

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 404 Effective Date, September 11, 1997]

From	TO		MEA
*2500—MOCA			
§ 95.6505 VOR Federal Airway 505 Is Amended to Read in Part			
Gopher, MN VORTAC	Siren, WI VOR/DME	3000	
§ 95.6547 VOR Federal Airway 547 Is Amended to Read in Part			
Cheyenne, WY VORTAC	Douglas, WY VOR/DME	9000	
From	To	Changeover Points	From
		Distance	
95.8003 VOR Federal Airways Changeover Points Airway Segment V-23 Is Amended To Delete			
Paine, WA VOR/DME	Bellingham, WA VORTAC	14	Paine.
V-186 Is Amended to Read in Part			
Van Nuys, CA VOR/DME	Paradise, CA VORTAC	13	Van Nuys.

[FR Doc. 97-32575 Filed 12-11-97; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[OPP-300594; FRL-5760-9]

RIN 2070-AB78

Imidacloprid; Tolerance Extension for Emergency Exemptions**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the insecticide imidacloprid and its metabolites in or on beet and turnip roots at 0.3 part per million (ppm) beet and turnip tops at 3.5 ppm for an additional 1-year period, to November 29, 1998. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on table beets and turnip greens. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act 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.

EFFECTIVE DATE: This regulation becomes effective December 12, 1997.

Objections and requests for hearings must be received by EPA, on or before February 10, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300447], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300594], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide

Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-9367; e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of November 29, 1996 (61 FR 60622) (FRL-5575-1), which announced that on its own initiative and under section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of imidacloprid and its metabolites in or on beet and turnip roots at 0.3 ppm and beet and turnip tops at 3.5 ppm, with an expiration date of November 29, 1997. EPA established the tolerance 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 FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of imidacloprid on table beets and turnip greens for this year growing season due to the lack of acceptable control with currently registered products and the loss of the insecticide Phosdrin. Under moderate to severe infestation conditions, the aphids are expected to cause serious reductions

due to contamination problems at harvest, primarily due to the large number of aphids remaining on the crop. The overall threshold that the market will allow is two aphids or less per plant. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under section 18 of FIFRA the use of imidacloprid on table beets and turnip greens for control of aphids in California.

EPA assessed the potential risks presented by residues of imidacloprid in or on beet and turnip roots and beet and turnip tops. In doing so, EPA considered the new safety standard in section 408(b)(2) of the FFDCA, and decided that the necessary tolerance under FFDCA section 408(l)(6) of the FFDCA would be consistent with the new safety standard and with section 18 of FIFRA. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of November 29, 1997. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6) of the FFDCA. Therefore, the time-limited tolerance is extended for an additional 1-year period. Although this tolerance will expire and is revoked on November 29, 1998, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on beet and turnip roots and beet and turnip tops after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. 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.

I. Objections and Hearing Requests

The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) of the FFDCA as was provided in the old section 408 and in section 409 of the FFDCA. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those

procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by February 10, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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 in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). 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.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia

address in "ADDRESSES" at the beginning of this document.

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300594]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance under section 408(l)(6) 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). 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) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under section 408(l)(6) 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. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that

there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This 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 26, 1997.

Peter Caulkins,

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. 346a and 371.

§ 180.472 [Amended]

2. In § 180.472, by amending paragraph (a) in the table, for the commodities "beet roots," "beet tops," "turnip roots," and "turnip tops" by removing "November 29, 1997" and adding in its place "November 29, 1998".

[FR Doc. 97-32550 Filed 12-11-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300591; FRL-5760-4]
RIN 2070-AB78

Myclobutanil; Tolerance Extension for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the fungicide myclobutanil and its metabolites in or on cucurbits at 0.3 parts per million (ppm) for an additional 1-year period, to November 30, 1998. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on cucurbit vegetables. Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

EFFECTIVE DATE: This regulation becomes effective December 12, 1997. Objections and requests for hearings must be received by EPA, on or before February 10, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300447], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300591], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

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FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 280,

Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-9358; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of January 9, 1997 (62 FR 1284) (FRL-5579-7), which announced that on its own initiative and under section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of myclobutanil and its metabolites in or on cucurbit vegetables at 0.3 ppm, with an expiration date of November 30, 1997. EPA established the tolerance 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 FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA established the initial tolerance in response to a section 18 authorization granted to the state of California for use of myclobutanil on cucurbit vegetables in July 1996. EPA granted this use to California consistent with provisions of section 18 of FIFRA, after finding that there was an emergency condition in the state requiring use of this product. When EPA established the time-limited tolerance it did so consistent with a review of available information as required under section 408(l)(6) of the FFDCA. EPA is taking action now to extend this tolerance because the Agency authorized, as allowed under section 18, this use to occur in the states of Arizona and Hawaii to control powdery mildew on cucurbit vegetables (Arizona) and limited to watermelons (Hawaii). This authorization occurred on May 8, 1997, and allowed use of the product for one year.

EPA assessed the potential risks presented by residues of myclobutanil in or on cucurbit vegetables. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2) of the FFDCA, and decided that the necessary tolerance under FFDCA section 408(l)(6) of the FFDCA would be consistent with the new safety standard and with section 18 of FIFRA. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of January 9, 1997. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet