POSTAL SERVICE

39 CFR Part 20

Outbound International Mailings of Lithium Batteries

AGENCY: Postal Service™.

ACTION: Final rule; withdrawal.

SUMMARY: The Postal Service is withdrawing a final rule that would incorporate new maximum limits for the outbound mailing of lithium batteries to international, or APO, FPO or DPO locations. The Postal Service also withdraws the corresponding *Code of Federal Regulations* revision to reflect these new limits.

DATES: The final rule published on August 25, 2011 (76 FR 53056–56057), is withdrawn effective September 9, 2011.

FOR FURTHER INFORMATION CONTACT: Rick Klutts at 813–877–0372.

SUPPLEMENTARY INFORMATION: In a final rule with comment period published in the **Federal Register** on August 25, 2011, the Postal Service provided new maximum limits for mailpieces containing equipment with lithium metal or lithium-ion batteries that were to be effective October 3, 2011. These revisions were consistent with recent amendments to the Universal Postal Union (UPU) Convention and regulations as announced in International Bureau Circulars 114 and 115, dated June 14, 2011, that affected UPU Convention Articles 15 and 16, Article RL 131 of the letter post regulations, and Article RC 120 of the parcel post regulations.

The withdrawal of the revisions is necessary because of a notice to the UPU from the International Civil Aviation Organization (ICAO) on August 19, 2011, requesting that the UPU delay implementation of the aforementioned amendment until the UPU revisions could be reviewed by the ICAO Dangerous Goods Panel, and if approved, incorporated into *The Technical Instructions for the Safe Transport of Dangerous Goods by Air* manual. Therefore, the UPU has informed its member countries that the date of newly adopted UPU amendments for lithium batteries will be the subject of further notice based on the decision of the panel and any changes to the ICAO *Technical Instructions.*

Accordingly, the Postal Service withdraws its final rule published on August 25, 2011. The Postal Service also withdraws the revision to 39 CFR 20.1 whereby a new section 135.6 was added to the *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) to describe the new maximum limits for the outbound mailing of lithium batteries to international, or APO, FPO or DPO locations. The parallel changes that were to be made to other USPS publications are also withdrawn.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2011–23054 Filed 9–8–11; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–9460–3]

Approval of Clean Air Act Prevention of Significant Deterioration Permit Issued to Avenal Power Center, LLC To Construct the Avenal Energy Project

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Action.

SUMMARY: This document announces that EPA has issued a final permit decision granting the Clean Air Act Prevention of Significant Deterioration (PSD) permit application submitted by Avenal Power Center, LLC to authorize construction of the Avenal Energy Project.

DATES: The EPA's PSD permit for the Avenal Energy Project became effective and final agency action on August 18, 2011, when administrative review procedures were exhausted. Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of September 9, 2011.

ADDRESSES: The documents relevant to the above-referenced action are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne St., San Francisco, CA 94105. To arrange for viewing of these documents, call Shirley Rivera at (415) 972–3966.

FOR FURTHER INFORMATION CONTACT: Shirley Rivera, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne St., San Francisco, CA 94105. The EPA Environmental Appeals Board (EAB) decision described below is available at the following Web site: *http://www.epa.gov/eab/.*

SUPPLEMENTARY INFORMATION: The EPA issued a PSD permit on May 27, 2011, to Avenal Power Center, LLC for the Avenal Energy Project, granting approval to construct a new 600-megawatt natural gas-fired combined-cycle power plant in Kings County, California. The EPA issued an administrative amendment to the permit on June 21, 2011, to correct typographical errors. The EPA's Environmental Appeals Board (EAB) received four petitions for review of the permit from the following entities within 30 days of the EPA's service of notice of the issuance of the permit: (1) El Pueblo Para El Aire y Agua Limpio; (2) Greenaction for Health & Environmental Justice; (3) Sierra Club and Center for Biological Diversity; and (4) Mr. Rob Simpson. The EAB denied review of these petitions on August 18, 2011. All conditions of the Avenal Power Center, LLC permit for the Avenal Energy Project, as amended on June 21, 2011, are final and effective. Pursuant to 40 CFR 124.19(f)(1), final agency action by EPA has occurred because of the exhaustion of the agency review procedures before the EAB. The EPA Administrator has delegated authority to the EAB to issue final decisions in PSD permit appeals filed under 40 CFR part 124. 40 CFR 124.2(a).

