

participated in the proceeding or investigation personally if the employee either participated directly or directed a subordinate in doing so. The employee participated substantially if the involvement was significant to the matter or reasonably appeared to be significant. A series of peripheral involvements may be considered insubstantial, while a single act of approving or participating in a critical step may be considered substantial.

(vi) *Present advantage.* Whether exposure to nonpublic information about the proceeding or investigation could confer a present advantage to a former employee will be analyzed and determined on a case-by-case basis. Relevant factors include, *inter alia*, the nature and age of the information, its relation and current importance to the proceeding or investigation in question, and the amount of time that has passed since the employee left the Commission.

(vii) *Proceeding or investigation* shall be interpreted broadly and includes an adjudicative or other proceeding; the consideration of an application; a request for a ruling or other determination; a contract; a claim; a controversy; an investigation; or an interpretive ruling. Proceeding or investigation does not include a rulemaking proceeding.

(6) *Advice as to Whether Clearance Request is Required.* A former employee may ask the General Counsel, either orally or in writing, whether the employee is required to file a request for clearance to participate in a Commission matter pursuant to paragraph (b)(2) of this section. The General Counsel, or the General Counsel's designee, will make any such determination within three business days.

(7) *Deadline for Determining Clearance Requests.* By the close of the tenth business day after the date on which the clearance request is filed, the General Counsel, or the General Counsel's designee, will notify the requester either that:

- (i) the request for clearance has been granted;
- (ii) the General Counsel or the General Counsel's designee has decided to recommend that the Commission prohibit the requester's participation; or
- (iii) the General Counsel or the General Counsel's designee is, for good cause, extending the period for reaching a determination on the request by up to an additional ten business days.

(8) *Participation of Partners or Associates of Former Employees.*

(i) If a former employee is prohibited from participating in a proceeding or investigation by virtue of having worked

on the matter personally and substantially while a Commission employee, no partner or legal or business associate of that individual may participate except after filing with the Secretary of the Commission an affidavit attesting that:

(A) The former employee will not participate in the proceeding or investigation in any way, directly or indirectly (and describing how the former employee will be screened from participating);

(B) The former employee will not share in any fees resulting from the participation;

(C) Everyone who intends to participate is aware of the requirement that the former employee be screened;

(D) The client(s) have been informed; and

(E) The matter was not brought to the participant(s) through the active solicitation of the former employee.

(ii) If the Commission finds that the screening measures being taken are unsatisfactory or that the matter was brought to the participant(s) through the active solicitation of the former employee, the Commission will notify the participant(s) to cease the representation immediately.

(9) *Effect on Other Standards.* The restrictions and procedures in this section are intended to apply in lieu of restrictions and procedures that may be adopted by any state or jurisdiction, insofar as such restrictions and procedures apply to appearances or participation in Commission proceedings or investigations. Nothing in this section supersedes other standards of conduct applicable under paragraph (e) of this section. Requests for advice about this section, or about any matter related to other applicable rules and standards of ethical conduct, shall be directed to the Office of the General Counsel.

(c) *Public Disclosure.* Any request for clearance filed by a former member or employee pursuant to this section, as well as any written response, are part of the public records of the Commission, except for information exempt from disclosure under § 4.10(a) of this chapter. Information identifying the subject of a nonpublic Commission investigation will be redacted from any request for clearance or other document before it is placed on the public record.

By direction of the Commission.

**Donald S. Clark,**  
Secretary.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8765]

RIN 1545-AL24; 1545-AS68

#### **Change From Dollar Approximate Separate Transactions Method of Accounting (DASTM) to the Profit and Loss Method of Accounting/Change From the Profit and Loss Method to DASTM; Correction**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations (TD 8765) which were published in the **Federal Register** on Thursday, March 5, 1998 (63 FR 10772), relating to adjustments required when a qualified business unit (QBU) that used the profit and loss method of accounting (P&L) in a post-1986 year begins to use the dollar approximate separate transaction method of accounting (DASTM) and adjustments required when a QBU that used DASTM begins using P&L.

**DATES:** This correction is effective April 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** Howard Wiener of the Office of Chief Counsel (International), (202) 622-3870 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The final regulations that are the subject of these corrections are under section 985 of the Internal Revenue Code.

##### **Need for Correction**

As published, the final regulations (TD 8765) contain errors which may prove to be misleading and are in need of clarification.

