

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority

to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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.*).

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 September 16, 2002. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 9, 2002.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(284)(i)(A)(3) and (c)(284)(i)(B)(4) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(284) * * *

(i) * * *

(A) * * *

(3) Rule 416, adopted on September 1, 1974 and amended on January 17, 2001.

(B) * * *

(4) Rule 1102, adopted on January 6, 1978 and amended on November 17, 2000.

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[FR Doc. 02-17702 Filed 7-16-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0112; FRL-7183-6]

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 July 17, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0112, must be received by EPA on or before August 16, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please

follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0112 in

the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: See the listing below 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; telephone number: (703) 308-9366; e-mail address: Sec-18-Mailbox@epamail.epa.gov.

Contact person	Pesticide
Barbara Madden	Bifenazate Coumaphos Dimethenamid Myclobutanil Sulfentrazone
Dan Rosenblatt	Diuron Fenbuconazole Fluroxypyr 1-methylheptyl ester Tebuconazole
Libby Pemberton	Hexythiazox Pendimethalin
Andrew Ertman	Imidacloprid Metolachlor
Andrea Conrath	Emamectin Benzoate Thiabendazole

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0112. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which

includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA published final rules in the **Federal Register** for each chemical/commodity listed below. The initial issuance of these final rules announced that EPA, on its own initiative, under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) was establishing time-limited tolerances.

EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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 FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) 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). Therefore, the time-limited tolerances are extended until the date listed below. 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 FFDCA section 408(l)(5), 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. *Bifenazate*. EPA has authorized under FIFRA section 18 the use of bifenazate on greenhouse grown tomatoes for control of spider mites in Texas and Virginia. This regulation extends a time-limited tolerance for combined residues of bifenazate (hydrazine carboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl-, 1-methylethyl ester) and diazenecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl-, 1-methylethyl ester)) in or on tomato at 0.70 parts per million (ppm) for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. A time-limited tolerance was originally published in the **Federal Register** of June 29, 2001 (66 FR 34561) (FRL-6788-5) (40 CFR 180.572).

Recently, EPA has received objections to a tolerance it established for bifenazate on a different 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. Similar objections were filed by NRDC concerning a tolerance for imidacloprid, another pesticide addressed in this notice. Although these objections concern separate rulemaking proceedings under the FFDCA, EPA has considered whether it is appropriate to extend the emergency exemption tolerances for bifenazate and imidacloprid while the objections are still pending.

Factors taken into account by EPA included how close the Agency is to concluding the proceedings on the objections, the nature of the current action, whether NRDC's objections raised frivolous issues, and extent to which the issues raised by NRDC had already been considered by EPA. Although NRDC's objections are not frivolous, the other factors all support extending these tolerances at this time. First, the objections proceeding is not near to conclusion. NRDC's objections raise complex legal, scientific, policy, and factual matters and EPA has just initiated a 60-day public comment period on them in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL-7167-7). Second, the nature of the current actions are extremely time-sensitive as they address emergency situations. Third, the issues raised by NRDC are not new matters but questions that have been the subject of considerable study by EPA and comment by stakeholders. Accordingly, EPA is proceeding with extending the tolerances for bifenazate and imidacloprid.

2. *Coumaphos*. EPA has authorized under FIFRA section 18 the use of coumaphos in beehives for control of varroa mites and small hive beetles in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. This regulation extends time-limited tolerances for the combined residues of the insecticide coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl

phosphorothioate) and its oxygen analog, coumaphoxon (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl phosphate in or on honey at 0.1 ppm and beeswax at 100 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2004. Time-limited tolerances were originally published in the **Federal Register** of August 16, 2000 (65 FR 49927) (FRL-6738-3) (40 CFR 180.189).

3. *Dimethenamid*. EPA has authorized under FIFRA section 18 the use of dimethenamid on dry bulb onion for control of yellow nutsedge and other broadleaf weeds in New York and Wisconsin. This regulation extends a time-limited tolerance for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on dry bulb onion at 0.01 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004.

EPA has authorized under FIFRA section 18 the use of dimethenamid on sugar beets for control of weeds in Colorado, Minnesota, Nebraska, North Dakota, and Wyoming. This regulation extends the time-limited tolerances for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on beet, sugar at 0.01 ppm; beet, sugar, dried pulp at 0.05 ppm; beet, sugar, molasses at 0.05 ppm; and beet, sugar, tops at 0.01 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2004. Time-limited tolerances were originally published in the **Federal Register** of August 24, 2000 (65 FR 51544) (FRL-6738-1) (40 CFR 180.464).

4. *Diuron*. EPA has authorized under FIFRA section 18 the use of diuron in commercial catfish ponds for control of blue-green algae (*Oscillatoria chalybea*) in Alabama and Mississippi. This regulation extends a time-limited tolerance for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on catfish fillets at 2.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. The time-limited tolerance was originally published in the **Federal Register** of July 30, 1999 (64 FR 41297) (FRL-6087-2) (40 CFR 180.106).

5. *Emamectin benzoate*. EPA has authorized under FIFRA section 18 the use of emamectin benzoate on cotton for control of beet armyworm in New Mexico, Oklahoma, and Texas. This regulation extends the time-limited tolerances for residues of the insecticide emamectin benzoate in or on cotton, gin

by-product at 0.025 ppm; cotton, hulls at 0.004 ppm; cotton, meal at 0.002 ppm; cottonseed at 0.002 ppm; cottonseed oil at 0.006 ppm; meat, fat, and meat by-product of cattle, goats, hogs, and sheep at 0.002 ppm; and milk at 0.002 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004. Time-limited tolerances were originally published in the **Federal Register** of January 12, 2000 (65 FR 1796) (FRL-6398-5) (40 CFR 180.505).

6. *Fenbuconazole*. EPA has authorized under FIFRA section 18 the use of fenbuconazole on blueberries for control of mummy berry disease in Georgia. This regulation extends a time-limited tolerance for combined residues of the fungicide fenbuconazole alpha-[2-(4-chlorophenyl)-ethyl]-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile and its metabolites cis-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone and trans-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone expressed as fenbuconazole in or on blueberries at 1.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of June 10, 1998 (63 FR 31633) (FRL-5791-5) (40 CFR 180.480).

7. *Fluroxypyr 1-methylheptyl ester*. EPA has authorized under FIFRA section 18 the use of fluroxypyr 1-methylheptyl ester on grass pasture and rangeland for control of sericea lespedeza (*Lespedeza cuneata*) in Kansas. This regulation extends time-limited tolerances for combined residues of the herbicide fluroxypyr 1-methylheptyl ester 1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid in or on grass, forage at 120 ppm; grass hay at 160 ppm; kidney, cattle at 1.5 ppm; kidney, goat at 1.5 ppm; kidney, hog at 1.5 ppm; kidney, horse at 1.5 ppm; kidney, sheep at 1.5 ppm; and milk at 0.30 ppm for an additional 1½ year period. These tolerances will expire and are revoked on December 31, 2004. Time-limited tolerances were originally published in the **Federal Register** of September 17, 2001 (66 FR 47964) (FRL-6798-5) (40 CFR 180.535).

8. *Hexythiazox*. EPA has authorized under FIFRA section 18 the use of hexythiazox on dates for control of Banks grass mite in California. This regulation extends a time-limited tolerance for combined residues of the miticide hexythiazox, trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-

oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as ppm of the parent compound) in or on dates at 0.1 ppm for an additional 2-year and 2-month period. This tolerance will expire and is revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of October 13, 1998 (63 FR 54594) (FRL-6030-3) (40 CFR 180.448).

9. *Imidacloprid*. EPA has authorized under FIFRA section 18 the use of imidacloprid on strawberries for control of white grubs in Connecticut. This regulation extends a time-limited tolerance for combined residues of the insecticide 1-[6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent in or on strawberries at 0.1 ppm for an additional 2-year and 6-month period. This tolerance will expire and is revoked on December 31, 2004. A time-limited tolerance was originally published in the **Federal Register** of January 20, 1999 (64 FR 3037) (FRL-6051-6) (40 CFR 180.472).

