Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 18, 2007.

Mary A. Gade,

Regional Administrator, Region 5.

■ 40 CFR part 52 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 *et seq.*

Subpart X—Michigan

■ 2. The table in § 52.1170(c) entitled, ''EPA Approved Michigan Regulations'' is amended by adding a new entry in the ''State Statutes'' section after ''House Bill 5016'' titled ''House Bill 5508'' to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
* * *	*	*	* *	*
State Statutes				
* * *	*	*	* *	*
House Bill 5508	Amendment to Motor Fuels Quality Act, Act 44 of 1984.	4/06/06	3/2/07, [Insert page number where the document begins].	
* * *	*	*	* *	*

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[FR Doc. E7–1421 Filed 1–30–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0962 FRL–8111–1]

Thiabendazole; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of thiabendazole in or on Brussels sprout, cabbage, and cauliflower. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on Brussels sprout, cabbage, and cauliflower. This regulation establishes a maximum permissible level for residues of thiabendazole in these food commodities. The tolerances expire and are revoked on December 31, 2009.

DATES: This regulation is effective January 31, 2007. Objections and requests for hearings must be received on or before April 2, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0962. All documents in the docket are listed on the regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are 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: Stacey Groce, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–2505; e-mail address: *groce.stacey@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 entities may include, but are not limited to:

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

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

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. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0962 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 April 2, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0962 by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S.Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket 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 time-limited tolerances for residues of the fungicide thiabendazole in or on Brussels sprout, cabbage, and cauliflower at 0.05 parts per million (ppm). These tolerances expire and are revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR).

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 of the FFDCA 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) of the FFDCA 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) of the FFDCA 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 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 of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Thiabendazole on Brussels sprout, cabbage, nd cauliflower and FFDCA Tolerances

The fungus *Phoma lingam* is the cause of a destructive disease (black leg disease) on crucifer crops and has caused periodic epidemics in the United States. The applicants from California and Washington state that an emergency situation has existed since the registration for the pesticide product that had been the industry standard was cancelled in 2002. The applicants asserted that without the requested use of thiabendazole to control this disease, significant economic losses would occur. EPA has authorized under FIFRA section 18 the use of thiabendazole on Brussels sprout, cabbage, and cauliflower seeds for control of black leg disease caused by *Phoma lingam* in California and Washington State. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of thiabendazole in or on Brussels sprout, cabbage, and cauliflower. In doing so, EPA considered the safety

standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerances under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address the urgent non-routine situations and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although these tolerances expire and are revoked on December 31, 2009, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on Brussels sprout, cabbage, and cauliflower 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 a 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 thiabendazole meets EPA's registration requirements for use on Brussels sprout, cabbage, and cauliflower seeds or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these time-limited tolerances serve as a basis for registration of thiabendazole by a State for special local needs under FIFRA section 24(c). Nor do these time-limited tolerances serve as the basis for any States other than California and Washington to use this pesticide on these crop seeds under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for thiabendazole, 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 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

Consistent with section 408(b)(2)(D) of the FFDCA, 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 thiabendazole and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for time-limited tolerances for residues of thiabendazole in or on Brussels sprout, cabbage, and cauliflower seeds at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints used for human risk assessment is discussed in Table 1 on page 8 of the human health risk assessment dated November 20, 2006: *Section 18 Exemptions for the Use of Thiabendazole on Brussels sprout, Cabbage, and Cauliflower as a Seed Treatment*, available in the docket for this action.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.242) for the residues of thiabendazole in or on a variety of raw agricultural commodities. Tolerances have also been established for thiabendazole and its metabolite 5-hydroxythiabendazole at 0.4 ppm in milk, 0.1 ppm in eggs, and 0.1 ppm in meat, fat, and meat byproducts of livestock and poultry. Risk assessments were conducted by EPA to assess dietary exposures from thiabendazole in food as follows:

