

(320)(i)(A)(3), and (328) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(277) \* \* \*

(i) \* \* \*

(C) \* \* \*

(8) Rule 8–28, adopted on July 16, 1980 and amended on March 18, 1998.

\* \* \* \* \*

(320) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) Rule 418, adopted on September 1, 1974 and revised on April 16, 2003.

\* \* \* \* \*

(328) Amended regulations for the following APCDs were submitted on January 15, 2004, by the Governor's Designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District

(1) Rule 70, adopted on June 25, 1974 and revised on November 11, 2003.

\* \* \* \* \*

[FR Doc. 04–11553 Filed 5–21–04; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP–2004–0136; FRL–7358–7]

**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 May 24, 2004. Objections and requests for hearings must be received on or before July 23, 2004.

**ADDRESSES:** To submit a written objection or hearing request follow the

detailed instructions as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket ID number OPP–2004–0136. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy 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.

**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.

Contact person	Pesticide/CFR cite
Barbara Madden, <a href="mailto:madden.barbara@epa.gov">madden.barbara@epa.gov</a> (703) 305–6463	Carfentrazone-ethyl; 180.515 Coumaphos; 180.189 Dimethenamid; 180.464
Linda Arrington, <a href="mailto:arrington.linda@epa.gov">arrington.linda@epa.gov</a> (703) 305–6249	Diflubenzuron; 180.377
Stacey Groce, <a href="mailto:groce.stacey@epa.gov">groce.stacey@epa.gov</a> (703) 305–2505	Mancozeb; 180.176 Myclobutanil; 180.443
Andrew Ertman, <a href="mailto:ertman.andrew@epa.gov">ertman.andrew@epa.gov</a> (703) 308–9367	S-metolachlor; 180.368 Sulfentrazone; 180.498
Andrea Conrath, <a href="mailto:conrath.andrea@epa.gov">conrath.andrea@epa.gov</a> (703) 308–9356	Bifenthrin; 180.442 Fenbuconazole; 180.480 Indoxacarb; 180.564 Pyriproxyfen; 180.510 Thiabendazole; 180.242 Thiophanate Methyl; 180.371

**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 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 Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), 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 E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

## II. Background and Statutory Findings

EPA published final rules in the **Federal Register** for each chemical/commodity listed. The initial issuance of these final rules announced that EPA, on its own initiative, under section 408 of the FFDCFA, 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 FFDCFA 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 FFDCFA, and decided that the necessary tolerance under section 408(l)(6) of the FFDCFA 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 section 408(l)(6) of the FFDCFA. 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 FFDCFA, 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. *Bifenthrin*. EPA has authorized under FIFRA section 18 the use of bifenthrin on orchardgrass, forage and orchardgrass, hay for control of orchardgrass billbug in Oregon. This regulation extends time-limited tolerances for residues of the insecticide bifenthrin [(2-methyl [1,1'-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropane carboxylate] in or on orchardgrass, forage and orchardgrass, hay at 0.05 ppm for an additional 3-year period. These tolerances will expire and are revoked on June 30, 2007. Time-limited tolerances were originally published in the **Federal Register** of July 26, 2002 (67 FR 48790) (FRL-7187-8) (40 CFR 180.442).

2. *Carfentrazone-ethyl*. EPA has authorized under FIFRA section 18 the use of carfentrazone-ethyl on fruiting vegetables group 8 for control of paraquat resistant nightshade, common groundsel and morningglory in Florida. This regulation extends a time-limited tolerance for combined residues of the herbicide carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene propanoate) and its metabolite: carfentrazone-chloropropionic acid (alpha, 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 tomato, paste at 0.60 ppm; tomato, puree at 0.60 ppm and the vegetable, fruiting, group 8 at 0.10 ppm for an additional 3-year period. These tolerances will expire and are revoked on June 30, 2007. Time-limited tolerance were originally published in the **Federal Register** of June 12, 2002 (67 FR 40203) (FRL-7178-1) (40 CFR 180.515).

3. *Coumaphos*. EPA has authorized under FIFRA section 18 the use of coumaphos in beehives for control of varroa mites and small hive beetles in

Arizona, Florida, Idaho, Kansas, Oregon, and Washington. This regulation extends time-limited tolerances for combined residues of the acaricide/insecticide coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) in or on honey at 0.1 ppm and honeycomb at 100 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2007. Time-limited tolerances were originally published in the **Federal Register** of August 16, 2000 (65 FR 49927) (FRL-6738-3) (40 CFR 180.189).

