

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 section 408(n)(4) of the FFDCA. 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. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of 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 record keeping requirements.

Dated: June 12, 2003.

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 371.

■ 2. Section 180.527 is amended by revising paragraphs (a) and (d) to read as follows:

§ 180.527 N-(4-fluorophenyl)-N-(1-methylethyl)-2-[(5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl)oxy]acetamide; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[(5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl)oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field, forage	0.4
Corn, field, grain ...	0.05
Corn, field, stove ..	0.4
Soybean, seed	0.1

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the herbicide

N-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[(5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl)oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the raw agricultural commodities listed in paragraph (a) of this section.

Commodity	Parts per million
Alfalfa, forage	0.1
Alfalfa, hay	0.1
Alfalfa, seed	0.1
Clover, forage	0.1
Clover, hay	0.1
Grain, cereal, group 15, except rice	0.1
Grain, cereal, forage, fodder, and straw, group 16, except rice	0.1
Grass, forage, fodder, and hay, group 17	0.1

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0179; FRL–7311–5]

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 pesticides listed in Unit II. of the **SUPPLEMENTARY INFORMATION**. 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 June 25, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0179, must be received by EPA on or before July 25, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand

delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: See the table in this unit 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 20460-0001.

Pesticide/CFR cite	Contact person
Maneb; § 180.110 Desmedipham; § 180.353 Hydramethylnon; § 180.395 Propiconazole; § 180.434	Libby Pemberton Sec-18-Mailbox@epamail.epa.gov Phone number (703) 308-9364
Terbacil; § 180.209 Myclobutanil; § 180.443 Carfentrazone-ethyl; § 180.515 Methoxyfenozide; § 180.544	Barbara Madden Sec-18-Mailbox@epamail.epa.gov Phone number (703) 305-6463
Fludioxonil; § 180.516	Andrew Ertman Sec-18-Mailbox@epamail.epa.gov Phone number (703) 308-9367
Tebuconazole; § 180.474 Difenoconazole; § 180.475 Fenbuconazole; § 180.480 Pyriproxyfen; § 180.510 Tetraconazole; § 180.557	Andrea Conrath Sec-18-Mailbox@epamail.epa.gov Phone number (703) 308-9356

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal or State Government Agency involved in administration of environmental quality programs (i.e., Departments of Agriculture, Environment, etc). Potentially affected entities may include, but are not limited to:

- Federal or State Government Entity, (NAICS 9241), i.e., Departments of Agriculture, Environment, etc.

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies Of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification ID number OPP-2003-0179. The official public docket consists of the documents specifically referenced in this action, any public comments received, and

other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under 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.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in

the system, select “search,” then key in the appropriate docket ID number.

II. Background and Statutory Findings

EPA published a final rule in the **Federal Register** for each chemical/commodity listed below. The initial issuance of these final rules announced that EPA, on its own initiative, under section 408 of the FFDCA, 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 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 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 section 408(b)(2) of the FFDCA, and decided that the necessary tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18.

The data and other relevant material were 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 section 408(l)(6) of the FFDC. Therefore, the time-limited tolerances are extended until the date listed. 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 section 408(l)(5) of the FFDC, 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:

1. *Carfentrazone-ethyl*. EPA has authorized under FIFRA section 18 the use of carfentrazone-ethyl on hops for control of hops sucker growth to indirectly control powdery mildew in Idaho, Oregon, and Washington. This regulation extends a time-limited tolerance for combined residues of the herbicide carfentrazone-ethyl, (ethyl- α -2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoate) and its metabolite carfentrazone-chloropropionic acid (α ,2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid) in or on hop, dried cone at 0.30 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. A time-limited tolerance was originally published in the **Federal Register** of August 1, 2001 (66 FR 39640) (FRL-6792 -2)

2. *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 18-month

period. These tolerances will expire and are revoked on June 30, 2005. Time-limited tolerances were originally published in the **Federal Register** on August 29, 1997 (62 FR 45741) (FRL-5738-5).

3. *Difenoconazole*. EPA has authorized under FIFRA section 18 the use of difenoconazole on sweet corn seed for control of damping off and die-back diseases in Idaho and Colorado. 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 2-year period. These tolerances will expire and are revoked on December 31, 2005. The time-limited tolerances were originally published in the **Federal Register** of September 1, 1999 (64 FR 47680) (FRL-6094-3).

4. *Fenbuconazole*. EPA has authorized under FIFRA section 18 the use of fenbuconazole on grapefruit for control of greasy spot disease in Florida. This regulation extends time-limited tolerances for combined residues of the fungicide fenbuconazole, (α -[2-(4-chlorophenyl)-ethyl] α -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, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm; grapefruit at 0.5 ppm; grapefruit oil at 35 ppm; and grapefruit dried pulp at 4 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2005. The time-limited tolerances were originally published in the **Federal Register** of January 29, 1999 (64 FR 4577) (FRL-6054-3).