10. *Metolachlor*. EPA has authorized under FIFRA section 18 the use of s-metolachlor on spinach for control of weeds in Colorado, Delaware, New Jersey, Oklahoma, Pennsylvania, Texas, and Virginia. This regulation extends a time-limited tolerance for combined residues (free and bound) of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide] 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 spinach at 0.3 ppm for an additional 2-year and 6-month period. This tolerance will expire and is revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of November 29, 1996 (61 FR 60617) (FRL-5574-7) (40 CFR 180.368).

EPA has authorized under FIFRA section 18 the use of s-metolachlor on tomatoes for control of weeds in California, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and Virginia. This regulation extends time-limited tolerances for combined residues (free and bound) of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide] 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 tomato paste at 0.6 ppm, tomato puree at 0.3 ppm and tomatoes at 0.1 ppm for an additional 2-year and 6-month period. These tolerances will expire and are revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of March 10, 1999 (64 FR 11782) (FRL-6062-5) (40 CFR 180.368).

11. *Myclobutanil*. EPA has authorized under FIFRA section 18 the use of myclobutanil on sugar beets for control of powdery mildew in Utah. 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 2-year period. These tolerances will expire and are revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of January 3, 2001 (66 FR 298) (FRL-6757-9) (40 CFR 180.443).

EPA has authorized under FIFRA section 18 the use of myclobutanil on artichokes for control of powdery mildew in California. 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 artichokes at 1.0 ppm for an additional 2-year period. This tolerance will expire and is revoked on June 30, 2005. The time-limited tolerance was originally published in the **Federal Register** of September 16, 1998 (63 FR 49472) (FRL-6025-1) (40 CFR 180.443).

12. *Pendimethalin*. EPA has authorized under FIFRA section 18 the use of pendimethalin on mint for control of kochia and redroot pigweed in Idaho, Oregon, and Washington. This regulation extends a time-limited tolerance for combined residues of the herbicide pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite in or on fresh mint hay and mint oil at 0.1 and 5.0 ppm for an additional 2½ year period. This tolerance will expire and is

revoked on June 30, 2005. The time-limited tolerance was originally published in the **Federal Register** of May 23, 1997 (62 FR 28355) (FRL-5718-5) (40 CFR 180.361).

13. *Sulfentrazone*. EPA has authorized under FIFRA section 18 the use of sulfentrazone on lima beans and cowpeas for control of Hophornbeam Copperleaf in Tennessee. This regulation extends a time-limited tolerance for combined residues of the herbicide sulfentrazone and the metabolites 3-hydroxymethyl sulfentrazone and 3-desmethyl sulfentrazone in or on succulent bean seed without pod at 0.1 ppm for an additional 2-year period. This tolerance will expire and is revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of September 21, 1999 (64 FR 51060) (FRL-6097-8) (40 CFR 180.498).

14. *Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on sunflowers for control of rust (*Puccinia helianthi*) in North Dakota. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on sunflower oil at 0.4 ppm and sunflower seed at 0.2 ppm for an additional 2½ year period. This tolerance will expire and is revoked on December 31, 2005. The time-limited tolerance was originally published in the **Federal Register** of October 29, 1997 (62 FR 56089) (FRL-5752-4) (40 CFR 180.474).

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 2-year period. This tolerance will expire and is revoked on December 31, 2004. The time-limited tolerance was originally published in the **Federal Register** of February 25, 1998 (63 FR 9435) (FRL-5767-6) (40 CFR 180.242).

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 of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to “object” to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2002-0112 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 August 16, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27).

Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260-4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You

must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it “Tolerance Petition Fees.”

EPA is authorized to waive any fee requirement “when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.” For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP-2002-0112; to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. 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. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established under FFDCA section 408(l)(6) 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 FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. 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: June 27, 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.

§ 180.106 [Amended]

2. In § 180.106, in the table to paragraph (b), amend the entry for “Catfish fillets” by revising the expiration/revocation date “6/30/03” to read “6/30/05.”

§ 180.189 [Amended]

3. In § 180.189, in the table to paragraph (b), amend the entries for “Beeswax” and “Honey” by revising the expiration/revocation date “12/31/02” to read “12/31/04.”

§ 180.242 [Amended]

4. In § 180.242, in the table to paragraph (b), amend the entry for “Lentils” by revising the expiration/revocation date “12/31/02” to read “12/31/04.”

