API argues these other programs offer a larger potential for overall reduction in NO_X emissions. The figure of $25,000 to $45,000 per ton of NO_X reduced developed in the OTAG process ascribes all the costs of RFG to NO_X control, including costs incurred to reduce toxics and VOCs, and to meet the various content requirements. If VOC and NO_X reductions are valued equally, as OTAG has done, the incremental cost per ton of NO_X removed falls by more than a factor of four to under $7,000 per ton, and the average cost falls to $3,000 to $4,000 per ton. That incremental cost is higher than projected by EPA for the Phase II RFG NO_X standard because it assumes that all the gasoline in the 37 state OTAG region, over 90 percent of the gasoline sold in the U.S. outside of California, would be included in the RFG program. Costs rise rather than fall as volume of RFG produced increases because less efficient refineries would be drawn into producing RFG. Moreover, EPA's $5,000 per ton cost estimate for the Phase II RFG NO_X standard applies to the final increment of emission reduction pursued under the program, while API compares this incremental cost to average costs of other control programs. Average costs are always less than incremental costs; if Phase II RFG costs are evaluated on an average-cost basis, the cost per ton for RFG areas falls to between $2,000 and $3,000.

Based on the evidence presented, EPA concludes that some stationary source NO_X controls are more cost-effective than the Phase II RFG NO_X standard, and some are not. The fact that some stationary source NO_X controls are more cost-effective does not vitiate the cost-effectiveness of the Phase II RFG NO_X standard. EPA cited stationary source costs both above and below the cost of Phase II RFG NO_X standard in the RFG rulemaking. EPA does not find that it understated the relative cost-effectiveness of stationary source NO_X controls.

API argues that stationary sources offer more potential for reducing air pollution. API argues that EPA should sequence NO_X controls and target major stationary sources first, since stationary source NO_X control is more cost-effective and can be targeted geographically to avoid controls where controls are not needed. Other NO_X controls should not be considered until major stationary source controls are employed and evaluated, according to API.

As discussed previously, some stationary source NO_X controls are more cost-effective than the Phase II RFG NO_X standard, and some are not. However, OTAG has projected that, in 2007, mobile sources will still contribute 42 percent of all NO_X after implementation of 1990 CAAA controls for mobile and stationary sources. These measures include the retrofit of reasonably available control technology on existing major stationary sources of NO_X and implementation of enhanced inspection and maintenance programs under Title I; new emission standards for new motor vehicles and nonroad engines, and the RFG program under Title II; and controls on certain coal-fired electric power plants under Title IV. Given the challenges facing so many areas in identifying and implementing programs that will lead to attainment of the ozone standard, and the need for additional NO_X controls, EPA believes that NO_X reductions in urban areas where mobile sources are concentrated, as part of a region-wide NO_X reductions, are still essential to achieve ozone attainment. In addition, OTAG modeling demonstrates that even with unrealistically large NO_X reductions, such as an 80 percent reduction in elevated NO_X plus a 60 percent reduction in low level NO_X, without VOC reductions, attainment still would not be reached throughout the OTAG region. EPA believes that both stationary source and mobile source controls will be necessary for many areas to reach attainment.

3. Executive Order 12866

API argues that the Phase II RFG NO_X emission reduction standard does not satisfy the provisions of Executive Order 12866. API argues that the Phase II RFG NO_X standard is not compelled by statute or necessary to interpret the statute, or made necessary by public need, or the most cost-effective NO_X control to achieve the regulatory objective.

EPA believes the Phase II RFG NO_X reduction standard meets the substantive requirements of the Executive Order 12866. Although the Phase II RFG NO_X standard is not required by statute, it is ''made necessary by compelling public need'' [104] and is a cost-effective standard. As discussed earlier, the authority EPA used to establish the standard, section 211(c)(1)(A), allows EPA to regulate fuels or fuel additives if their emission products cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. EPA used this authority based on scientific evidence regarding the benefits of NO_X control and the cost-effectiveness of NO_X reductions. The preceding discussion indicates that EPA's RFG rulemaking properly complied with Executive Order 12866.

V. Conclusion

A detailed discussion of the determination of the need for, scientific justification for, and cost-effectiveness of NO_X control is presented in the RIA for the final rule.[105] EPA's review here of the air quality benefits and cost-effectiveness of the Phase II RFG NO_X reduction standard does not show that the prior rulemaking determinations supporting this standard were inappropriate. After considering API's petition, public comment, and other relevant information available to EPA, API's petition for reconsideration of the Phase II RFG NO_X emission reduction standard is denied.

Dated: February 28, 1997.

Mary D. Nichols,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 97–6217 Filed 3–11–97; 8:45 am]

BILLING CODE 6560–50–P

[104] 58 FR 51735 (October 4, 1993), section 1(a) at 51735.