i. *Acute exposure.* Since there are no toxic effects noted in the database that are likely the result of a single exposure to thiabendazole, no acute dietary endpoints have been selected.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1994–1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure analysis for thiabendazole is partially refined. For the use of thiabendazole as a seed treatment, the Agency used the analytical method limit of quantitation (LOQ) of 0.05 ppm as the appropriate residue value for Brussels

sprout, cabbage, and cauliflower and assumed 100% crop treated as inputs into the DEEM chronic dietary analysis. Inputs into the DEEM analysis for all existing uses incorporated PDP data for many commodities, experimental processing factors, anticipated residues for animal commodities and percent crop treated information. Further, estimated thiabendazole residues in drinking water were incorporated directly into the dietary assessment using the highest chronic estimated environmental concentration (EEC) value for surface water.

iii. *Cancer.* Thiabendazole has been classified as ''not likely to be carcinogenic to humans at doses that do not alter rat thyroid hormone homeostasis.'' Chronic dietary risk is currently being regulated with a chronic RfD that reflects a dose level below the dose levels at which thyroid hormone balance is impacted. Since chronic dietary risk is below the Agency's level of concern, there is no concern for dietary cancer risk arising from existing uses as well as the use of thiabendazole as a seed treatment on Brussels sprout, cabbage, and cauliflower.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for thiabendazole in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of thiabendazole. Further, information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

The treatment of seeds for purposes of the section 18 request is expected to be an indoor activity with no potential concern for leaching to ground water or run off to surface water. However, there is some potential for transfer of residues of thiabendazole to the environment with the planting of treated seed in the field. Drinking water was incorporated directly into the dietary assessment by extrapolation of the drinking water concentrations generated as a result of planting treated seed. Based on the GENEEC and SCI-GROW models, the estimated environmental concentrations (EECs) of for acute exposures are estimated to be 2.4 parts per billion (ppb) for surface water and 0.01 ppb for ground water. The EECs for chronic exposures are estimated to be 0.52 ppb for surface water and 0.01 ppb for ground water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). The Agency has concluded that there is low potential for residential exposure based on thiabendazole's use profile, and the proposed section 18 uses of thiabendazole on Brussels sprout, cabbage, and cauliflower seeds do not result in new residential exposure scenarios. Currently, there are no thiabendazole products registered for use by residential users. However, thiabendazole is incorporated in low concentrations into paints, adhesives, paper, and carpet. This incorporation greatly reduces the potential for exposure. The Agency has calculated worst case scenarios for thiabendazole exposure to thiabendazole treated carpet and paint. A summary of the residential exposure and risk estimates for thiabendazole are summarized in Table 6 on page 16 of the human health risk assessment dated November 20, 2006: *Section 18 Exemptions for the Use of Thiabendazole on Brussels sprout, Cabbage, and Cauliflower as a Seed Treatment*, available in the docket for this action.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to thiabendazole and any other substances and thiabendazole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that thiabendazole has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/.*

C. Safety Factor for Infants and Children

1. *In general.* Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Developmental toxicity studies.* The toxicity database for thiabendazole includes an acceptable prenatal developmental toxicity study in rats and rabbits, which shows no increased sensitivity to fetuses. A neurotoxicity study is not required since there is no evidence in the database that supports a requirement for a developmental neurotoxicity study.

3. *Reproductive toxicity study.* Based on data submitted to the Agency as well as data from the open literature, there was no evidence of reproductive toxicity in the prenatal developmental toxicity studies in rats, rabbits, and mice or in the two-generation reproduction study in rats.

4. *Prenatal and postnatal sensitivity.* There is no evidence of increased susceptibility in rats, rabbits, or mice to in utero or early postnatal exposure to thiabendazole based on the prenatal developmental toxicity study rats, rabbits, and mice and in the two-generations reproduction study in rats. The developmental effects in the fetuses occurred at or above doses that caused maternal or paternal toxicity.

