Hackensack River, at Jersey City then up to an additional half hour delay in opening is permitted. After the signal to open is given, the opening may be delayed no more than ten minutes. From 7:15 a.m. to 9 a.m. and from 4:30 p.m. to 6:50 p.m., Monday through Friday except federal holidays, the draw need not open.

(h) The draw of the Route 280 (Stickel Memorial) Bridge, mile 5.8, at Harrison, shall open on signal if at least eight hours notice is given. In an emergency, the draw shall open as soon as possible but not more than two hours after the opening request.

(i) The draw of the Clay Street Bridge, mile 6.0, at Harrison, shall open on signal; except that notice must be given before 2:30 a.m. for openings between 3 a.m. and 8:30 a.m. and before 2:30 p.m. for openings between 4:30 p.m. and 7 p.m.

(j) The draw of the Route 7 (Rutgers Street) Bridge, mile 6.9, at Belleville, shall open on signal if at least four hours notice is given.

(k) The draw of the NJTRO (West Arlington) Bridge, mile 8.0, at Kearney, shall open on signal from 7 a.m. to 11 p.m. if at least eight hours notice is given. After the signal to open is given, the opening may be delayed no more than ten minutes. From 11 p.m. to 7 a.m., the draw need not be opened.

(l) The draw of the Avondale Bridge, mile 10.7, at Lyndhurst, shall open on signal; except that notice must be given before 2:30 a.m. for openings between 3 a.m. and 8:30 a.m. and before 2:30 p.m. for openings between 4:30 p.m. and 7 p.m.

(m) The draw of the NJTRO Bridge, mile 11.7, at Lyndhurst, shall open on signal from 8 a.m. to 4 p.m. if at least six hours notice is given. After the signal to open is given, the opening may be delayed no more than ten minutes. From 4 p.m. to 8 a.m., the draw need not be opened.

(n) The draw of the Route 3 Bridge, mile 11.8, at Rutherford, shall open on signal if at least six hours notice is given.

(o) The draw of the Douglas O. Mead (Union Avenue) Bridge, mile 13.2, at Rutherford, shall open on signal; except that:

(1) From 4 p.m. to 8 a.m., the draw shall open if at least eight hours notice is given; and

(2) On Christmas and New Year's Day, the draw shall open if notice is given prior to 4 p.m. the day prior.

(p) The draw of the following bridges need not be opened for the passage of vessels:

(1) Gregory Avenue Bridge, mile 14.0, at Wallington.

(2) Second Street Bridge, mile 14.7, at Wallington.

(3) West Eighth Street Bridge, mile 15.3, at Garfield.

Dated: January 28, 1997.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 97–3484 Filed 2–11–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300452; FRL–5585–1]

RIN 2070–AB78

Bifenthrin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of the insecticide bifenthrin in or on the raw agricultural commodities broccoli and cauliflower in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of bifenthrin on broccoli and cauliflower in California. This regulation establishes a maximum permissible level for residues of bifenthrin in these foods pursuant to section 408(l)(6) of the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and be revoked automatically without further action by EPA on January 31, 1998.

DATES: This regulation becomes effective February 12, 1997. This regulation expires and is revoked automatically without further action by EPA on January 31, 1998. Objections and requests for hearings must be received by EPA on April 14, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300452], 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 document control number, [OPP–300452], should be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), 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, CM #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. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300452]. No Confidential Business Information (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.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8347, e-mail: collantes.margarita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the insecticide bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate in or on broccoli at 0.1 parts per million (ppm) and cauliflower at 0.05 ppm. These tolerances will expire and be revoked automatically without further action by EPA on January 31, 1998.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect

immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities were discussed in detail in the final rule establishing a tolerance for an emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) 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) 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, but does not include occupational exposure. Section 408(b)(2)(C) 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 FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) 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. Section 408(l)(6) also requires EPA to promulgate regulations by August 3, 1997, governing the establishment of tolerances and exemptions under section 408(l)(6) and requires that the regulations be consistent with section 408(b)(2) and (c)(2) and FIFRA section 18.

