (FRL-6086-3).

Desmedipham. EPA has authorized under FIFRA section 18 the use of desmedipham on garden beets for control of various weed pests in New York. This regulation extends a time-limited tolerance for residues of the herbicide desmedipham in or on red beet roots at 0.2 ppm and red beet tops at 15 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 29, 1997 (62 FR 45741) (FRL-5738-5).

Difenoconazole. EPA has authorized under FIFRA section 18 the use of difenoconazole on corn seed for control of damping off and die-back diseases in corn in Idaho. This regulation extends

time-limited tolerances for residues of the fungicide difenoconazole (1-((2-(2-chloro-4-(4-chlorophenoxy)phenyl)-4-methyl-1,3-dioxolan-2-yl)methyl)-1H-1,2,4-triazole) in or on corn, sweet (kernel + corn with husk removed); corn, sweet, forage; and corn, sweet, stover at 0.1 ppm for an additional 1-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on September 1, 1999 (64 FR 47680) (FRL-6094-3).

Emamectin benzoate. EPA has authorized under FIFRA section 18 the use of emamectin benzoate on cotton for control of beet armyworm and tobacco budworm in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. This regulation extends time-limited tolerances for residues of the insecticide emamectin benzoate: 4'-epi-methylamino-4'-deoxyavermectin B1 benzoate in or on cotton gin byproduct at 0.025 ppm; cotton hulls at 0.004 ppm; cotton meal at 0.002 ppm; cottonseed at 0.002 ppm; cottonseed oil at 0.006 ppm; meat, fat; meat byproduct of cattle, goats, hogs, and sheep at 0.002 ppm; and milk for an additional 1-year period. These tolerances will expire and are revoked on December 31, 2002. Time-limited tolerances were originally published in the **Federal Register** on January 12, 2000 (65 FR 1796) (FRL-6398-5).

Fenbuconazole. EPA has authorized under FIFRA section 18 the use of (alpha-[2-(4-chlorophenyl)-ethyl]alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile on grapefruit for control of greasy spot in Florida. This regulation extends time-limited tolerances for combined residues of the fungicide (alpha-[2-(4-chlorophenyl)-ethyl]alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile and its metabolites cis -5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone and trans-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone in or on fat of cattle, goats, hogs, horses, and sheep at 0.01 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on July 26, 2000 (65 FR 45920) (FRL-6596-6).

Fenpropathrin. EPA has authorized under FIFRA section 18 the use of fenpropathrin on currants for control of currant borer (*Synanthedon tipuliformes*) in Washington. This regulation extends a time-limited tolerance for residues of the insecticide fenpropathrin (alpha-cyano-3-phenoxy-

benzyl 2,2,3,3-tetramethylcyclopropanecarboxylate) in or on currants at 15 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on July 14, 1997 (62 FR 37516) (FRL-5731-3).

Fludioxonil. EPA has authorized under FIFRA section 18 the use of fludioxonil on apricots, nectarines, peaches, and plums for control of brown rot, gray mold rot, and Rhizopus rot in Alabama, California, Georgia, New Jersey, Oregon, and South Carolina. This regulation extends time-limited tolerances for residues of the fungicide fludioxonil 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile in or on apricots, nectarines, peaches, and plums at 5.0 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 24, 1998 (63 FR 34304) (FRL-5797-5).

HOE-107892 (mefenpyr-diethyl). EPA has authorized under FIFRA section 18 the use of HOE-107892 on wheat and barley for control of foxtail in Montana and North Dakota. This regulation extends time-limited tolerances for residues of the the inert ingredient, herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 in or on barley grain at 0.05 ppm, barley hay at 0.5 ppm, barley straw at 0.1 ppm, and the processed by-products of barley grain: pearled barley at 1.0 ppm, bran at 0.4 ppm, and flour at 0.1 ppm and wheat grain at 0.01 ppm and wheat straw at 0.05 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 8, 1997 (wheat) (62 FR 42678) (FRL-5731-7) and September 9, 1998 (barley) (63 FR 48116) (FRL-6024-7).