5. *Conclusion.* There is a complete toxicity database for thiabendazole and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. In terms of hazard, there are low concerns and no residual uncertainties regarding prenatal and/or postnatal toxicity.

D. Aggregate Risks and Determination of Safety

The Agency currently has two ways to estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses. First, a screening assessment can be used, in which the Agency calculates drinking water levels of comparison (DWLOCs), which are used as a point of comparison against estimated drinking water concentrations

(EDWCs). The DWLOC values are not regulatory standards for drinking water, but are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. More information on the use of DWLOCs in dietary aggregate risk assessments can be found at *http://www.epa.gov/oppfead1/trac/science/screeningsop.pdf.* More recently, the Agency has used another approach to estimate aggregate exposure through food, residential and drinking water pathways. In this approach, modeled surface water and ground water EDWCs are directly incorporated into the dietary exposure analysis, along with food. This approach provides a more realistic estimate of exposure because actual body weights and water exposures are then added to estimated and water consumption form the CSFII are used. The combined food and water exposures are then added to estimated exposure from residential sources to calculate aggregate risks. The resulting exposure and risk estimates are still considered to be high end, due to the assumptions used in developing drinking water modeling inputs. The risk assessment for thiabendazole used in this tolerance document uses this approach of incorporating water exposure directly into the dietary exposure analysis.

EPA conducted partially refined chronic dietary assessments, which included the use of thiabendazole used as a seed treatment in/on Brussels sprout, cabbage, cauliflower seeds in addition to the existing use for thiabendazole that results in a chronic dietary exposure (food and water) for the U.S. population equivalent to 1.4% of the cPAD. The most highly exposed population subgroup is children 1 to 2 years of age with a chronic dietary exposure (food and water) which is equivalent to 4.2% of the cPAD. Since chronic dietary (food and water) estimates of risk for the U.S. population and all subgroups are below 100% of the cPAD, the Agency has no concern for chronic dietary risk from the use of thiabendazole as a seed treatment for use on Brussels sprout, cabbage, and cauliflower seeds.

1. *Acute risk.* EPA did not assess acute dietary risk for thiabendazole because no acute dietary endpoint of concern was identified for the general population or any subpopulation.

2. *Chronic risk.* EPA concluded that chronic aggregate exposure to thiabendazole from food and water will utilize 4.2% of the cPAD for the most highly exposed population subgroup, which is children 1 to 2 years of age. This chronic aggregate risk estimate is based on dietary risk from food and water. Since the estimated thiabendazole chronic aggregate dietary exposure from food and water for the general population and all subpopulations results in an estimated risk value less than 100% of the cPAD, EPA has no concern for chronic aggregate risk. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to from food will utilize 1.4% of the cPAD for the U.S. population, 4.2% of the cPAD for the most highly exposed subpopulation (children 1–2 years of age) and 1.2 % of the cPAD for females 13 to 49 years of age.

3. *Short and Intermediate-term risk.* Short-and intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). EPA does not expect short-and intermediate-term aggregate exposure to exceed the Agency's level of concern. The Agency has concluded that there is low potential for residential exposure based on thiabendazole's use profile. There are currently no thiabendazole products registered for use by residential users. However, thiabendazole is incorporated in low concentrations into paints, adhesives, paper, and carpet. This incorporation greatly reduces the potential for exposure. To assess short- and intermediate-term aggregate exposure likely to result from the use of thiabendazole on Brussels sprout, cabbage, and cauliflower as a seed treatment, as well as existing uses, the Agency combined average food and water exposure values with estimates of residential exposure. For adult populations, the Agency assumed that both painting with thiabendazole treated paint and contact with thiabendazole treated carpet could occur simultaneously and combined those exposures for the purpose of calculating the aggregate risk estimates. For infant and child populations, the Agency assumed that residential exposure was a result of contact with treated carpet only.