5. *Fludioxonil*. EPA has authorized under FIFRA section 18 the use of fludioxonil on pomegranates for control of gray mold in California. This regulation extends a time-limited tolerance for combined residues of the fungicide fludioxonil, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile, in or on pomegranates at 5.0 ppm for an additional 3-year period. This tolerance will expire and is revoked on June 30, 2006. The time-limited tolerance was originally published in the **Federal Register** of September 12, 2001 (66 FR 47403) (FRL-6797-5).

6. *Hydramethylnon*. EPA has authorized under FIFRA section 18 the use of hydramethylnon on pineapple for

control of big-headed and Argentine ants in Hawaii. This regulation extends a time-limited tolerance for residues of the insecticide hydramethylnon; tetrahydro-5,5-dimethyl-2-(1H)-pyrimidinoine (3-(4-trifluoromethyl)phenyl)-1-[2-(4-trifluoromethyl)phenyl]ethenyl)-2-propenylidene) hydrazone] in or on pineapple at 0.05 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. A time-limited tolerance was originally published in the **Federal Register** of March 4, 1998 (63 FR 10537) (FR-5767-1).

7. *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 (manganous 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, 2005. A time-limited tolerance was originally published in the **Federal Register** of March 17, 1999 (64 FR 13097) (FRL-6067-9)

8. *Methoxyfenozide*. EPA has authorized under FIFRA section 18 the use of methoxyfenozide on soybeans for control of soybean loopers and salt marsh caterpillars in Mississippi. This regulation extends a time-limited tolerance for residues of the insecticide methoxyfenozide, benzoic acid, 3-methoxy-2-methyl-2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl)hydrazide in or on soybean aspirated grain fractions at 20 ppm, soybean seed at 0.04 ppm, soybean forage at 10 ppm, soybean hay at 75 ppm and soybean oil at 1.0 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2005. A time-limited tolerance was originally published in the **Federal Register** of November 2, 2001 (66 FR 55585) (FRL-6806-4)

9. *Myclobutanil*. EPA has authorized under FIFRA section 18 the use of myclobutanil on hops for control of powdery mildew in Idaho, Oregon, and Washington. This regulation extends a time-limited tolerance for combined residues of the fungicide myclobutanil, α -butyl- α -(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile and its alcohol metabolite α -(3-hydroxybutyl)- α -(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (free and bound) in or on hops at 5.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2005. A time-

limited tolerance was originally published in the **Federal Register** of July 10, 1998 (63 FR 37289) (FRL-5798-6).

10. *Myclobutanil*. EPA has authorized under FIFRA section 18 the use of myclobutanil on peppers for control of powdery mildew in California. This regulation extends a time-limited tolerance for combined residues of the fungicide myclobutanil α -butyl- α -(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile and its alcohol metabolite (α -(3-hydroxybutyl)- α -(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (free and bound) in or on pepper at 1.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. A time-limited tolerance was originally published in the **Federal Register** of September 16, 1998 (63 FR 49472) (FRL-6025-1).

11. *Propiconazole*. EPA has authorized under FIFRA section 18 the use of propiconazole on dry beans for control of rust in Colorado, Kansas, Minnesota, Nebraska, and North Dakota. This regulation extends a time-limited tolerance 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 metabolite determined as 2,4-dichlorobenzoic acid in or on dry beans at 0.5 ppm, dry bean forage at 8 ppm, and dry bean hay at 8 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2005. The time-limited tolerances for dry bean commodities were originally published in the **Federal Register** of June 13, 1997 (62 FR 32224) (FRL-5718-8).

12. *Propiconazole*. EPA has authorized under FIFRA section 18 the use of propiconazole on cranberry for control of cottonball disease in Wisconsin. This regulation extends a time-limited tolerance 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 cranberry at 1.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2005. A time-limited tolerance was originally published in the **Federal Register** of April 11, 1997 (62 FR 17710) (FRL-5600-5).

13. *Propiconazole*. EPA has authorized under FIFRA section 18 the use of propiconazole on grain sorghum for control of sorghum ergot in Kansas, New Mexico and Texas. This regulation extends a time-limited tolerance 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 18-month period. These tolerances will expire and are revoked on June 30, 2005. Time-limited tolerances were originally published in the **Federal Register** of August 13, 1997 (62 FR 43284) (FRL-5735-2).

