

Dated: August 13, 2002.  
**Patricia D. Hull,**  
*Acting Regional Administrator, Region VIII.*

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671 *et seq.*

**Subpart TT—Utah**

2. Section 52.2320 is amended by adding paragraph (c)(50) to read as follows:

**§ 52.2320 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

(50) The Governor of Utah submitted Rule R307–110–34 and Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County as part of the Utah State Implementation Plan on December 7, 2001.

(i) Incorporation by reference.  
 (A) Rule R307–110–34 and Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County, including appendices 1 through 6, as adopted by the Utah Air Quality Board on August 1, 2001, effective October 2, 2001, published in the Utah State Bulletin issue of September 1, 2001.

(ii) Additional Material.  
 (A) Letter dated December 7, 2001 from Governor Michael O. Leavitt submitting Utah County’s inspection and maintenance program state implementation plan revision.

(B) Evaluation of the Utah County Inspection/Maintenance Program, dated May 20, 1999.

3. Section 52.2348 is amended by redesignating the existing paragraph as paragraph (a), adding paragraph (b) to read as follows:

**§ 52.2348 National Highway Systems Designation Act Motor Vehicle Inspection and Maintenance (I/M) Programs.**

\* \* \* \* \*

(b) On May 20, 1999, the State of Utah submitted an evaluation of the Utah County inspection and maintenance program. On December 7, 2001, the Governor of Utah submitted Rule R307–110–34 and Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County. These submittals satisfy the interim approval requirements specified under section 348 of the National Highway Systems Designation Act of 1995 (62 FR 31351, 63 FR 414). Under the authority of section 110 of the Clean Air Act, EPA

is removing the interim status of Utah County’s improved inspection and maintenance program and granting Utah County full final approval of their improved inspection and maintenance program.

[FR Doc. 02–23084 Filed 9–11–02; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP–2002–0226; FRL–7196–5]

**Thiophanate-methyl; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of thiophanate-methyl and its metabolite (methyl 2-benzimidazolyl carbamate (MBC)) in or on citrus and blueberry. This action is in response to EPA’s granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on citrus and blueberries. This regulation establishes maximum permissible levels for residues of thiophanate-methyl in these food commodities. The tolerances will expire and are revoked on June 30, 2004.

**DATES:** This regulation is effective September 12, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0226, must be received on or before November 12, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0226 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9356; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected 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 the person 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](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 ID number OPP–2002–0226. 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, 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, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the fungicide thiophanate-methyl and its metabolite (methyl 2-benzimidazolyl carbamate (MBC)), in or on citrus at 0.5 part per million (ppm), and blueberry at 1.5 ppm. These tolerances will expire and are revoked on June 30, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the 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 under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18-related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) 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. . . ."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (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 the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## III. Emergency Exemptions for Thiophanate-methyl on Citrus and Blueberries and FFDCA Tolerances

*Citrus.* Post-bloom fruit drop (PFD) poses a significant economic threat to the citrus industry throughout the humid, subtropical areas of the U.S. (including Florida and Louisiana). Benomyl, which has historically been used to manage PFD in citrus, was recently canceled by the registrant, and available alternatives do not provide effective control. Significant economic losses are expected without the requested use of thiophanate-methyl. EPA has authorized under FIFRA section 18 the use of thiophanate-methyl on citrus for control of PFD fruit drop disease in Florida and Louisiana. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

*Blueberries.* Benomyl has historically been used in blueberry production to control several important fungal pathogens, including Phomopsis Twig Blight and Canker (*Phomopsis vaccinii*), Fusarium Canker (*Fusicoccum putrefaciens*), Botryosphaeria Blight (*Monilinia vaccinii-corymbosi*), Anthracnose Fruit Rot (*Colletotrichum acutatum*), Mummy Berry Disease (*Botryosphaeria dothidea*). The registrant's recent cancellation of benomyl has left blueberry growers without sufficient means to control these diseases, as available alternatives do not provide adequate control. Significant economic losses are expected without the requested use of thiophanate-methyl. EPA has authorized under FIFRA section 18 the use of thiophanate-methyl on blueberries for control of a variety of important blueberry diseases in Connecticut,

Indiana, Michigan, New Jersey, New York, Ohio, and Pennsylvania. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of thiophanate-methyl in or on citrus and blueberry. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is establishing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2004, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on citrus and blueberry after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the level that was authorized by these tolerances at the time of that application. 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.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether thiophanate-methyl meets EPA's registration requirements for use on citrus and blueberry or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of thiophanate-methyl by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than those listed above to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for thiophanate-methyl, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

#### IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL-5754-7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of thiophanate-methyl and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of thiophanate-methyl in or on citrus and blueberry at 0.5 and 1.5 ppm, respectively. The most recent estimated aggregate risks resulting from the use of thiophanate-methyl, are discussed in the **Federal Register** of August 28, 2002 (67 FR 55137) (FRL-7192-1), final rule establishing tolerances for residues of thiophanate-methyl in/on grape, pear, potatoe, canola, and pistachio, because in that prior action, risk was estimated assuming tolerance level residues in all commodities for established tolerances, as well as those being proposed, such as the citrus and blueberry exemption uses. Refer to the August 28, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. A summary of the toxicological dose and endpoints for thiophanate-methyl for use in human risk assessment is discussed in Unit III. of the final rule mentioned above, published in the **Federal Register** of August 28, 2002 (67 FR 55137).

For thiophanate-methyl, the Agency recently modified the tolerance expression, so that the residues to be regulated in plant and animal commodities for purposes of tolerance enforcement will consist of the residues of thiophanate-methyl and its

metabolite MBC, expressed as thiophanate-methyl. Exposure from the use of benomyl, another pesticide which degrades under environmental conditions to MBC was not included in this assessment because the only basic registrant of benomyl requested voluntary cancellation of all benomyl-containing products in April 2001. Product cancellations were effective in early 2001 with sales and distribution of benomyl containing products ending by December 31, 2001. However, the Agency conducted a dietary assessment using U.S. Department of Agriculture Pesticide Data Program (PDP) monitoring data for benomyl, measured as MBC to estimate residues of thiophanate-methyl because MBC is a common metabolite of both benomyl and thiophanate-methyl. PDP data were available for apples, bananas, beans, cucurbits, peaches, and strawberries. The PDP analytical method employs a hydrolysis step that converts any benomyl present to MBC. MBC is then quantitated and corrected for molecular weight, and results are measured as the sum of benomyl and MBC. Therefore, using MBC data to estimate thiophanate-methyl residues may be a conservative approach in that it may overestimate thiophanate-methyl residues.

EPA assessed risk scenarios for thiophanate-methyl under acute, chronic, and short- and intermediate-term exposures.

The Dietary Exposure Evaluation Model (DEEM)<sup>TM</sup> analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

For the acute exposure assessments, maximum percent crop treated estimates and anticipated residue estimates were used. Using these exposure assumptions, EPA concluded that acute dietary exposure to thiophanate methyl uses 10% of the aPAD for the general U.S. population and 25% of the acute Population Adjusted Dose (aPAD) for the most highly exposed population subgroup of concern, infants, (less than 1 year). For MBC, the acute dietary risk estimate uses 4% of the aPAD for the general U.S. population and 89% of the aPAD for the population subgroup of concern, infants, (less than 1 year). The total thiophanate-methyl plus MBC acute dietary risk estimate for the only population subgroup of concern, females (13-50 years) uses 51% of the aPAD. The drinking water assessment, based on simultaneous dietary exposure to both MBC and thiophanate-methyl

which was converted to MBC equivalents resulted in the following Drinking Water Levels of Concern (DWLOCs): Infants (less than 1 year) 18 ppb; children (1-6 years) 57 ppb; females (13-50 years) 150 - 170 ppb; and general U.S. population 5,700 ppb. The lowest DWLOC for the population subgroup, infants (less than 1 year) does not exceed the Estimated Environmental Concentration (EEC) for ground water (0.033 ppb); however, the DWLOC does exceed the EEC for surface water (25 ppb). Although the EEC is exceeded, the DWLOC is greatly inflated as 50% of the aPAD percentage is consumed by citrus which is a limited emergency use only. When citrus is removed from the DWLOC estimation, the DWLOC becomes 94 ppb which is well above the EEC of 25 ppb. The DWLOC is significantly lowered by the addition of citrus because field trial data was used which results in an overly conservative estimation.

Another indication that the addition of citrus based on field trial data results in an over estimation is the fact that benomyl PDP data available for citrus indicated that there were zero hits out of 689 Florida samples of orange juice. These data were not used to refine the DWLOC estimation as the benomyl application rate is somewhat lower than the rate approved for thiophanate methyl in this year's emergency exemption. However, the Agency believes that most growers used the previously registered benomyl rate, because the emergency exemption was approved later in the use season and thus fewer applications than were authorized were actually used. Furthermore, if the higher rate were used, the impact would be lessened by the fact that juice is a blended commodity. Therefore, although the DWLOC is exceeded, the acute dietary risk from food and water does not exceed the Agency's level of concern.