Section 408(l)(6) allows EPA to establish tolerances or exemptions from the requirement for a tolerance, in connection with EPA's granting of FIFRA section 18 emergency exemptions, without providing notice or a period for public comment. Thus, consistent with the need to act expeditiously on requests for emergency exemptions under FIFRA, EPA can establish such tolerances or exemptions under the authority of section 408(e) and (l)(6) without notice and comment rulemaking.

In establishing section 18-related tolerances and exemptions during this interim period before EPA issues the section 408(l)(6) procedural regulation and before EPA makes its broad policy decisions concerning the interpretation and implementation of the new section 408, EPA does not intend to set precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Rather, these early section 18 tolerance and exemption decisions will be made on a case-by-case basis and will not bind EPA as it proceeds with further rulemaking and policy development. EPA intends to act on section 18-related tolerances and exemptions that clearly qualify under the new law.

II. Emergency Exemptions for Bifenthrin on Broccoli and Cauliflower and FFDCA Tolerances

The California Department of Pesticide Regulations requested a specific exemption for use of bifenthrin on broccoli, cabbage, cauliflower, rapini, leaf lettuce and head lettuce to control the silverleaf whitefly. California indicates that it still does not have material that will provide them with satisfactory late season control of the silverleaf whitefly. The registrant (Bayer Inc.) for the registered alternative product imidacloprid Admire/Provado does not want growers to use imidacloprid throughout the growing season in order to eliminate any potential that the silverleaf whitefly may develop a resistant gene to imidacloprid. When used as a combination, Imidacloprid and bifenthrin allowed the growers to maintain the ability to grow a marketable crop in 1993 and 1994. Without the use of bifenthrin, the Applicant claims that growers will suffer significant economic loss this growing season.

Upon review of the economic data submitted for this application, the expected net revenue for cabbage, head and leaf lettuce, each fall inside the range of the respective historical variations, implying that no significant economic loss would occur. However, the net revenue for cauliflower and broccoli fall outside of the historical range of variations of net revenue and are therefore expected to result in significant economic losses and an urgent non-routine situation.

As part of its assessment of these applications for emergency exemptions, EPA assessed the potential risks presented by residues of bifenthrin on broccoli and cauliflower. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided to grant the section 18 exemptions only after concluding that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. These tolerances for bifenthrin will permit the marketing of broccoli and cauliflower, treated in accordance with the provisions of the section 18 emergency exemptions. Consistent with the need to move quickly on the emergency exemptions and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e) as provided in section 408(l)(6). Although these tolerances will expire and be revoked automatically without further action by EPA on January 31, 1998, under FFDCA section 408(l)(5), residues of bifenthrin not in excess of the amount specified in the tolerances remaining in or on broccoli and cauliflower after that date will not be unlawful, provided the pesticide is applied during the term of, and in accordance with all the conditions of, the emergency exemptions. 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.

EPA has not made any decisions about whether bifenthrin meets the requirements for registration under FIFRA section 3 for use on broccoli or cauliflower or whether a permanent tolerance for bifenthrin for these crops would be appropriate. This action by EPA does not serve as a basis for registration of bifenthrin by a State for special local needs under FIFRA section 24(c). Nor does this action serve as the basis for any States other than those listed above to use this product on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for bifenthrin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many

adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. For many of these studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered by EPA to pose no appreciable risk.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or Margin of Exposure (MOE) calculation based on the appropriate NOEL) may be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, and other non-occupational exposures, such as where residues leach into groundwater or surface water that is consumed as drinking water. Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100 percent of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. Bifenthrin is already registered by EPA for numerous food and feed uses, as well as residential use (ornamentals, houseplants, turf, pets and inside domestic dwellings). At this time, EPA is not in possession of a registration application for bifenthrin on broccoli or cauliflower. However, a petition tolerance for these uses is expected in 1997. Based on information submitted to the Agency thus far, EPA has sufficient data to assess the hazards of bifenthrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for the time-limited tolerances for residues of bifenthrin on broccoli at 0.1 ppm and cauliflower at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

1. *Chronic toxicity.* Based on the available chronic toxicity data, EPA's Office of Pesticide Programs (OPP) has established the RfD for bifenthrin at 0.015 milligrams(mg)/kilogram(kg)/day. The RfD for bifenthrin is based on a 1–year feeding study in dogs with a NOEL of 1.5 mg/kg/day and an uncertainty factor of 100. Intermittent tremors was the effect observed at the Lowest Effect Level (LEL) of 3 mg/kg/day.