[105] RIA at pp. 313–326.

40 CFR Part 180

[OPP–300458; FRL–5593–1]

RIN 2070–AB78

Clopyralid; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of the herbicide clopyralid in or on the raw agricultural commodity cranberries in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of clopyralid on cranberries in the states of Massachusetts, Oregon, and Washington. This regulation establishes maximum permissible levels for residues of clopyralid in this food. The tolerance will expire July 31, 1998.

DATES: This regulation becomes effective March 12, 1997. This regulation expire on July 31, 1998. Objections and requests for hearings must be received by EPA on or before May 12, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300458], 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–300458], must also 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 Highway, 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 control number [OPP–300458]. 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: Libby Pemberton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. (703) 308–8326, e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, 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 clopyralid on cranberries at 2 parts per million (ppm). This tolerance will expire on July 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 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 are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 CFR 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 Clopyralid on Cranberries and FFDCA Tolerances

EPA has authorized use under FIFRA section 18 of clopyralid on cranberries for control of various weeds. Cancellations of the most effective registered alternatives have left growers with few tools to control weeds in a crop which cannot be cultivated. Over time, since control has been less than adequate, the problems have gotten steadily worse, resulting in near-epidemic levels of herbaceous perennial weeds over the past few years on many cranberry farms. The projected yield loss on the affected acres would cause those growers to suffer a significant economic loss.

As part of its assessment of these specific exemptions, EPA assessed the potential risks presented by residues of clopyralid on cranberries. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would clearly be consistent with the new safety standard and with FIFRA section 18. This tolerance for residues of clopyralid will permit the marketing of cranberries treated in accordance with the provisions of the section 18 emergency exemptions. Consistent with the need to move quickly on these emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e) as

provided in section 408(l)(6). Although this tolerance will expire on July 31, 1998, under FFDCA section 408(l)(5), residues of clopyralid not in excess of the amount specified in this tolerance remaining in or on cranberries 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 this tolerance 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 clopyralid meets the requirements for registration under FIFRA section 3 for use on cranberries or whether a permanent tolerance for clopyralid for cranberries would be appropriate. This action by EPA does not serve as a basis for registration of clopyralid 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 Massachusetts, Oregon, and Washington 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 clopyralid, 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 acceptable by EPA.

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 calculation based on the appropriate NOEL) will 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. Clopyralid is already registered by EPA for outdoor Christmas tree plantations, grasses grown for seed, fallow cropland, non-cropland and other non-food uses, as well as several food use registrations. EPA believes it has sufficient data to assess the hazards of clopyralid and to make a determination on aggregate exposure, consistent with section 408(b)(2), for the time-limited tolerances for residues of clopyralid in or on cranberries at 2 ppm. EPA's assessment of the dietary exposures and risks associated with establishing this tolerance follows.

A. Toxicological Profile

1. *Chronic toxicity.* Based on the available chronic toxicity data, the EPA's Office of Pesticide Programs (OPP) has established the RfD for clopyralid at 0.5 milligrams/kilogram/day (mg/kg/day). The RfD was established based on an NOEL of 50 mg/kg/day from a 2–year rat feeding study. Effects observed at the lowest effect level (LEL) were decreased mean body weights in females. An uncertainty factor of 100 was used.

2. *Acute toxicity.* No toxicology studies were identified by OPP which demonstrated the need for an acute dietary risk assessment.

3. *Short-term non-dietary inhalation and dermal toxicity.* Based on available data indicating that there was no evidence of toxicity by the dermal or inhalation routes, worker exposure risks were not calculated.

4. *Carcinogenicity*. No evidence of carcinogenicity was seen in mice or in rats fed clopyralid for 24 months.

B. Aggregate Exposure

Tolerances are established for residues of clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on several raw agricultural commodities (40 CFR 180.431(a) and (b)).

For the purpose of assessing chronic dietary exposure from clopyralid, EPA assumed tolerance level residues and 100% of crop treated for the proposed and existing food uses of clopyralid.

These conservative assumptions result in overestimation of human dietary exposures.

Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational sources. There is no entry for clopyralid in the ''Pesticides in Groundwater Data Base'' (EPA 734–12–92–001, September 1992). There is no established Maximum Concentration Level (MCL) for residues of clopyralid in drinking water. No drinking water health advisory levels have been established for clopyralid.

The Agency does not have available data to perform a quantitative drinking water risk assessment for clopyralid at this time. Previous experience with persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Based on this experience and the OPP's best scientific judgement, EPA concludes that it is not likely that the potential exposure from residues of clopyralid in drinking water added to the current dietary exposure will result in an exposure which exceeds the RfD.