For the chronic exposure assessments, average residues from field trial data and average percent crop treated estimates were used.

Using these exposure assumptions, EPA has concluded that exposure to thiophanate-methyl and MBC will utilize the following percentages of the chronic Population Adjusted Dose (cPAD) for the U.S. population: Thiophanate-methyl - 0.7%; MBC - 1.0% and total thiophanate-methyl plus MBC - 1.7%. The major identifiable subgroup with the highest aggregate exposure is children (1-6 years) and EPA has concluded that aggregate dietary exposure to thiophanate-methyl and MBC will utilize the following percentages of the cPAD: thiophanate-

methyl - 2.3%; MBC - 26% and total thiophanate-methyl plus MBC - 28%. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The aggregate chronic DWLOCs are as follows: 858 ppb for the general U.S. population; 69 ppb for females (13–50 years); 22 ppb for infants (less than 1 year); and 18 ppb for children (1–6 years). The aggregate surface water EEC for thiophanate-methyl is 0.7 ppb; 14 ppb for MBC and 14.7 ppb for thiophanate-methyl plus MBC. Therefore, the chronic aggregate risks do not exceed the Agency's level of concern.

Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiophanate-methyl and MBC are currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for thiophanate-methyl and MBC.

All residential exposures are considered to be short-term. The Margins of Exposure (MOEs) (converted to MBC equivalents) for aggregate short-term exposure to thiophanate-methyl are as follows: Oral exposure of children (1-6 years) is 670; dermal exposure of children (1-6 years) is 1,000; and dermal exposure of females (13-50 years) is 1,315. The MOEs for aggregate exposure to MBC from the use of MBC as an in-can preservative are 670 for dermal exposure and 770 for exposure via inhalation. The MOEs (converted to MBC equivalents) for the total thiophanate-methyl and MBC aggregate exposure are as follows: 630 for oral and dermal exposure of children (1-6 years); 770 for exposure via inhalation for females (13-50 years); and 620 for oral and dermal exposure for females (13-50 years). Although the MOEs below 1,000 exceed the Agency's level of concern, when considering the conservative method of exposure estimation previously discussed, and the negotiated risk mitigation whereby the registrant has agreed to conduct hand-press studies to help refine this assessment, the risks do not exceed the Agency's level of concern.

*Aggregate cancer risk for U.S. population.* The total thiophanate-methyl and MBC dietary cancer risk is  $8.5 \times 10^{-7}$  for existing and new uses. The cancer risk from non-occupational residential exposure is  $3.7 \times 10^{-7}$ . The

aggregate cancer risk is  $1.2 \times 10^{-6}$ . This risk estimate includes cancer risk from both thiophanate-methyl and MBC on food including all pending uses and section 18 uses, thiophanate-methyl exposure from treating ornamentals, thiophanate-methyl exposure from performing post-application lawn activities, and exposure from applying paint containing MBC. This is considered to be a high-end risk scenario since it is not expected that someone would treat ornamentals, perform high exposure post-application activities, and apply paint containing MBC every year for 70 years. Therefore, this estimate is considered to be a conservative estimate. Additionally, the cancer risk estimate based on the highest EEC (thiophanate-methyl plus MBC EEC) is  $9.6 \times 10^{-7}$ . This is also a very high-end risk estimate as it is based on the maximum rate being applied every season for 70 years. Thus, food plus water (assuming that the modeled surface water EEC is equivalent to concentrations in finished drinking water) plus non-occupational residential cancer risk is  $2.2 \times 10^{-6}$  which is still within the range considered as negligible. In addition, the cancer risk estimates using benomyl/MBC PDP monitoring data to estimate thiophanate-methyl residues are below  $1 \times 10^{-6}$  for thiophanate-methyl existing uses, new uses, and the amortized section 18 use on citrus and blueberry. Therefore, the risks do not exceed the Agency's level of concern.

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to thiophanate-methyl and MBC residues.

#### V. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5229; e-mail address: [furlow.calvin@epa.gov](mailto:furlow.calvin@epa.gov).