Imazapic-ammonium. EPA has authorized under FIFRA section 18 the use of imazapic-ammonium on pasture/rangeland and land in the conservation reserve program for control of leafy spurge in Colorado, Montana, Nebraska, North Dakota, and South Dakota. This regulation extends time-limited tolerances for combined residues of the herbicide imazapic-ammonium, (+)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid, applied as its ammonium salt and its metabolite (+)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-

yl]-5-hydromethyl-3-pyridinecarboxylic acid both free and conjugated in or on grass forage at 30 ppm; grass hay at 15 ppm; milk; fat, meat; meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep at 0.10 ppm; kidney of cattle, goats, hogs, horses, and sheep at 1 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on October 6, 1999 (64 FR 54218) (FRL-6382-3).

Mancozeb. EPA has authorized under FIFRA section 18 the use of mancozeb on ginseng for control of stem and leaf blight in Michigan and Wisconsin. This regulation extends a time-limited tolerance for combined residues of the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate and its metabolite ETU in or on ginseng at 2.0 ppm for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2002. A time-limited tolerance was originally published in the **Federal Register** on May 24, 2000 (65 FR 33469) (FRL-6556-9).

Maneb. EPA has authorized under FIFRA section 18 the use of maneb on walnuts for control of bacterial blight in California. This regulation extends a time-limited tolerance for combined residues of the fungicide maneb (manganese ethylenebisdithiocarbamate) calculated as zinc ethylenebisdithiocarbamate, and its metabolite ethylenethiourea in or on walnuts at 0.05 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on March 17, 1999 (64 FR 13097) (FRL-6067-9).

Metolachlor. EPA has authorized under FIFRA section 18 the use of metolachlor on spinach for control of weeds in Arizona, Colorado, Maryland, New Jersey, Oklahoma, Pennsylvania, Texas, Virginia, and Wisconsin. This regulation extends a time-limited tolerance for the combined residues (free and bound) of the herbicide metolachlor 2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on spinach at 0.3 ppm for an additional 6-month period. This tolerance will expire and is revoked on June 30, 2002. A time-limited tolerance was originally

published in the **Federal Register** on November 29, 1996 (61 FR 60617) (FRL-5477-7).

Metsulfuron-methyl. EPA has authorized under FIFRA section 18 the use of metsulfuron-methyl on sorghum for control of weeds in Kansas, Nebraska, New Mexico, Oklahoma, and Texas. This regulation extends time-limited tolerances for the combined residues of the herbicide metsulfuron methyl and its 4-hydroxy metabolite (methyl 2-[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]-amino]sulfonyl]-4-hydroxybenzoate) in or on sorghum, fodder at 0.5 ppm; sorghum, forage at 0.3 ppm; and sorghum, grain at 0.4 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on December 16, 1999 (64 FR 70184) (FRL-6391-8).

Propiconazole. EPA has authorized under FIFRA section 18 the use of propiconazole on grain sorghum for control of sorghum ergot in Nebraska, New Mexico, and Texas. This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on grain sorghum, grain at 0.2 ppm; grain sorghum, stover at 1.5 ppm; and sorghum aspirated grain fractions at 20 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 13, 1997 (62 FR 43284) (FRL-5735-2).