§ 180.361 [Amended]

5. In § 180.361, in the table to paragraph (b), amend the entries for “Mint hay, fresh” and “Mint oil” by revising the expiration/revocation date “12/31/02” to read “6/30/05.”

§ 180.368 [Amended]

6. In § 180.368, in the table to paragraph (b), amend the entries for “Spinach,” “Tomato, paste,” “Tomato, puree,” and “Tomato” by revising the expiration/revocation date “6/30/02” to read “12/31/04.”

§ 180.443 [Amended]

7. In § 180.443, in the table to paragraph (b), amend the entries for

“Beet, sugar, dried pulp”; “Beet, sugar, molasses”; “Beet, sugar, refined sugar”; “Beet, sugar, roots”; and “Beet, sugar, tops” by revising the expiration/revocation date “12/31/02” to read “12/31/04” and amend the entry for “Artichoke, globe” by revising the expiration/revocation date “6/30/03” to read “6/30/05.”

§ 180.448 [Amended]

8. In § 180.448, in the table to paragraph (b), amend the entry for “Dates” by revising the expiration/revocation date “10/31/02” to read “12/31/04.”

§ 180.464 [Amended]

9. 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 “12/31/02” to read “12/31/04.”

§ 180.472 [Amended]

10. In § 180.472, in the table to paragraph (b), amend the entry for “Strawberry” by revising the expiration/revocation date “6/30/02” to read “12/31/04.”

§ 180.474 [Amended]

11. In § 180.474, in the table to paragraph (b), amend the entries for “Sunflower, oil” and “Sunflower, seed” by revising the expiration/revocation date “12/31/03” to read “12/31/05.”

§ 180.480 [Amended]

12. In § 180.480, in the table to paragraph (b), amend the entry for “Blueberry” by revising the expiration/revocation date “12/31/02” to read “12/31/04.”

§ 180.498 [Amended]

13. In § 180.498, in the table to paragraph (b), amend the entry for “Bean, succulent seed without pod (lima bean, cowpea)” by revising the expiration/revocation date “12/31/02” to read “12/31/04.”

§ 180.505 [Amended]

14. In § 180.505, in the table to paragraph (b), amend the entries for “Cattle, fat”; “Cattle, meat”; “Cattle, meat byproducts”; “Cotton gin byproducts”; “Cotton, hulls”; “Cotton, meal”; “Cottonseed”; “Cotton, oil”; “Goat, fat”; “Goat, meat”; “Goat, meat byproducts”; “Hog, fat”; “Hog, meat”; “Hog, meat byproducts”; “Milk”; “Sheep, fat”; “Sheep, meat”; and “Sheep, meat byproducts” by revising the expiration/revocation date “12/31/02” to read “12/31/04.”

§ 180.535 [Amended]

15. In § 180.535, in the table to paragraph (b), amend the entries for “Cattle, kidney”; “Goat, kidney”; “Grass, forage”; “Grass, hay”; “Hog, kidney”; “Horse, kidney”; “Milk”; and “Sheep, kidney” by revising the expiration/revocation date “06/30/03” to read “12/31/04.”

§ 180.572 [Amended]

16. In § 180.572, in the table to paragraph (b), amend the entry for “Tomato” by revising the expiration/revocation date “06/30/03” to read “06/30/05.”

[FR Doc. 02-17187 Filed 7-16-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0093; FRL-7185-4]

RIN 2070

Aspergillus flavus AF36; Amendment, Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends an existing temporary exemption from the requirement of a tolerance for residues of the atoxigenic microbial pesticide, *Aspergillus flavus* AF36 on cotton consistent with the Experimental Use Permit 69224-EUP-1, which will now allow for application to cotton in certain counties in Arizona and Texas. Interregional Research Project Number 4 (IR-4), on behalf of the USDA/ARS Southern Regional Research Center, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting the temporary tolerance exemption amendment. This regulation eliminates the need to establish a maximum permissible level for residues of *Aspergillus flavus* AF36. The temporary tolerance exemption will expire on December 30, 2004.

DATES: This regulation is effective July 17, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0093, must be received by EPA on or before September 16, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please

follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0093 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-8097; e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production Animal production Food manufacturing Pesticide manufacturing
	112	
	311	
	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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this