agricultural services; management of health care facilities; mailing, reproduction, and commercial art; and temporary help supply services.

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[FR Doc. 02–30136 Filed 11–27–02; 8:45 am]

BILLING CODE 3510–06–P

## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Part 253

**[Docket No. 2002–4 CARP NCBRA]**

## Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office of the Library of Congress announces a cost of living adjustment of 2.0% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions in the BMI and ASCAP repertories. The cost of living adjustment is based on the change in the Consumer Price Index from October, 2001, to October, 2002.

**EFFECTIVE DATE:** January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

**SUPPLEMENTARY INFORMATION:**

Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c). The most recent proceeding to adjust the terms and rates for the section 118 license began in April of this year. 67 FR 15414 (April 1, 2002).

On October 30, 2002, the Copyright Office announced proposed regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works, including a provision to adjust § 253.10 which provides for an annual cost of living adjustment of the rates for the public performance of musical compositions in the ASCAP and BMI repertories by public broadcasting entities licensed to colleges and universities set forth in § 253.5 for the new license period, 2003–2007. 67 FR 66090 (October 30, 2002). Under the proposed rules, the § 253.5 rate for the public performance of musical compositions in the SESAC repertory will be $80 for 2003, subject to an annual cost of living adjustment in each subsequent year thereafter during the licensing period.

Section 253.10(b) requires that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the proposed annual cost of living adjustment to the rates set out in § 253.5(c) for the public performance of musical compositions in the BMI and ASCAP repertories in accordance with the October 30 proposed regulations.

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 2001, to the most recent Index published before December 1, 2002, is 2% (2001's figure was 177.7; the figure for 2001 is 181.3, based on 1982–1984=100 as a reference base). Rounding off to the nearest dollar, the royalty rate for the use of musical compositions in the repertory of ASCAP is $249 and the use of the musical compositions in the repertory of BMI is the same, $249.

If no comments are received regarding the proposed amendments to §§ 253.5 and 253.10 announced in the October 30 **Federal Register** notice and the final rules are published before January 1, 2003, the cost of living adjustments announced in this notice shall become effective on January 1, 2003.

### List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

### Final Regulation

For the reasons set forth in the preamble, part 253 of title 37 of the Code of Federal Regulations is amended as follows:

## PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

**Authority:** 17 U.S.C. 118, 801(b)(1) and 803.

2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(2) as follows:

**§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.**

* * * * *

(c) * *

(1) For all such compositions in the repertory of ASCAP, $249 annually.

(2) For all such compositions in the repertory of BMI, $249 annually.

* * * * *

Dated: November 21, 2002.

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 02–30145 Filed 11–27–02; 8:45 am]

BILLING CODE 1410–33–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–2002–0314; FRL–7281–2]**

## Pyriproxyfen; Pesticide Tolerance for Emergency Exemption

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of pyriproxyfen in or on strawberry. 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 strawberry. This regulation establishes a maximum permissible level for residues of pyriproxyfen in or on this food commodity. The tolerance will expire and is revoked on December 31, 2004.

**DATES:** This regulation is effective November 29, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0314, must be received on or before January 28, 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 VII. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; e-mail address: *conrath.andrea@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this Action Apply to Me?*

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

- Crop producers (NAICS 111)
- Animal producers (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–2002–0314. 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, 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 a tolerance for residues of the insecticide pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy) ethoxypyridine], in or on strawberry at 0.30 part per million (ppm). This tolerance will expire and is revoked on December 31, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of 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 FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of 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 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 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 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 FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA) of 1996. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## III. Emergency Exemption for Pyriproxyfen on Strawberry and FFDCA Tolerances

The California Department of Pesticide Regulation has indicated that populations of the silverleaf whitefly in the State are at levels which could result in significant damage to the State's strawberry crop. This pest is relatively newly-introduced into the U.S., and the registered alternatives have not provided adequate control thus far. Without adequate control, this pest was expected to result in significant crop damage and yield losses for strawberry growers, leading to significant economic losses. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on strawberry for control of the silverleaf whitefly in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of pyriproxyfen in or on strawberry. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in

order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although this tolerance will expire and is revoked on December 31, 2004, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberry 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 this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether pyriproxyfen meets EPA's registration requirements for use on strawberry or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of pyriproxyfen by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop 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 pyriproxyfen, 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 the final rule on Bifenthrin Pesticide Tolerances November 26, 1997 (62 FR 62961) (FRL–5754–7).