More detailed information on the short-and intermediate-term exposure and risk estimates for thiabendazole are summarized and can be found in the document entitled *Section 18 Exemptions for the Use of Thiabendazole on Brussels sprout, Cabbage, and Cauliflower as a Seed Treatment*, dated November 20, 2006 in Table 7 on page 17 of the human health risk assessment, by going to *http:www.regulations.gov*, and searching for docket ID number EPA–HQ–OPP–2006–0962. Double - click on the document to view the referenced information.

4. *Aggregate cancer risk for U.S.* population. Thiabendazole has been classified as ''not likely to be carcinogenic to humans at doses that do not alter rat thyroid hormone homeostasis.'' Since the chronic aggregate exposure is below the level that would alter rat thyroid hormone homeostasis, there is no concern for aggregate cancer risk arising from existing uses or the use of thiabendazole use as a seed treatment in/on Brussels sprout, cabbage, and cauliflower seeds.

5. *Determination of safety.* 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 thiabendazole residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example—gas chromatography) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

No specific CODEX, Canadian or Mexican maximum residue limits (MRLs) or tolerances have been established for thiabendazole in or on Brussels sprout, cabbage, or cauliflower. Therefore, international harmonization is not an issue at this time.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of thiabendazole in or on Brussels sprout, cabbage, or cauliflower at 0.05 ppm. These tolerances expire and are revoked on December 31, 2009.

VII. 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 on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, 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.

VIII. 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: January 18, 2007.

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.

■ Section 180.242 is amended by alphabetically adding the following commodites to paragraph (b) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Brussels sprout	0.05	12/31/09
Cabbage	0.05	12/31/09
Cauliflower	0.05	12/31/09
* * * * *		

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[FR Doc. E7–1234 Filed 1–30–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–52; MB Docket No. 05–114; RM–11190]

Radio Broadcasting Services; Hale Center, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The staff grants a rulemaking petition filed by Charles Crawford to allot Channel 236C1 to Hale Center, Texas, as a first local aural service. With this action, the proceeding is terminated. See **SUPPLEMENTARY INFORMATION**.

DATES: Effective February 26, 2007.

ADDRESSES: Federal Communications Commision, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 05–114, adopted January 10, 2007, and released January 12, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

The reference coordinates for Channel 236C1 at Hale Center, TX, are 34–13–00 NL and 101–34–00 WL. *See* 70 FR 17384, April 6, 2005.

The Commission will send a copy of the Report and Order in this proceeding in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Hale Center, Channel 236C1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–1522 Filed 1–30–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–37; MB Docket No. 05–238; RM–11260]

Radio Broadcasting Services; Columbus, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a Petition for Rule Making filed by Columbus Community Radio Corporation, licensee of Station WHUM–LP, Channel 253L1, Columbus, Indiana, requesting the allotment of Channel 228A at Columbus, Indiana, as its reservation for noncommercial educational NCE use. The reference coordinates for Channel *228A at Columbus, Indiana are 39–09–06 NL and 85–52–09 WL. This allotment requires a site restriction of 7.9 kilometers (4.9 miles) southeast of Columbus.

DATES: Effective February 26, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05–238, adopted January 10, 2007, and released January 12, 2007. The *Notice of Proposed Rule Making* proposed the allotment of Channel 228A at Columbus, Indiana and its reservation for NCE use. *See* 70 FR 48357, published August 17, 2005. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by adding Channel *228A at Columbus.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–1524 Filed 1–30–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–42; MB Docket No. 05–79; RM–10983, RM–11247]

Radio Broadcasting Services; Opelika and Waverly, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a counterproposal filed by Waverly Radio Broadcasters by allotting Channel 232A at Waverly, Alabama, as the community's first local aural transmission service. The reference coordinates for Channel 232A at Waverly, Alabama are 32–42–28 NL and 85–29–27 WL. This allotment requires a site restriction of 8.7 kilometers (5.4 miles) east of Waverly. To accommodate the allotment, Station WSTR(FM) Channel 231C at Smyrna, Georgia, was