4. *Diiflubenzuron*. EPA has authorized under FIFRA section 18 the use of diflubenzuron on alfalfa hay and forage for control of grasshoppers and Mormon crickets in Idaho, Nevada, and Utah. This regulation extends a time-limited tolerance for residues of the insecticide diflubenzuron and its metabolites PCA (p-chloroaniline) and CPU (p-chlorophenylurea), expressed as the parent diflubenzuron in or on alfalfa hay and alfalfa forage at 6.0 ppm for an additional 3-year period. These tolerances will expire and are revoked on June 30, 2007. Time-limited tolerances were originally published in the **Federal Register** of September 20, 2002 (67 FR 59177) (FRL-7273-7) (40 CFR 180.377).

EPA has received objections to a tolerance it established for diflubenzuron on a specific food commodity. 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. EPA has considered whether it is appropriate to extend these emergency exemption tolerances for diflubenzuron 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 establishing this tolerance 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. EPA has published a notice describing the nature of the NRDC's objections in

more detail. This notice offered an opportunity for the public to comment on this matter and published in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL-7167-7). EPA is now examining the extensive comments received. Second, the nature of the current action is extremely time-sensitive and addresses an emergency situation. 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.

5. *Dimethenamid*. EPA has authorized under FIFRA section 18 the use of dimethenamid on dry bulb onions for control of weeds in New York and Michigan. This regulation extends a time-limited tolerance for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxyethyl)-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on dry bulb onions at 0.01 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of August 24, 2000 (65 FR 51544) (FRL-6738-1) (40 CFR 180.464).

6. *Dimethenamid*. EPA has authorized under FIFRA section 18 the use of dimethenamid on sugar beets for control of weeds in Idaho and Oregon. This regulation extends a time-limited tolerance for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxyethyl)-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on sugar beet and sugar beet tops at 0.01 ppm and on sugar beet dried pulp and sugar beet molasses at 0.05 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2007. Time-limited tolerances were originally published in the **Federal Register** of August 24, 2000 (65 FR 51544) (FRL-6738-1) (40 CFR 180.464).

7. *Fenbuconazole*. EPA has authorized under FIFRA section 18 the use of fenbuconazole on blueberry for control of mummyberry disease in Arkansas, Connecticut, Georgia, Indiana, Maine, Massachusetts, Michigan, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, and Washington. This regulation extends a time-limited tolerance for residues of the fungicide fenbuconazole and its metabolites in or on blueberry at 1.0 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of June 10, 1998 (63 FR 31633) (FRL-5791-5) (40 CFR 180.480).

8. *Indoxacarb*. EPA has authorized under FIFRA section 18 the use of

indoxacarb on cranberry for control of weevils in Massachusetts. This regulation extends a time-limited tolerance for combined residues of the insecticide indoxacarb, [(*S*)-methyl 7-chloro-2,5-dihydro-2-[[[methoxycarbonyl] 4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-*e*][1,3,4]oxadiazine-4a(3*H*)-carboxylate] and its *R*-enantiomer [(*R*)-methyl 7-chloro-2,5-dihydro-2-[[[methoxycarbonyl] 4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-*e*][1,3,4]oxadiazine-4a(3*H*)-carboxylate] in or on cranberry at 0.5 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of September 18, 2002 (67 FR 58725) (FRL-7274-9) (40 CFR 180.564).

9. *Mancozeb*. EPA has authorized under FIFRA section 18 the use of mancozeb on ginseng for control of *Alternaria* stem and leaf blight, and *Phytophthora* leaf blight in Michigan, Wisconsin, Oregon, and Washington. This regulation extends a time-limited tolerance for combined residues of the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate, and its metabolite ethylenethiourea (ETU) in or on ginseng at 2.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2006. A time-limited tolerance was originally published in the **Federal Register** of October 9, 1998 (63 FR 54362) (FRL-6029-5) (40 CFR 180.176).

10. *Myclobutanil*. EPA has authorized under FIFRA section 18 the use of myclobutanil on sugar beets for control of powdery mildew in Idaho and Oregon. This regulation extends a time-limited tolerance for combined residues of the fungicide myclobutanil alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its alcohol metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound) in or on dried pulp of sugar beets at 1.0 ppm, sugar beet molasses at 1.0 ppm, refined sugar from sugar beets at 0.70 ppm, sugar beet roots at 0.05 ppm, and sugar beet tops at 1.0 ppm for an additional 3-year period. These tolerances will expire and are revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of January 3, 2001 (66 FR 298) (FRL-6757-9) (40 CFR 180.443).

11. *Pyriproxyfen*. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on strawberry for control of whiteflies in California. This

regulation extends a time-limited tolerance for residues of the insecticide pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy) ethoxy]pyridine] in or on strawberry at 0.3 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of November 29, 2002 (67 FR 71105) (FRL-7281-2) (40 CFR 180.510).