EPA has received objections to tolerances it established for propiconazole on different food commodities. The objections were filed by the Natural Resources Defense Council (NRDC) and raised several issues regarding aggregate exposure estimates and the additional safety factor for the protection of infants and children. Although these objections concern separate rulemaking proceedings under the FFDCA, EPA has considered whether it is appropriate to extend the emergency exemption tolerances for propiconazole while the objections are still pending.

Factors taken into account by EPA included how close the Agency is to concluding the proceedings on the objections, the nature of the current action, whether NRDC's objections raised frivolous issues, and extent to which the issues raised by NRDC had already been considered by EPA. Although NRDC's objections are not frivolous, the other factors all support extending these tolerances at this time. First, the objections proceeding is unlikely to conclude prior to when action is necessary on this petition. NRDC's objections raise complex legal, scientific, policy, and factual matters and EPA initiated a 60 day public comment period on them in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL-7167-7). That comment period was extended until October 16, 2002 (September 17, 2002 (67 FR 58536) (FRL-7275-3)), and EPA is now examining the extensive comments received. Second, the nature of the current actions are extremely time-sensitive as they address emergency situations. Third, the issues raised by NRDC are not new matters but questions that have been the subject of considerable study by EPA and comment by stakeholders. Accordingly, EPA is proceeding with extending the tolerances for propiconazole.

14. *Pyriproxyfen*. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on beans for control of

whiteflies in Florida. This regulation extends a time-limited tolerance for residues of the insecticide pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine in or on bean, succulent at 0.1 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. A time-limited tolerance was originally published in the **Federal Register** of September 5, 2001 (66 FR 46390) (FRL-6798-6).

15. *Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on garlic for control of rust in California. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole, (α -[2-(4-chlorophenyl)-ethyl]- α -(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on garlic at 0.1 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2005. A time-limited tolerance was originally published in the **Federal Register** of May 26, 1999 (64 FR 28377) (FRL-6079-1).

16. *Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on wheat for control of fusarium head blight in Michigan, Minnesota, North Dakota, and South Dakota. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole (α -[2-(4-chlorophenyl)-ethyl]- α -(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 18-month period. These tolerances will expire and are revoked on June 30, 2005. Time-limited tolerances were originally published in the **Federal Register** of June 20, 1997 (62 FR 33550) (FRL-5725-7).

17. *Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on barley for control of fusarium head blight in Minnesota, North Dakota, and South Dakota. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole (α -[2-(4-chlorophenyl)-ethyl]- α -(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 18-month period. These tolerances will expire and are revoked on June 30, 2005. Time-limited tolerance were originally published in the **Federal Register** of June 20, 1997 (62 FR 33550) (FRL-5725-7).

18. *Terbacil*. EPA has authorized under FIFRA section 18 the use of terbacil on watermelon for control of morningglory and other annual broadleaf weeds in Virginia. This

regulation extends a time-limited tolerance for combined residues of the herbicide terbacil (3-tert-Butyl-5-chloro-6-methyluracil and its three metabolites 3-tert-butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2,3-dihydro-7-hydroxymethyl-3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one) which are calculated as terbacil in or on watermelon at 4.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. A time-limited tolerance was originally published in the **Federal Register** of June 20, 1997 (62 FR 33557) (FRL-5718-7)

19. *Tetraconazole*. EPA has authorized under FIFRA section 18 the use of tetraconazole on sugar beets for control of cercospora leaf spot in Colorado, Montana, Nebraska, and Wyoming. This regulation extends time-limited tolerances for residues of the fungicide tetraconazole, [(+/-)-2-(2,4-dichlorophenyl)-3-(1H-1,2,4-triazol-1-yl) propyl 1, 1,2,2-tetrafluoroethyl ether] in or on sugarbeets, and sugarbeet-related commodities, and for secondary residues of triazole on animal commodities from livestock fed sugarbeet by-products] at 0.10 part per million in/on sugarbeet, 6.0 ppm in/on sugarbeet top, 0.20 ppm in/on sugarbeet dried pulp, 0.30 ppm in/on sugarbeet molasses, 0.050 ppm in milk, 0.030 ppm in cattle, meat and meat byproducts except kidney and liver, 0.20 ppm in kidney, 6.0 ppm in liver, and 0.60 ppm in fat for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2005. The time-limited tolerances were originally published in the **Federal Register** of December 6, 1999 (64 FR 68046) (FRL-6384-1).

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 the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA 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) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. 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 instruction provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2003-0179 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 July 25, 2003.

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 (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. 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 (703) 603-0061.

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 20460-0001.

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 20460-0001.

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.1. Mail your copies, identified by docket ID number OPP-2003-0179, 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 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. 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. Statutory and Executive Order Reviews

This final rule establishes time-limited tolerances under section 408 of the FFDCA. 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 section 408(l)(6) of the FFDCA 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 section 408(n)(4) of the FFDCA. 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. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of 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: June 16, 2003.