##### B. International Residue Limits

The Codex Alimentarius Commission has established maximum residue limits (MRLs) for thiophanate-methyl residues in/on various plant and animal commodities. Codex MRLs for thiophanate-methyl are currently expressed as MBC. The Codex MRL residue definition and the U.S. tolerance

definition, previously expressed as only thiophanate-methyl, have been incompatible and will remain incompatible even with the recent revision of the U.S. tolerance definition, since the revised tolerance definition includes both thiophanate-methyl and MBC.

#### C. Conditions

A 30-day plant back interval is required for crops without labeled uses of thiophanate-methyl.

1. *Citrus.* Three to four applications (depending upon rate) may be made at a rate of 1.05 to 1.4 pound of active ingredient per acre (lb a.i./acre) using ground equipment. A maximum of 4.2 lb a.i./acre may be applied per year.

2. *Blueberry.* Up to three applications may be made at a rate of 0.7 lb a.i./acre. No more than three applications may be made, prior to the harvest of the berries; do not exceed a total of 2.1 lb a.i./acre per season.

#### VI. Conclusion

Therefore, the tolerances are established for residues of thiophanate-methyl and its metabolite, (methyl 2-benzimidazolyl carbamate (MBC), expressed as thiophanate-methyl, in or on citrus at 0.5 ppm and blueberry at 1.5 ppm.

#### VII. 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 the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new 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), 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 ID number

OPP-2002-0226 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 November 12, 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](mailto: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 VII.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 the docket ID number OPP-2002-0226, 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](mailto: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 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).

### **VIII. Regulatory Assessment Requirements**

This final rule establishes time-limited tolerances under FFDC 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 on the basis of a FIFRA section 18 exemption under FFDC section 408, 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 FFDC 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.

**IX. 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: September 3, 2002.  
**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.

2. Section 180.371 is amended by adding text and a table to paragraph (b) to read as follows:

**§ 180.371 Thiophanate-methyl; tolerances for residues.**

\* \* \* \* \*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the residues of thiophanate-methyl and its metabolite (methyl 2-benzimidazolyl carbamate (MBC)) in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

Commodity	Parts per million	Expiration/revocation date
Blueberry .....	1.5	6/30/04
Citrus .....	0.5	6/30/04

\* \* \* \* \*

[FR Doc. 02-23266 Filed 9-11-02; 8:45 am]

**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[FRL-7373-8]**

**National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the Republic Steel Quarry Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 5 is publishing a direct final notice of deletion of the Republic Steel Quarry Superfund Site (Site), located in Elyria, Ohio, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response,

Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Ohio, through the Ohio Environmental Protection Agency, because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

**DATES:** This direct final deletion will be effective November 12, 2002, unless EPA receives adverse comments by October 15, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Comments may be mailed to: Sheila Sullivan, Remedial Project Manager (RPM) (SR-6J), ([sullivan.sheila@epa.gov](mailto:sullivan.sheila@epa.gov)) U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL, USA 60604-3590, (mail code: SR-6J) or at (312) 886-5251 or 1-800-621-8431 Monday through Friday 9 a.m. to 4 p.m.

**Information Repositories:** Comprehensive information about the Site and the site deletion docket are available for viewing and copying at the Site information repositories located at: 1. EPA Region 5 Administrative Records, 77 West Jackson Blvd., Seventh Floor, Chicago, IL, USA 60604-3590, (312) 886-0900, Monday through Friday 8 a.m. to 4 p.m.; 2. Elyria Public Library, 320 Washington Ave., Elyria, OH 44035, (440) 323-5747, Monday through Thursday 9 a.m. to 8:30 p.m., Friday through Saturday 9 a.m. to 5:30 p.m., Sunday 1 to 4 p.m.; 3. Ohio Environmental Protection Agency—Northeast District Office, 2110 E. Aurora Road, Twinsburg, OH 44087, (330) 963-1200, Monday through Friday 8 a.m. to 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Sheila Sullivan, Remedial Project Manager at (312) 886-5251, [Sullivan.Sheila@EPA.Gov](mailto:Sullivan.Sheila@EPA.Gov) or Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253, [Beard.Gladys@EPA.Gov](mailto:Beard.Gladys@EPA.Gov), or 1-800-621-8431, U.S. EPA Region 5 (SR-6J), 77 W. Jackson Blvd., Chicago, IL, USA, 60604-3590, Monday through Friday 9 a.m. to 4 p.m.

**SUPPLEMENTARY INFORMATION:**

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