Propyzamide. EPA has authorized under FIFRA section 18 the use of propyzamide on cranberries for control of dodder in Delaware, Massachusetts, New Jersey, and Rhode Island. This regulation extends a time-limited tolerance for the combined residues of the herbicide propyzamide and its metabolites containing the 3,5-dichlorobenzoyl moiety (calculated as 3,5-dichloro-N-(1,1-dimethyl-2-propenyl)benzamide) in or on cranberries at 0.05 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on September 16, 1998 (63 FR 49479) (FRL-6022-5).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on wheat for control of

Fusarium head blight in Michigan, North Dakota, and South Dakota. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on wheat hay at 15.0 ppm and wheat straw at 2.0 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL-5725-7).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on barley for control of Fusarium head blight in North Dakota and South Dakota. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on barley grain at 2.0 ppm, barley hay at 20.0 ppm, and barley straw at 20.0 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerance were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL-5725-7).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on sunflower for control of rust in Colorado. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole in or on sunflower oil at 0.4 ppm and sunflower seed at 0.2 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL-5725-7).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on garlic for control of garlic rust in California. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole in or on garlic at 0.1 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on May 26, 1999 (64 FR 28377) (FRL-6079-1).

Thiabendazole. EPA has authorized under FIFRA section 18 the use of thiabendazole on lentils for control of ascochyta blight in Idaho, Montana, North Dakota, and Washington. This regulation extends a time-limited tolerance for residues of the fungicide thiabendazole in or on lentils at 0.1 ppm for an additional 1-year period. This

tolerance will expire and is revoked on December 31, 2002. A time-limited tolerance was originally published in the **Federal Register** on February 25, 1998 (63 FR 9435) (FRL-5767-6).

Zinc phosphide. EPA has authorized under FIFRA section 18 the use of zinc phosphide on barley, potatoes, sugarbeets, and wheat for control of meadow voles and field mice in Idaho. This regulation extends time-limited tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley, grain at 0.010 ppm; barley, hay at 0.20 ppm; barley, straw at 0.20 ppm; potatoes at 0.05 ppm; sugar beet (roots) at 0.05 ppm; sugar beet (tops) at 0.10 ppm; and wheat, aspirated grain fractions; wheat grain; wheat hay; and wheat, straw at 0.010 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on December 9, 1998 (63 FR 67794) (FRL-6046-1) and August 16, 2000 (65 FR 49936) (FRL-6598-9).

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. 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 FFDCA section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-301194 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 on or before January 14, 2002.

1. **Filing the request.** Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). 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).

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.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260-4865.

2. **Tolerance fee payment.** If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental

Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. **Copies for the Docket.** In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP-301194, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid 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 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

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).

IV. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. 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 due to its lack of significance, 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). 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) (Public Law 104-4). 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); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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). Since tolerances and exemptions that are established under FFDCA section 408(l)(6) in response to an exemption under FIFRA section 18, such as the tolerances 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. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have

any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. 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 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: November 29, 2001.

Peter Caulkins,

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), 346(a) and 374.

§ 180.110 [Amended]

2. In § 180.110, in the table to paragraph (b), amend the entry for walnuts by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.176 [Amended]

3. In § 180.176, in the table to paragraph (b), amend the entry for ginseng by revising the expiration date "12/31/01" to read "12/31/02."

§ 180.242 [Amended]

4. In § 180.242, in the table to paragraph (b), amend the entry for lentils by revising the expiration date "12/31/01" to read "12/31/02."

§ 180.284 [Amended]

5. In § 180.284, in the table to paragraph (b), amend the entry for barley, grain; barley, hay; barley, straw; potatoes; sugar beet (roots); sugar beet (tops); wheat, aspirated grain fractions; wheat, grain; wheat, hay; and wheat, straw by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.301 [Amended]

6. In § 180.301, in the table to paragraph (b), amend the entry for onions, dry bulb by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.317 [Amended]

7. In § 180.317, in the table to paragraph (b), amend the entry for cranberries by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.353 [Amended]

8. In § 180.353, in the table to paragraph (b), amend the entry for red beet roots and red beet tops by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.368 [Amended]

9. In § 180.368, in the table to paragraph (b), amend the entry for spinach by revising the expiration date "12/31/01" to read "6/30/02."