Consistent with section 408(b)(2)(D) of 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 pyriproxyfen and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a time-limited tolerance for residues of pyriproxyfen in or on strawberry at 0.30 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Endpoints*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyriproxyfen, a summary of the toxicological dose and endpoints for pyriproxyfen for use in this human risk assessment, and the most recent estimated aggregate risks resulting from registered uses are discussed in the **Federal Register** for August 28, 2002 (67 FR 55150) (FRL–7195–7) Final Rule establishing tolerances for residues of pyriproxyfen in/on acerola, bushberry subgroup, feijoa, guava, jaboticaba, juneberry, lingonberry, longan, lychee, passionfruit, pulasan, rambutan, salal, Spanish lime, starfruit, stone fruit group, and wax jambu.

Refer to the August 28, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment, including this use on strawberry.

### *B. Exposure Assessment*

EPA assessed risk scenarios for pyriproxyfen under chronic and intermediate and short-term (residential) scenarios. Because there were no acute endpoints identified, an acute risk assessment was not conducted. Nor was a cancer aggregate risk assessment conducted, because pyriproxyfen is classified as ''not likely'' to be a human carcinogen.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the Department of Agricultural (USDA) 1989–1992 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: Published and proposed tolerance level residues and 100% crop treated were assumed for all commodities, and the default processing factors were applied.

Using these exposure assumptions, EPA concluded that pyriproxyfen chronic exposures from food consumption are below levels of concern (< 100% of the chronic Population Adjusted Dose (cPAD)) for the general U.S. population and all population subgroups. The cPAD utilized for the most highly exposed subgroup (children 1–6 years old) is 2.7%. Chronic risk from dietary exposure for infants (< 1 year old) and children (7–12 years old) utilizes 2.0% and 1.6% of the cPAD, respectively. Chronic dietary risk for the general U.S. population is 1.0% of the cPAD, and the estimated chronic risk for all other population subgroups is below this level. In addition, despite the potential for chronic dietary exposure to pyriproxyfen in drinking water, after calculating drinking water levels of concern (DWLOCs) and comparing them to conservative model EECs of pyriproxyfen in surface and ground waters, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following table:

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO PYRIPROXYFEN

| Population Subgroup | cPAD (mg/kg) | %cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| General U.S. population | 0.35 | 1.0 | 0.4 | 0.006 | 12,000 |
| Children (1–6 years old) | 0.35 | 2.7 | 0.4 | 0.006 | 3,100 |
| Children (7–12 years old) | 0.35 | 1.6 | 0.4 | 0.006 | 3,200 |

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO PYRIPROXYFEN—Continued

| Population Subgroup | cPAD (mg/kg) | %cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| Infants (< 1 year old) | 0.35 | 2.0 | 0.4 | 0.006 | 3,200 |

Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). 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, flea and tick control on pets).

Pyriproxyfen is currently registered for various residential non-dietary sites, and is used for flea and tick control (home environment and pet treatments) as well as products for ant and roach control. Pet owners could potentially be exposed to pyriproxyfen during applications to pets; however, since no short-term dermal or inhalation endpoints were identified, only a post-application residential assessment was conducted. Both adults and toddlers could potentially be exposed to pyriproxyfen residues on treated carpets, floors, upholstery, and pets, but it is anticipated that toddlers will have higher exposures than adults due to behavior patterns. Therefore, the residential risk assessment addressed post-application exposures of toddlers, which is considered to be a worst-case scenario. Short-term, intermediate-term, and long-term toddler hand-to-mouth exposures (consisting of petting treated animals and touching treated carpets/flooring) were assessed; long-term dermal exposures were also assessed for products with anticipated efficacy of more than 6 months (carpet powders and pet collars). Toddler exposures to combined treatment scenarios, where a pet owner treats the home environment and the pet in the same period were also assessed.