Debra Edwards,

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 371.

§ 180.110 [Amended]

■ 2. In § 180.110, in the table to paragraph (b), amend the entry for walnut by revising the expiration/revocation date "12/31/03" to read "12/31/05."

§ 180.209 [Amended]

■ 3. In § 180.209, in the table to paragraph (b), amend the entry for watermelon by revising the expiration/revocation date "6/30/03" to read "6/30/05."

§ 180.353 [Amended]

■ 4. In § 180.353, in the table to paragraph (b), amend the entry for red beet roots and red beet tops by revising the expiration/revocation date "12/31/03" to read "6/30/05."

§ 180.395 [Amended]

■ 5. In § 180.395, in the table to paragraph (b), amend the entry for pineapple by revising the expiration/revocation date "6/30/03" to read "6/30/05."

§ 180.434 [Amended]

■ 6. In § 180.434, in the table to paragraph (b), amend the entries for sorghum, aspirated grain fractions; sorghum, grain, grain; and sorghum, grain, stover by revising the expiration/revocation date "12/31/03" to read "6/30/05" and amend the entries for cranberry; dry bean; dry bean forage; and dry bean hay by revising the expiration/revocation date "12/31/03" to read "12/31/05."

§ 180.443 [Amended]

■ 7. In § 180.443, in the table to paragraph (b), amend the entries for pepper by revising the expiration/revocation date "6/30/03" to read "6/30/05" and for hop, dried cone by revising the expiration/revocation date "12/31/03" to read "12/31/05."

§ 180.474 [Amended]

■ 8. In § 180.474, in the table to paragraph (b), amend the entries for barley, grain; barley, hay; straw; wheat, hay; and wheat, straw by revising the expiration/revocation date “12/31/03” to read “6/30/05” and amend the entry for garlic by revising the expiration/revocation date “12/31/03” to read “12/31/05”

§ 180.475 [Amended]

■ 9. In § 180.475, in the table to paragraph (b), amend the entry for corn, sweet, kernel plus cob with husks removed; corn, sweet, forage; and, corn, sweet, stover by revising the expiration/revocation date “12/31/03” to read “12/31/05.”

§ 180.480 [Amended]

■ 10. In § 180.480, in the table to paragraph (b), amend the entries for cattle, fat; cattle, meat byproducts; cattle, meat; goat, fat; goat, meat byproducts; goat, meat; grapefruit; grapefruit, dried pulp; grapefruit, oil; hog, fat; hog, meat byproducts; hog, meat; horse, fat; horse, meat byproducts; horse, meat; sheep, fat; sheep, meat byproducts; sheep, meat by revising the expiration/revocation date “12/31/03” to read “12/31/05.”

§ 180.510 [Amended]

■ 11. In § 180.510, in the table to paragraph (b), amend the entry for bean, succulent by revising the expiration/revocation date “6/30/03” to read “6/30/05.”

§ 180.515 [Amended]

■ 12. In § 180.515, in the table to paragraph (b), amend the entry for hop, dried cone by revising the expiration/revocation date “6/30/03” to read “6/30/05.”

§ 180.516 [Amended]

■ 12. In § 180.516, in the table to paragraph (b), amend the entry for pomegranate by revising the expiration/revocation date “6/30/03” to read “6/30/06.”

§ 180.544 [Amended]

■ 13. In § 180.544, in the table to paragraph (b), amend the entries for soybean, aspirated grain fractions; soybean, forage; soybean, hay; soybean, refined oil; soybean, seed by revising the expiration/revocation date “12/31/03” to read “12/31/05.”

§ 180.557 [Amended]

■ 14. In § 180.515, in the table to paragraph (b), amend the entries for beet, sugar, dried pulp; beet, sugar, molasses; beet, sugar, roots; beet, sugar, tops; cattle, fat; cattle, kidney; cattle, liver; cattle, meat; cattle, meat byproducts, except

kidney and liver; and milk by revising the expiration/revocation date “12/31/03” to read “12/31/05.”

[FR Doc. 03-15906 Filed 6-24-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2003-0136; FRL-7310-7]

Buprofezin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of buprofezin in or on bean, snap, succulent; logan; lychee; pistachio; pulasan; rambutan; and spanish lime. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective June 25, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0136, must be received on or before August 25, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7050C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, and pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS

32532)

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 this unit could also

be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification ID number OPP-2003-0136. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under 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.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select “search,” then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of March 26, 2003 (68 FR 14619) (FRL-7295-8), EPA issued a notice pursuant to section 408