2. *Acute toxicity.* Based on available acute toxicity data, OPP has determined that the NOEL of 1 mg/kg/day from the oral developmental toxicity study in rats should be used to assess risk. The maternal effects observed at the LEL of 2 mg/kg/day was based on tremors from day 7 to 17 of dosing. This acute dietary endpoint will determine acute dietary risks to all subgroups of the population.

3. *Short-term toxicity.* OPP has determined that a short- and intermediate-term risk assessment is appropriate for occupational and residential routes of exposure. OPP recommends that the same NOEL of 1 mg/kg/day, taken from the above acute rat developmental oral toxicity study be used for these MOE residential calculations. A dermal penetration of 20 percent (similar to other pyrethroids) should be employed for worker MOE calculations. OPP did not identify an inhalation exposure intermediate-term hazard.

4. *Carcinogenicity.* Using its Guidelines for Carcinogen Risk Assessment published September 24, 1986 (51 FR 33992), the Carcinogenicity Peer Review Committee (CPRC) has classified bifenthrin as a Group C chemical, possible human carcinogen, based on urinary bladder tumors in mice, but did not recommended assignment of a Q_{1*}, instead recommended the RfD approach. Based on CPRC's recommendation that the RfD approach be used to assess dietary cancer risk, a quantitative dietary risk assessment was not performed. Human health risk concerns due to long-term consumption of bifenthrin residues are adequately addressed by DRES chronic exposure analysis using the RfD.

B. Aggregate Exposure

Tolerances for residues of bifenthrin in or on food/feed commodities are currently expressed in terms of the combined residues of the insecticide bifenthrin [2-methyl[1,1′-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate (40 CFR 180.442(b)) expressed in or on certain raw agricultural commodities ranging from 0.05 ppm in eggs to 10.0 ppm in dried hops.

For the purpose of assessing chronic dietary exposure from bifenthrin, EPA assumed tolerance level residues and 100 percent of crop treated refinements to estimate the TMRC from all the established existing food uses of bifenthrin. There are no livestock feed items associated with this section 18

request, so no additional livestock dietary burden will result from this section 18 registration. Therefore, no secondary residues in meat, milk, poultry, and eggs are expected as a result of this use and existing meat, milk and poultry tolerances are adequate.

For the purpose of assessing acute dietary exposure from bifenthrin, EPA assumed anticipated residue data for most of the established existing food uses of bifenthrin. Although no livestock feed items are associated with this section 18 use, additional refinement of the acute milk residue values were performed for this section 18 in order to further define the acute risk estimate.

Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational (non-dietary) sources. Based on the available studies used in EPA's assessment of environmental risk, bifenthrin appears to be moderately persistent and not mobile. There are no established Maximum Concentration Level for residues of bifenthrin in drinking water. No health advisory levels for bifenthrin in drinking water have been established. The ''Pesticides In Groundwater Database'' (EPA 734–12–92–001, Sept. 1992), indicates that bifenthrin has not been monitored. Based on the available data and percentage of the RfD which is occupied (maximum of 55 percent for non-nursing infants with no anticipated residue or percent crop treated refinement), OPP does not anticipate that addition of risk from drinking water to the dietary burden would result in a TMRC that exceeds 100 percent of the RfD. Therefore, OPP concludes that potential bifenthrin residues in drinking water are not likely to pose a human health concern.

There are residential uses of bifenthrin and EPA acknowledges that there may be short- and intermediate-term non-occupational exposure scenarios. OPP has identified a toxicity endpoint for an intermediate-term residential risk assessment. However, no acceptable reliable exposure data to assess these potential risks are available at this time. Given the time-limited nature of this request, the need to make emergency exemption decisions quickly, and the significant scientific uncertainty at this time about how to aggregate non-occupational exposure with dietary exposure, the Agency will make its safety determination for this tolerance based on those factors which it can reasonably integrate into a risk assessment.

