

III. Proposal

EPA is proposing to extend the dates of expiration for the time limited tolerances for residues of the insecticide pyridaben [2-tert-butyl-5-(4-tert-butylbenzylthio)-4-chloropyridazin-3(2H)-one], in or on apricot, and cherry (sweet, tart) at 0.05 parts per million (ppm) for each commodity respectively, from June 30, 2004, to December 31, 2006, to provide the Agency additional time to complete the risk assessments. Subsequent to publication of the final rule described above, the Agency reviewed all available data, and concluded that these import tolerances meet the safety standard in section 408(b)(2)(A)(ii) of FFDCA, and fully discussed in final rule of July 14, 2000.

IV. Statutory and Executive Order Reviews

This proposed rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed 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 petition under section 408(d) of the FFDCA, such as the tolerance in this proposed 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 proposed 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 proposed 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 proposed 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 proposed rule.

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 30, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, it is proposed that 40 CFR chapter I be 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.

■ 2. Section 180.494 is amended by revising the following commodities in the table in paragraph (a) to read as follows:

§ 180.494 Pyridaben; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/revocation date
* * *		
Apricot	0.05	12/31/06
*		*
Cherry, sweet	0.05	12/31/06
Cherry, tart	0.05	12/31/06
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04-1846, MB Docket No. 04-236, RM-11001]

Digital Television Broadcast Service; Fresno, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by KSEE Licensee, Inc. proposing the substitution of DTV channel 38 for DTV channel 16 for KSEE-DT at Fresno, California. DTV Channel 38 can be allotted to Fresno,

California, at reference coordinates 37–04–19 N. and 119–25–48 W. with a power of 326, a height above average terrain HAAT of 601 meters.

DATES: Comments must be filed on or before August 23, 2004, and reply comments on or before September 7, 2004.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (except in broadcast allotment proceedings). See *Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Tom W. Davidson, Akin, Gump, Strauss, Hauer & Feld, LLP, 1333 New Hampshire Avenue, NW., Washington, DC 20036 (Counsel for KSEE License, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 04–236, adopted June 23, 2004, and released July 2, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document 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 301–816–2820, facsimile 301–816–0169, or via e-mail joshir@erols.com.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California is amended by removing DTV channel 16 and adding DTV channel 38 at Fresno.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

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DEPARTMENT OF THE INTERIOR

50 CFR Part 17

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-Day Finding for Petitions To List the Greater Sage-Grouse as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for submitting information that is

pertinent to our status review of the greater sage-grouse (*Centrocercus urophasianus*). This status review is to be completed by December 29, 2004, and will provide the basis for a decision on whether the greater sage-grouse should be proposed for listing as a threatened or endangered species and, if so, whether such a proposed listing would be precluded by higher priorities. We initiated the status review on April 21, 2004, based on our finding regarding three petitions to list the species as threatened or endangered, under the Endangered Species Act of 1973, as amended (Act). As a result of that finding, we initiated a status review and solicited information from the public concerning the status of the species and threats to it. We are reopening the comment period to allow all interested parties additional time to submit information. Comments previously submitted need not be resubmitted, because they will be incorporated in the public record as part of this reopened comment period and will be fully considered in our status review.

DATES: You may submit new information concerning this species for our consideration until July 30, 2004.

ADDRESSES: Data, information, comments, or questions concerning this finding should be submitted to the U.S. Fish and Wildlife Service, 4000 Airport Parkway, Cheyenne, Wyoming 82001. The petitions, finding, and supporting information are available for public inspection, by appointment, during normal business hours, at the above address. Submit new information, materials, comments, or questions concerning this species to the Service at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Pat Deibert, at the address given in the **ADDRESSES** section (telephone (307) 772–2374; facsimile (307) 772–2358).

SUPPLEMENTARY INFORMATION: On July 2, 2002, we received a petition from Craig C. Dremann to list the greater sage-grouse (*Centrocercus urophasianus*) as endangered across its entire range. Mr. Dremann's 7-page petition summarizes several threats to the species' habitat, based on the author's review of the Oregon Bureau of Land Management's management guidelines for the greater sage-grouse (Barett *et al.* 2000). A second petition requesting the same action was received from the Institute for Wildlife Protection on March 24, 2003. On December 29, 2003, we received a third petition from the American Lands Alliance and 20 additional conservation organizations to list the greater sage-grouse as threatened or endangered rangewide. On April 21,