§ 180.428 [Amended]

10. In § 180.428, in the table to paragraph (b), amend the entry for sorghum, fodder; sorghum, forage; and sorghum, grain by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.431 [Amended]

11. In § 180.431, in the table to paragraph (b), amend the entry for flax seed by revising the expiration date “12/31/01” to read “12/31/03.”

§ 180.434 [Amended]

12. In § 180.434, in the table to paragraph (b), amend the entry for sorghum, aspirated grain fractions; sorghum, grain, grain; and sorghum, grain, stover by revising the expiration date “12/31/01” to read “12/31/03.”

§ 180.442 [Amended]

13. In § 180.442, in the table to paragraph (b), amend the entry for peanuts, nutmeats by revising the expiration date “12/31/01” to read “12/31/03.”

§ 180.449 [Amended]

14. In § 180.449, in the table to paragraph (b), amend the entry for avocado by revising the expiration date “12/31/02” to read “12/31/03” and also amend the entry for spinach by revising the expiration date “1/31/02” to read “12/31/03.”

§ 180.466 [Amended]

15. In § 180.466, in the table to paragraph (b), amend the entry for currants by revising the expiration date “12/31/01” to read “12/31/03.”

§ 180.474 [Amended]

16. In § 180.474, in the table to paragraph (b)(1), amend the entries for barley, grain; barley, hay; barley, straw; garlic; sunflower oil; sunflower seed; wheat, hay; and wheat, straw by revising the expiration date “12/31/01” to read “12/31/03.”

§ 180.475 [Amended]

17. In § 180.475, in the table to paragraph (b), amend the entry for corn, sweet (kernel + corn with husk removed); corn, sweet, forage; and corn, sweet, stover by revising the expiration date “12/31/02” to read “12/31/03.”

§ 180.480 [Amended]

18. In § 180.480, in the table to paragraph (b), amend the entry for cattle, fat; goats, fat; hogs, fat; horses, fat; and sheep, fat by revising the expiration date “12/31/01” to read “12/31/03.”

19. In § 180.490, the table in paragraph (b) is revised to read as follows:

§ 180.490 Imazapic-ammonium; tolerances for residues.

* * * * *
(b) * * * *

Commodity	Parts per million	Expiration/revocation date
Cattle, fat	0.10	12/31/03
Cattle, kidney	1.0	12/31/03
Cattle, mbyp (except kidney)	0.1	12/31/03
Cattle, meat	0.1	12/31/03
Goats, fat	0.1	12/31/03
Goats, kidney	1.0	12/31/03
Goats, mbyp (except kidney)	0.1	12/31/03
Goats, meat	0.1	12/31/03
Grass, forage	30	12/31/03
Grass, hay	15	12/31/03
Hogs, fat	0.1	12/31/03
Hogs, kidney	1.0	12/31/03
Hogs, mbyp (except kidney)	0.1	12/31/03
Hogs, meat	0.1	12/31/03
Horses, fat	0.1	12/31/03
Horses, kidney	1.0	12/31/03
Horses, mbyp (except kidney)	0.1	12/31/03
Horses, meat	0.1	12/31/03
Sheep, fat	0.1	12/31/03
Sheep, kidney	1.0	12/31/03
Sheep, mbyp (except kidney)	0.1	12/31/03
Sheep, meat	0.1	12/31/03

* * * * *

20. In § 180.505, the table in paragraph (b) is revised to read as follows:

§ 180.505 Emamectin benzoate; tolerances for residues.