12. *S-metolachlor*. EPA has authorized under FIFRA section 18 the use of *s*-metolachlor on sweet potatoes for control of sedge weeds in Louisiana. This regulation extends a time-limited tolerance for the combined residues (free and bound) of the herbicide *s*-metolachlor [(*S*)-2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide], its *R*-enantiomer 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 sweet potatoes at 0.2 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of January 3, 2003 (68 FR 274) (FRL-7283-2) (40 CFR 180.368).

13. *Sulfentrazone*. EPA has authorized under FIFRA section 18 the use of sulfentrazone on flax for control of kochia and ALS-resistant kochia in North Dakota and South Dakota. This regulation extends a time-limited tolerance for combined residues of sulfentrazone, *N*-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]phenyl]methanesulfonamide, and its metabolites 3-hydroxymethyl sulfentrazone (HMS) and 3-desmethyl sulfentrazone (DMS) in or on flax seed at 0.20 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of August 21, 2002 (67 FR 54111) (FRL-7191-5) (40 CFR 180.498).

14. *Sulfentrazone*. EPA has authorized under FIFRA section 18 the use of sulfentrazone on strawberries for control of broadleaf weeds in Washington, Oregon, Wisconsin and Michigan. This regulation extends a time-limited tolerance for combined residues of sulfentrazone, *N*-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]phenyl]methanesulfonamide, and its metabolites 3-hydroxymethyl

sulfentrazone (HMS) and 3-desmethyl sulfentrazone (DMS) in or on strawberries at 0.60 ppm for an additional 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of August 1, 2001 (66 FR 39651) (FRL-6793-1) (40 CFR 180.498).

15. *Thiabendazole*. EPA has authorized under FIFRA section 18 the use of thiabendazole on lentils for control of *Ascochyta* blight in Idaho, Montana, North Dakota, Oregon, 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 3-year period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of February 25, 1998 (63 FR 9435) (FRL-5767-6) (40 CFR 180.242).

16. *Thiophanate methyl*. EPA has authorized under FIFRA section 18 the use of thiophanate methyl on blueberry for control of fungal diseases in Connecticut, Indiana, Michigan, New Jersey, New York, Ohio, and Pennsylvania. This regulation extends a time-limited tolerance for residues of the fungicide thiophanate methyl and its metabolite methyl 2-benzimidazolyl carbamate (MBC) in or on blueberry at 1.5 ppm for an additional 3-year period. This tolerance will expire and is revoked on June 30, 2007. A time-limited tolerance was originally published in the **Federal Register** of September 12, 2002 (67 FR 57748) (FRL-7196-5) (40 CFR 180.371).

17. *Thiophanate methyl*. EPA has authorized under FIFRA section 18 the use of thiophanate methyl on citrus fruit for control of post-bloom fruit drop in Florida and Louisiana. This regulation extends a time-limited tolerance for residues of the fungicide thiophanate methyl and its metabolite methyl 2-benzimidazolyl carbamate (MBC) in or on citrus at 0.5 ppm for an additional 3-year period. This tolerance will expire and is revoked on June 30, 2007. A time-limited tolerance was originally published in the **Federal Register** of September 12, 2002 (67 FR 57748) (FRL-7196-5) (40 CFR 180.371).

18. *Thiophanate methyl*. EPA has authorized under FIFRA section 18 the use of thiophanate methyl on mushroom spawn for control of green mold in California, Delaware, Maryland, and Pennsylvania. This regulation extends a time-limited tolerance for residues of the fungicide thiophanate methyl and its metabolite methyl 2-benzimidazolyl carbamate (MBC) in or on mushroom at 0.01 ppm for an additional 3-year

period. This tolerance will expire and is revoked on December 31, 2007. A time-limited tolerance was originally published in the **Federal Register** of February 5, 2003 (68 FR 5847) (FRL-7285-9) (40 CFR 180.371).

### 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 instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2004-0136 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 June 23, 2004.

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 (1900L), 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 Suite 350, 1099 14<sup>th</sup> St., NW., Washington, DC 20005. 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) 564-6255.

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 20460-0001.

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 **ADDRESSES**. Mail your copies, identified by docket ID number OPP-2004-0136, 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 **ADDRESSES**. 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: May 11, 2004.

**Lois Rossi,**

*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), 346a and 371.

#### **§ 180.176 [Amended]**

■ 2. In § 180.176, in the table to paragraph (b), amend the entry for ginseng, root by revising the expiration/revocation date “12/31/04” to read “12/31/06.”

#### **§ 180.189 [Amended]**

■ 3. In § 180.189, in the table to paragraph (b), amend the entries for honey and honeycomb by revising the expiration/revocation date “12/31/04” to read “12/31/07.”