At this time, the Agency has not made a determination that bifenthrin and other substances that may have a common mode of toxicity would have cumulative effects. Given the time-limited nature of this request, the need to make emergency exemption decisions quickly, and the significant scientific uncertainty at this time about how to define common mode of toxicity, the Agency will make its safety determination for this tolerance based on those factors which it can reasonably integrate into a risk assessment. For purposes of this tolerance only, the Agency is considering only the potential risks of bifenthrin in its aggregate exposure.

C. Safety Determinations for U.S. Population

EPA has concluded that chronic dietary exposure to bifenthrin will utilize 23 percent of the RfD for the U.S. population. As mentioned before, EPA does not expect that chronic exposure from drinking water would result in an aggregate exposure which would exceed 100 percent of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to bifenthrin residues. For the acute population subgroup of concern, children (1 to 6 years old), the calculated MOE value is 50. MOE values under 100 exceed the Agency's level of concern for acute dietary exposure. Though the acute dietary risk assessment assumes anticipated residues for most commodities and is a relatively refined estimate of exposure, OPP expects that further refinement of the acute dietary risk assessment for children (1 to 6 years old) using the Monte Carlo model would result in an acceptable MOE. Use of the Monte Carlo methodology would allow incorporation of the range of expected residues for each commodity being evaluated, instead of point estimates, as well as consideration of percent crop treated refinements in the acute exposure analysis. Currently, 100 percent crop treated is assumed for every commodity evaluated in the analysis; this results in over estimation of acute dietary exposure from bifenthrin.

D. Determination of Safety for Infants and Children.

In assessing the potential for additional sensitivity of infants and children to residues of bifenthrin, EPA considered pre- and post-natal toxicity data in rabbits and rats. EPA notes that the developmental toxicity NOEL of 8.0 mg/kg/day highest dose tesed (HDT) demonstrates that there is no developmental (prenatal) effects in fetuses exposed to bifenthrin in rabbits. The developmental toxicity NOEL of 2.0 mg/kg/day HDT in rats indicated a slight increase in litters with hydroureter (distended ureter). In the absence of a dose-related finding of hydroureter in the rat developmental study and in the presence of similar incidences in the recent historical control data, the marginal findings of hydroureter in rat fetuses at 2.0 mg/kg/day [in the presence of maternal toxicity] is not considered a significant developmental finding nor is it considered to provide sufficient evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

In the 2–generation reproductive toxicity study in the rat, parental toxicity occurred as decreased body weight at 5.0 mg/kg/day with a NOEL of 3.0 mg/kg/day. There were no developmental [pup] or reproductive effects up to 5.0 mg/kg/day HDT. Therefore, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study. This finding suggests that post-natal development in pups is not more sensitive and that infants and children may not have a greater sensitivity to bifenthrin than adult animals.

EPA has concluded that the percent of the RfD that will be utilized by chronic dietary exposure to residues of bifenthrin ranges from 14 percent for nursing infants to 55 percent for non-nursing infants (<1 year old). However, this calculation assumes tolerance level residues for all commodities and is therefore an over-estimate of dietary risk. Refinement of the dietary risk assessment by using anticipated residue data would reduce dietary exposure. As mentioned before, the addition of potential exposure from bifenthrin residues in drinking water is not expected to result in an exposure which would exceed the RfD. EPA therefore concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to bifenthrin.

As mentioned above, dietary cancer concerns for infants and children are adequately addressed by the chronic exposure analysis using the RfD.

FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes based on reliable data that said additional safety factor is unnecessary. Should an additional uncertainty factor be deemed appropriate, when

considered in conjunction with a refined exposure estimate, it is unlikely that the dietary risk will exceed 100 percent of the RfD. Therefore, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to bifenthrin residues.

V. Other Considerations

The metabolism of bifenthrin in plants and animals is adequately understood for the purposes of this tolerance. There are no Codex maximum residue levels established for residues of bifenthrin on brassica vegetables and lettuce. Adequate methods for purposes of data collection and enforcement of tolerance for bifenthrin residues are available. Method P–2132M (MRID# 416585–01), which was validated on celery, should be adequate for analysis of brassica vegetables and lettuce.