Dated: August 31, 2011.

Gina McCarthy,

Assistant Administrator. Office of Air and Radiation.

[FR Doc. 2011–22834 Filed 9–8–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0639; FRL–8886–8]

Mandipropamid; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of mandipropamid in or on basil, fresh and basil, dried. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on basil. This regulation establishes a maximum permissible level for residues of mandipropamid in or on these commodities. The time-limited tolerances expire on December 31, 2012.

DATES: This regulation is effective September 9, 2011. Objections and requests for hearings must be received on or before November 8, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2011–0639. All documents in the docket are listed in the docket index available in *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Marcel Howard, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 305–6784; *e-mail address: howard.marcel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0639 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 8, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0639, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of FFDCA, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for residues of mandipropamid, 4-chloro-*N*-[2-[3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-α-(2-propynyloxy)-benzeneacetamide, in or on basil, fresh at 20 parts per million (ppm) and basil, dried at 240 ppm. These time-limited tolerances expire on December 31, 2012.

Section 408(l)(6) of 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 does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.,* without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA 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) of FFDCA 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 and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA 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.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Mandipropamid on Basil and FFDCA Tolerances

The Applicant stated that a new, destructive fungal pathogen, known as downy mildew (*Peronospora belbahrii*), has been identified in Illinois and it resulted in a 50% yield loss in basil production using registered alternatives. Illinois recently experienced some atypical weather conditions (high moisture and temperatures) that were conducive to the development and spread of the disease. The increase presence of the disease and the zero tolerance policy for downy mildew adopted by the distributors led basil grower to seek a spray program to maintain season-long control of this disease. The registered alternatives have been deemed inadequate for season-long control due to product application restrictions or lack of product efficacy. The Applicant stated that because of the favorable weather conditions and the inadequacy of the registered alternatives to achieve season-long control of the downy mildew, an emergency situation exists and significant economic losses will likely incur. Further, the Applicant asserts that without a suitable additional fungicide, such as mandipropamid, to address the issue, the future viability of basil industry in Illinois is threatened. After having reviewed the submission, EPA determined that an emergency condition exists for this State, and that the criteria for approval of an emergency exemption are met. EPA has authorized a specific exemption under FIFRA section 18 for the use of mandipropamid on basil for control of downy mildew in Illinois.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of mandipropamid in or on basil, fresh and basil, dried. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption 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 as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire on December 31, 2012, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on basil, fresh and basil, dried after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether mandipropamid meets FIFRA's registration requirements for use on basil or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of mandipropamid by a State for special local needs under FIFRA section 24(c). Nor does this tolerance by itself serve as the authority for persons in any State other than Illinois to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for mandipropamid, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA 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) of FFDCA 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 and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA 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 * * *.''

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for residues of mandipropamid on basil, fresh at 20 ppm and basil, dried at 240 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for mandipropamid used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of January 16, 2008 (73 FR 2812) (FRL–8346–6).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to mandipropamid, EPA

considered exposure under the time-limited tolerances established by this action as well as all existing mandipropamid tolerances in 40 CFR 180.637. EPA assessed dietary exposures from mandipropamid in food as follows:

i. *Acute exposure.* No such effects were identified in the toxicological studies for mandipropamid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA relied upon permanent tolerance level residues established for mandipropamid and 100 percent crop treated (PCT) information for all agricultural commodities. An unrefined chronic exposure assessment that assumes 100 PCT was conducted for the proposed Section 18 uses of mandipropamid. The parent mandipropamid is the residue of concern for tolerance monitoring, and mandipropamid and its major aquatic degradates (SYN 500003 and SYN 5044851) for the risk assessment.