* * * * *
(b) * * * *

Commodity	Parts per million	Expiration/revocation date
Cattle, fat	0.002	12/31/02
Cattle, meat	0.002	12/31/02
Cattle, meat byproduct	0.002	12/31/02
Cotton gin byproduct	0.025	12/31/02
Cotton hulls	0.004	12/31/02
Cotton, meal	0.002	12/31/02
Cottonseed	0.002	12/31/02
Cottonseed oil	0.006	12/31/02
Goats, fat	0.002	12/31/02
Goats, meat	0.002	12/31/02
Goats, meat byproduct	0.002	12/31/02
Hogs, fat	0.002	12/31/02
Hogs, meat	0.002	12/31/02
Hogs, meat byproduct	0.002	12/31/02
Milk	0.002	12/31/02

Commodity	Parts per million	Expiration/revocation date
Sheep, fat	0.002	12/31/02
Sheep, meat	0.002	12/31/02
Sheep, meat byproduct	0.002	12/31/02

* * * * *

§ 180.509 [Amended]

21. In § 180.509, in the table to paragraph (b), amend the entries for barley, bran; barley, flour; barley, grain; barley, hay; barley, pearled; barley, straw; wheat grain; wheat straw by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.516 [Amended]

22. In § 180.516, in the table to paragraph (b), amend the entries for apricots, nectarines, peaches, and plums by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.532 [Amended]

23. In § 180.532, in the table to paragraph (b), amend the entry for caneberries by revising the expiration date "12/31/01" to read "12/31/03."

[FR Doc. 01-30916 Filed 12-13-01; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION
47 CFR Part 54

[CC Docket No. 96-45; FCC 01-268]

Federal-State Joint Board on Universal Service; Petition of Federal Transtel, Inc. for Waiver of Universal Service Fund Contribution Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of waiver request.

SUMMARY: In this document, the Commission denies the request of Federal Transtel, Inc. (Federal Transtel) to waive or reconsider the Commission's rules and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order and

Order on Reconsideration in CC Docket No. 96-45 released on September 20, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this Order, the Commission denies the request of Federal Transtel to waive or reconsider the Commission's rules in 47 CFR 54.703, 54.709, and 54.711 and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver. Furthermore, to the extent that Federal Transtel's petition seeks reconsideration of Commission rules that required carriers to base federal universal service contributions on prior year revenues, the Commission denies such request as untimely. In so doing, we also note that the Commission has recently amended its contribution methodology and these changes may address many of the substantive concerns raised in Federal Transtel's petition.

II. Discussion

2. The Commission concludes that Federal Transtel has failed to demonstrate that good cause exists to grant its request to waive the Commission's rules and thereby permit the recalculation of its 1998 and 1999 contributions to the federal universal service mechanisms. Consistent with the Commission's prior decisions, we conclude that granting such a request would be contrary to the principle of competitive neutrality and Congress' mandate that all carriers contribute to the federal universal service mechanisms on an equitable and nondiscriminatory basis. To the extent that Federal Transtel seeks reconsideration of the requirement to base federal universal service contributions on prior year revenues, the Commission concludes that such request is untimely. In addition, many of Federal Transtel's concerns have been addressed in a recent Commission proceeding.

A. Federal Transtel's Waiver Petition

3. Generally, the Commission's rules may be waived for good cause shown. As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

4. We are not persuaded that Federal Transtel's alleged inability to recover contributions in 1998 and 1999 from its current customers is a special circumstance warranting waiver of the prior year revenue contribution methodology. The Commission does not require carriers to recover their universal service contributions from customers. Rather, the Commission has given carriers the flexibility to decide whether and how they should recover their contributions, as markets become increasingly competitive. Although the Commission permits carriers to pass through all or part of their universal service contributions to their customers, the requirement to contribute remains whether or not a carrier passes such costs through to its customers. In addition, carriers are not precluded from anticipating the possible effects of declining revenues in the following year and reserving a portion of their current revenues to meet the contribution obligations that arise in the following year. Contrary to Federal Transtel's contention, the obligation to contribute to the universal service mechanisms based upon prior year revenues was not retroactively imposed on carriers. Carriers were given notice in July 1997 that contributions to the federal universal service mechanisms in 1998 would be based on prior year revenues. Therefore, the Commission concludes that carriers were provided with sufficient notice to develop business plans in anticipation of the implementation of the universal service contribution methodology beginning January 1, 1998.