The Agency has determined that it is appropriate to aggregate chronic food and water and short-term and intermediate-term exposures for pyriproxyfen. Using the exposure assumptions described above for short-term and intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs as shown in the following table:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM AND INTERMEDIATE-TERM EXPOSURE TO PYRIPROXYFEN

| Population Subgroup | Target MOE | Short-Term Aggregate MOE (Food + Residential) | Intermediate-Term Aggregate MOE (Food + Residential) | Surface, Ground Water EECs (ppb) | Short-Term DWLOCs (ppb) | Intermidate-Term DWLOCs (ppb) |
|---|---|---|---|---|---|---|
| U.S. population | 100 | 29,000 | 10,000 | 0.4, 0.006 | 35,000 | 12,000 |
| Infants (< 1 year old) | 100 | 1,800 | 650 | 0.4, 0.006 | 9,400 | 3,000 |
| Children (1–6 years) | 100 | 1,700 | 620 | 0.4, 0.006 | 9,400 | 2,900 |
| Children (7–12 years) | 100 | 1,900 | 670 | 0.4, 0.006 | 9,500 | 3,000 |

These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. For surface and ground water, the EECs for pyriproxyfen are significantly less than the DWLOCs as a contribution to intermediate-term and short-term aggregate exposure. Therefore, EPA concludes with reasonable certainty that residues of pyriproxyfen in drinking water do not contribute significantly to the intermediate-term or short-term aggregate human health risk at the present time.

Pyriproxyfen is classified as not likely to be a human carcinogen, so the Agency did not conduct a cancer aggregate risk assessment.

Based upon 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 pyriproxyfen residues.

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (gas liquid chromatography with nitrogen-phosphorus (GLC/NP) detector) 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*

There are no Codex, Canadian, or Mexican maximum residue limits for residues of pyriproxyfen in/on strawberry, so international harmonization is not an issue.

### *C. Conditions*

A maximum of two applications may be made, at a maximum rate of 30 grams active ingredient (a.i.), using ground application equipment only. No more than 60 grams a.i. may be applied per acre per season.

## VI. Conclusion

Therefore, the tolerance is established for residues of pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy) ethoxypyridine], in or on strawberry at 0.30 ppm.

## VII. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by 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 FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of 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–2002–0314 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 28, 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 VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by the docket ID number OPP–2002–0314, 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 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

**VIII. Regulatory Assessment Requirements**

This final rule establishes a time-limited tolerance 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 tolerance 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.

### IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 8, 2002.

**Debra Edwards,**

*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 180.510 is amended by alphabetically adding ''strawberry'' to the table in paragraph (b) to read as follows:

**§ 180.510 Pyriproxyfen; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/revocation date |
|---|---|---|
| * * * * * | | |
| Strawberry | 0.30 | 12/31/04 |

* * * * *

[FR Doc. 02–30260 Filed 11–27–02; 8:45 am]

**BILLING CODE 6560–50–S**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 2, 27, 87, 90 and 95

**[WT Docket No. 02–08; FCC 02–152]**

### License Services in the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz, and 2385–2390 MHz Government Transfer Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Communications Commission published a document in the Federal Register on June 20, 2002, (67 FR 41847), revising the Quiet Zone procedures for operation near GOES stations. The publication incorrectly indicated that the GOES procedures were contained in § 1.924(f) and, therefore, inadvertently removed the Quiet Zone procedures for operation in the 420–450 MHz band. This document corrects the Quiet Zone procedures by re-inserting the procedures for operation in 420–450 MHz band into § 1.924(f) and lists the updated procedures for operation near GOES stations into § 1.924(g).

**DATES:** Effective November 29, 2002.

**FOR FURTHER INFORMATION CONTACT:** Keith Fickner regarding legal matters, and/or Brian Marenco or Tim Maguire regarding engineering matters via phone at (202) 418–0680, via TTY (202) 418–7233, or via e-mail at *kfickner@fcc.gov*, *bmarenco@fcc.gov* or *tmaguire@fcc.gov*, respectively, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554.

**SUPPLEMENTARY INFORMATION:** In the FR Doc. 02–15373 published in the **Federal Register** on June 20, 2002, (67 FR 41847) the Commission updated the Quiet Zone procedures for operation near GOES stations. The document incorrectly indicated that the GOES procedures were contained in § 1.924(f). The GOES procedures are supposed to be listed in § 1.924(g). The Quiet Zone procedures listed in § 1.924(f) are intended for operation in the 420–450 MHz band. Therefore, the **Federal Register** publication inadvertently deleted the Quiet Zone procedures for operation in the 420–450 MHz band. The Quiet Zone procedures for operations near GOES stations are intended to apply only to operation in the 1670–1675 MHz band.

Therefore, the Quiet Zone procedures for operation in the 420–450 MHz band should be re-inserted into § 1.924(f) and