VI. Conclusion

Therefore, a tolerance in connection with the FIFRA section 18 emergency exemptions is established for residues of bifenthrin on broccoli at 0.1 ppm and cauliflower at 0.05 ppm. These tolerances will expire and be automatically revoked without further action by EPA on January 31, 1998.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. 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 April 14, 1997, file written objections to any aspect of this regulation (including the automatic revocation provision) 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.

VIII. Public Docket

A record has been established for this rulemaking under docket control number [OPP–300452]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing requests, 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. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, since this action does not impose any information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*., it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), EPA 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 the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 180

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

Dated: January 30, 1997.

Penelope A. Fenner-Crisp,

Acting Director, 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.

2. In 180.442, by adding a new paragraph (c) to read as follows:

§ 180.442 Bifenthrin; tolerances for residues.

* * * * *

(c) A time-limited tolerance is established for residues of the combined residues of the insecticide bifenthrin [2-methyl[1,1′-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances are specified in the following table. These tolerances will expire and be automatically revoked on the date specified in the table without further action by EPA.

Commodity	Parts per million	Expiration/Revocation Date
Broccoli	0.1	January 31, 1998
Cauliflower	0.05	January 31, 1998

[FR Doc. 97–3380 Filed 2–11–97; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–266; FCC 96–491]

Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: In this Memorandum Opinion and Order, we adopt rule changes responsive to the decision of the court in *Time Warner Entertainment Co.* v. *FCC*, 56 F.3d 151 (D.C. Cir. 1995). In its decision, the court considered rules adopted by the Commission to implement rate regulation and related provisions of the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''). The rules were largely affirmed by the court. In five discrete areas, however, the court reversed the Commission's implementing decisions and rules. The order is intended to conform the rules to the court's decision.

DATES: The amendments to 47 CFR Sections 76.905 and 76.921 shall become effective March 14, 1997, and the amendments to 47 CFR Sections 76.922 and 76.913 will become effective upon approval by the Office of Management and Budget of the information collection requirements, but no sooner than March 14, 1997. The Commission will publish a document at a later date establishing this effective date. Written comments by the public on the modified information collections are due April 14, 1997.

ADDRESSES: A copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information concerning this rulemaking contact Meryl S. Icove or Hugh Boyle, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained in this rulemaking contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Memorandum Opinion and Order in MM Docket No. 96–266, FCC 96–491, adopted December 23, 1996 and released December 31, 1996. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (''ITS Inc.'') at (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20017.

PAPERWORK REDUCTION ACT: This rulemaking contains modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this rulemaking, as required by the Paperwork Reduction Act of 1995. Public comments are due April 14, 1997. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0561

Title: Section 76.913 Assumption of jurisdiction by the Commission.

Type of Review: Revision of existing collection.

Respondents: State, local and tribal governments.

Number of Respondents: 50.

Estimated Time Per Response: 8 hours.

Total Annual Burden: 400 hours.

Estimated costs per respondent: $500. Postage and stationery costs are estimated at an average of $10 per petition. 50 petitions × $10 = $500.

Needs and Uses: 76.913 permits local franchising authorities (''LFAs'') that are unable to meet certification standards to petition the Commission to regulate the rates for basic cable service and associated equipment of their respective franchisees. The Commission has amended its rules as follows: If the local franchising authority lacks the resources to administer rate regulation, its petition no longer must be accompanied by a demonstration that franchise fees are insufficient to fund any additional activities required to administer basic service rate regulation. Elimination of this requirement constitutes a modified information collection; all other requirements remain intact.

The information in the petitions is used by Commission staff to identify situations where it should exercise jurisdiction over basic service and equipment rates in place of a local franchising authority. If the information were not collected, the basic cable rates of some franchise areas not subject to effective competition would remain unregulated in contravention of the goals of the 1992 Cable Act.

OMB Approval Number: 3060–0607.

Title: Section 76.922 Rates for Basic Service Tiers and Cable Programming Tiers.

Type of Review: Revision of existing collection.