Clopyralid is registered for uses, such as lawns, that could result in non-occupational exposure and EPA acknowledges that there may be short-, intermediate-, and long-term non-occupational, non-dietary exposure scenarios. At this time, the Agency has insufficient information to assess the potential risks from such exposure. However, available data for clopyralid indicate no evidence of toxicity by the dermal or inhalation routes. 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 clopyralid and other substances that may have a common mode of toxicity would have cumulative effects. Clopyralid is a member of the pyridinoxy class of herbicides. Other members of this class include fluroxypyr, tricolpyr, and picloram. 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 EPA will make its safety determination for these tolerances based on those factors which can reasonably integrate into a risk assessment. For purposes of this tolerance only, the Agency is considering only the potential risks of clopyralid in its aggregate exposure.

C. Safety Determinations For U.S. Population

Taking into account the completeness and reliability of the toxicity data, EPA has concluded that dietary exposure to clopyralid from published tolerances will utilize 1.65 percent of the RfD for the U.S. population. EPA does not anticipate that the potential exposure from residues of clopyralid in drinking water added to the current dietary exposure will result in a chronic exposure which would exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to clopyralid residues.

D. Determination of Safety for Infants and Children

Based on current toxicological data requirements, the data base for clopyralid relative to pre- and post-natal toxicity is complete. EPA notes that the developmental toxicity NOELs of >250 mg/kg/day, the highest dose tested (HDT) in both rats and rabbits demonstrate that there is no developmental (prenatal) toxicity present for clopyralid. EPA further notes that the developmental NOELs are 5–fold higher in both rats and rabbits, respectively, than the NOEL of 50 mg/kg/day from the 2–year feeding study in rats, which is the basis for the RfD.

In the two-generation reproductive toxicity study in rats, the pup toxicity NOEL of 1,500 mg/kg/day, the HDT, was greater than the parental (systemic) toxicity NOEL of 500 mg/kg/day. This finding suggests that post-natal development in pups is not more sensitive and that infants and children may not be more sensitive to clopyralid than adult animals. The pup NOEL is 30–fold higher than the RfD NOEL of 50 mg/kg/day. This information, together with the uncertainty factor of 100 utilized to calculate the RfD for clopyralid, is considered adequate protection for infants and children with respect to prenatal and postnatal development against dietary exposure to clopyralid residues. EPA believes that the data base of clopyralid is sufficiently complete regarding infants and children and that effects seen in that data are not such to suggest a 100–fold uncertainty factor will be inadequate. Therefore, EPA has determined that an additional 10–fold safety factor is not appropriate and that the 100–fold uncertainty factor will be safe for infants and children.

EPA has concluded that the percent of the RfD that will be utilized by chronic dietary exposure to residues of clopyralid ranges from 1.07% for nursing infants (<1 year old) up to 3.72% for children 1 to 6 years 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. The addition of potential exposure from clopyralid residues in drinking water is not expected to result in an exposure which would exceed the RfD.

V. Other Considerations

The metabolism of clopyralid in plants and animals is adequately understood for the purposes of this tolerance. There are no Codex maximum residue levels established for residues of clopyralid on cranberries. The residue of concern is clopyralid (3,6-dichloro-2-pyridinecarboxylic acid). Adequate methods for purposes of data collection and enforcement of tolerances for clopyralid are available. A method for determining clopyralid residues is described in PAM, Vol. II.

VI. Conclusion

Therefore, tolerances in connection with the FIFRA section 18 emergency exemptions are established for residues of clopyralid in cranberries at 2 ppm. This tolerance will expire on July 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 May 12, 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 Confidential Business Information (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 number [OPP–300458]. 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.

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

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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 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).

Because FFDCA section 408(l)(6) permits establishment of this regulation without a notice of proposed rulemaking, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 604(a), do not apply.

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: February 27, 1997.

Peter Caulkins,
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 § 180.431, by adding a new paragraph (c) to read as follows:

§ 180.431 Clopyralid; tolerances for residues.

* * * * *

(c) *Section 18 emergency exemptions.* A time-limited tolerance is established for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerance is specified in the following table. The tolerance expires on the date specified in the table.

Commodity	Parts per million	Expiration Date
Cranberries	2	July 31, 1998

[FR Doc. 97–5875 Filed 3–11–97; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 96–60; FCC 97–27]

Cable Television Leased Commercial Access

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Second Report and Order and Second Order on Reconsideration of the First Report and Order (''Order'') regarding implementation of the leased commercial access provisions of the 1992 Cable Act. The Order addressed comments and petitions for reconsideration filed in response to the Order on Reconsideration of the First Report and Order and Further Notice of Proposed Rulemaking in CS Docket 96–60, FCC 96–122 (released March 29, 1996) (subparts referred to separately as ''Reconsideration Order'' and ''Further NPRM''). The Order: revised the maximum rate formulas for use of full-