#### **§ 180.242 [Amended]**

■ 4. In § 180.242, in the table to paragraph (b), amend the entry for lentil, seed by revising the expiration/

revocation date "12/31/04" to read "12/31/07."

**§ 180.368 [Amended]**

■ 5. In § 180.368, in the table to paragraph (b)(2), amend the entry for sweet potato, roots by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.371 [Amended]**

■ 6. In § 180.371, in the table to paragraph (b), amend the entries for blueberry and citrus by revising the expiration/revocation date "6/30/04" to read "6/30/07" and amend the entry for mushroom by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.377 [Amended]**

■ 7. In § 180.377, in the table to paragraph (b), amend the entries for alfalfa, forage and alfalfa, hay by revising the expiration/revocation date "6/30/04" to read "6/30/07."

**§ 180.442 [Amended]**

■ 8. In § 180.442, in the table to paragraph (b), amend the entries for orchardgrass, forage and orchardgrass, hay by revising the expiration/revocation date "6/30/04" to read "6/30/07."

**§ 180.443 [Amended]**

■ 9. In § 180.443, in the table to paragraph (b), amend the entries for beet, sugar, dried pulp; beet, sugar, molasses; beet, sugar, refined sugar; and beet, sugar, roots by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.464 [Amended]**

■ 10. In § 180.464, in the table to paragraph (b), amend the entries for beet, sugar; beet, sugar, dried pulp; beet, sugar, molasses; beet, sugar, tops; and onion, dry, bulb by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.480 [Amended]**

■ 11. In § 180.480, in the table to paragraph (b), amend the entry for blueberry by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.498 [Amended]**

■ 12. In § 180.498, in the table to paragraph (b), amend the entries for flax, seed and strawberry by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.510 [Amended]**

■ 13. In § 180.510, in the table to paragraph (b), amend the entry for strawberry by revising the expiration/revocation date "12/31/04" to read "12/31/07."

**§ 180.515 [Amended]**

■ 14. In § 180.515, in the table to paragraph (b), amend the entries for tomato, paste; tomato, puree; and vegetable, fruiting, group 8 by revising the expiration/revocation date "6/30/04" to read "6/30/07."

**§ 180.564 [Amended]**

■ 15. In § 180.564, in the table to paragraph (b), amend the entry for cranberry by revising the expiration/revocation date "12/31/04" to read "12/31/07."

[FR Doc. 04-11673 Filed 5-21-04; 8:45 am]

BILLING CODE 6560-50-S

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 0 and 15**

[ET Docket No. 01-278; FCC 04-98]

**Radio Frequency Identification**

**AGENCY:** Federal Communications Commission

**ACTION:** Final rule.

**SUMMARY:** This document allows for operation of improved radio frequency identification (RFID) systems in the 433.5-434.5 MHz ("433 MHz") band. Specifically, we are increasing the maximum permitted field strength and transmission duration for 433 MHz RFID systems used to identify the contents of commercial shipping containers in commercial and industrial areas to allow more rapid and reliable data transmission. Such improved RFID systems could benefit commercial shippers and have significant homeland security benefits by enabling the entire contents of shipping containers to be easily and immediately identified, and by allowing a determination of whether tampering with their contents has occurred during shipping.

**DATES:** Effective June 23, 2004, except for § 15.240 which contains information collection requirements that have not been approved by the Office of Management and Budget. Written comments by the public on the new or modified information collection requirements must be submitted on or before July 23, 2004. Written comments must be submitted by the Office of Management and Budget on the

information collection requirements on or before July 23, 2004. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of § 15.240.

**ADDRESSES:** Comments on the information collection requirements should be addressed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy should be submitted to Leslie Smith, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [Kristy.L.LaLonde@omb.eop.gov](mailto:Kristy.L.LaLonde@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:**

Hugh Van Tuyl, Office of Engineering and Technology, (202) 418-7506, e-mail [Hugh.VanTuyl@fcc.gov](mailto:Hugh.VanTuyl@fcc.gov), TTY (202) 418-2989. For additional information concerning the information collection requirements, contact Leslie Smith, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, at (202) 418-0217 or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Report and Order*, ET Docket No. 01-278, FCC 04-98, adopted April 15, 2004 and released April 23, 2004. The full text of this document is available on the Commission's Internet site at [www.fcc.gov](http://www.fcc.gov). It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 863-2893; fax (202) 863-2898; e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

**Summary of the Third Report and Order**

1. In the Third Report and Order, the Commission adopted regulations to allow for operation of improved radio frequency identification (RFID) systems in the 433.5-434.5 MHz ("433 MHz") band. Specifically, we are increasing the maximum permitted field strength and transmission duration for 433 MHz RFID systems used to identify the contents of commercial shipping