##### **Correction of Publication**

Accordingly, the publication of the final regulations (TD 8765), which was the subject of FR Doc. 98-5470, is corrected as follows:

##### **§ 1.985-1 [Corrected]**

1. On page 10774, column 2, amendatory instruction 1. under Par. 2. is corrected to read "1. Paragraph (b)(2)(ii)(C) is amended by designating the text following the heading as paragraph (b)(2)(ii)(C)(1) and revising it and by adding a new paragraph (b)(2)(ii)(C)(2).".

2. On page 10774, column 2, in § 1.985-1, correct paragraph (b)(2)(ii)(C)

by adding a paragraph designation and heading for paragraph (b)(2)(ii)(C)(1) and by adding a new paragraph (b)(2)(ii)(C)(2) to read as follows:

**§ 1.985-1 Functional currency.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(C) \* \* \* (1) *In general.* \* \* \*

(2) *Effective date.* This paragraph (b)(2)(ii)(C) applies to taxable years beginning after April 6, 1998. However, a taxpayer may choose to apply this paragraph (b)(2)(ii)(C) to all open years after December 31, 1986, provided each person, and each QBU branch of a person, that is related (within the meaning of § 1.985-2(d)(3)) also applies to this paragraph (b)(2)(ii)(C).

\* \* \* \* \*

**§ 1.985-7 [Corrected]**

3. On page 10775, column 2, § 1.985-7 (b)(3), in the last three lines, the language "had translated its assets and liabilities under § 1.985-3 during the look-back period." is corrected to read "had translated its assets and liabilities acquired and incurred during the look-back period under § 1.985-3."

4. On page 10776, column 2, § 1.985-7 (c)(5), line 17, the language "of change.) For purposes of section 960," is corrected to read "of change). For purposes of section 960,".

5. On page 10776, column 2, § 1.985-7 (c)(5), the last line, the language "section.)" is corrected to read "section)."

6. On page 10776, column 3, § 1.985-7 (d)(5), the last two lines, the language "assets and liabilities under § 1.985-3 during the look-back period." is corrected to read "assets and liabilities acquired and incurred during the look-back period under § 1.985-3."

**Cynthia E. Grigsby,**  
Chief, Regulations Unit, Assistant Chief  
Counsel (Corporate).

[FR Doc. 98-8321 Filed 3-31-98; 8:45 am]

BILLING CODE 4830-01-U

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 180**

[OPP-300629; FRL-5778-9]

RIN 2070-AB78

**Imidacloprid; Extension of Tolerance  
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 cucurbits at 0.2 part per million (ppm) for an additional 1-year period, to March 31, 1999. 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 cucurbits. 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 under section 18 of FIFRA.

**DATES:** This regulation becomes effective April 1, 1998. Objections and requests for hearings must be received by EPA, on or before June 1, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300629], may 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 should be identified by the docket control number [OPP-300629] and 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 copy of objections and hearing requests to: Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp.docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding 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 5.1 or 6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300629]. No Confidential Business Information (CBI) should be submitted through e-

mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, 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. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308-9356; e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of March 19, 1997 (62 FR 12953) (FRL-5594-2), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), EPA was establishing a time-limited tolerance for the residues of imidacloprid and its metabolites in or on cucurbits at 0.2 ppm, with an expiration date of March 31, 1998. 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. However, in the **Federal Register** of April 25, 1997 (62 FR 20117) (FRL-5599-5), EPA issued a regulation extending the expiration date for tolerances of indirect or inadvertent residues of imidacloprid and its metabolites on Vegetable cucurbits. Inadvertently, in the revision of § 180.472, the time-limited tolerance for Vegetable cucurbits as added on March 19, 1997 under section 18 of FIFRA, was omitted. With this regulation, EPA is re-establishing the time-limited tolerance and is also extending the expiration date from March 31, 1998 to March 31, 1999.

EPA received a request from the California Department of Pesticide Regulation to extend the use of imidacloprid on cucurbits for this year's growing season due to the silverleaf whitefly being a recently-introduced pest in California, which can have devastating effects on the cucurbit crop, and is resistant to registered alternatives. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of imidacloprid on cucurbits for control of silverleaf whitefly in cucurbits.

EPA assessed the potential risks presented by residues of imidacloprid in or on cucurbits. In doing so, EPA