iii. *Cancer.* EPA has determined that mandipropamid is classified as ''not likely to be a human carcinogen'' based on the absence of treatment-related increases in tumors in the rat and mouse carcinogenicity studies. Therefore, an exposure assessment to evaluate cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for mandipropamid. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for mandipropamid in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of mandipropamid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of mandipropamid for acute exposures are estimated to be 25.2 parts per billion (ppb) for surface water and 0.05 ppb for ground water. The estimated environmental concentrations (EECs) for the aquatic degradates SYN 500003 and SYN 504851 are estimated to be 2.32 and 8.99 ppb for surface water and 0.6 and 1.7 ppb for ground water, respectively. The combined level of mandipropamid and the degradates in surface water is 36.5 ppb.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 36.5 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Mandipropamid is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to mandipropamid and any other substances, and mandipropamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that mandipropamid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

C. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence (quantitative or qualitative) of increased susceptibility and no residual uncertainties with regard to prenatal toxicity following *in utero* exposure to rats or rabbits (developmental studies) and prenatal and/or postnatal exposures to rats (reproduction study).

3. *Conclusion.* EPA has determined that reliable data show that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for mandipropamid is complete except that EPA has determined that an immunotoxicity study is required as per the revised 40 CFR part 158. However, there is no need for an additional uncertainty factor while the immunotoxicity study is completed. The overall weight of evidence in terms of hematology, clinical chemistry, organ weights, and/or histopathology indicates that mandipropamid does not directly target the immune system. Therefore, EPA does not anticipate that conducting a functional immunotoxicity study will result in a lower point of departure than currently selected for the overall risk assessment. The immunotoxicity study should be conducted in conjunction with any future petition for the section 3 registration of mandipropamid.

ii. There is no indication that mandipropamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that mandipropamid results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to

mandipropamid in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by mandipropamid.

D. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, mandipropamid is not expected to pose an acute risk.

2. *Chronic risk.* There are no residential uses for mandipropamid, and therefore aggregate risk is equal to that from consumption of food and water. EPA has concluded that chronic exposure to mandipropamid from food and water will utilize 44% of the cPAD for (children 1 to 2 years of age) the population group receiving the greatest exposure, while the general U.S. population utilizes 26% of the cPAD.

3. *Short-term and intermediate risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Mandipropamid is not registered or proposed for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which was previously addressed.

4. *Aggregate cancer risk for U.S. population.* As explained in this unit, mandipropamid is not likely to be carcinogenic in humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to mandipropamid residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (German Multi-residue Method DFG S–19) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; *telephone number:* (410) 305–2905; *e-mail address: residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/ World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are no specific Codex, Canadian or Mexican maximum residue limits (MRL) for mandipropamid in or on basil.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of mandipropamid, 4-chloro-*N*-[2-[3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-α-(2-propynyloxy)- benzeneacetamide, in or on basil, fresh at 20 ppm and basil, dried at 240 ppm. These tolerances expire on December 31, 2012.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under sections 408(e) and 408(l)(6) of 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). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances 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.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal governments, on the relationship between the national government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not 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).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of

the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule 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: August 31, 2011.

Lois Rossi,

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. 321(q), 346a and 371.

■ 2. Section 180.637 is amended by revising paragraph (b) to read as follows:

§ 180.637 Mandipropamid; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for residues of the mandipropamid, 4-chloro-*N*-[2-[3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-α-(2-propynyloxy)-benzeneacetamide in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FFIFRA section 18 emergency exemptions. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration date
Basil, dried	240	12/31/12
Basil, fresh	20	12/31/12

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0496; FRL–8881–6]

Dicamba; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of dicamba in or on teff, forage; teff, grain; teff, straw; and teff, hay. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 9, 2011. Objections and requests for hearings must be received on or before November 8, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0496. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 305–7390; *e-mail address: nollen.laura@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the harmonized test guidelines referenced in this document electronically, please go *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0496 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 8, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked