§ 1.6031(a)–1T [Removed]

■ **Par. 3.** Section 1.6031(a)–1T is removed.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: January 26, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 05–2725 Filed 2–10–05; 8:45 am]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 202

[Docket No. RM 2004–5]

Reconsideration Procedure

AGENCY: Copyright Office, Library of Congress

ACTION: Final rule: technical amendment.

SUMMARY: This document makes technical amendments to the Copyright Office regulation permitting copyright applicants to request reconsideration of decisions to refuse registration.

DATES: Effective February 11, 2005.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Associate General Counsel, or Sandra Jones, Writer–Editor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024–0400. Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 28, 2004, the Copyright Office published a final rule concerning reconsideration procedures. This document corrects references to the regulatory cite governing the fees charged copyright applicants for first and second requests for reconsideration.

List of Subjects in 37 CFR Part 202

Claims, Copyright.

Final Rule

■ For the reasons set out in the preamble, 37 CFR part 202 is amended as follows:

PART 202–REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for Part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

§ 202.5 [Amended]

■ 2. Amend § 202.5(b)(2) by removing ''§ 201.3(d)(4)'' and adding ''§ 201.3(d)(3)(i)'' in its place.

■ 3. Amend § 202.5(c)(2) by removing ''§ 201.3(d)(4)'' and adding ''§ 201.3(d)(3)(ii)'' in its place.

Dated: February 8, 2005.

Marilyn J. Kretsinger,

Associate General Counsel.

[FR Doc. 05–2720 Filed 2–10–05; 8:45 am]

BILLING CODE 1410–30–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0015; FRL–7696–8]

Thiamethoxam; 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 thiamethoxam and its metabolite, (CGA-322704) in or on artichoke, globe. 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 artichoke. This regulation establishes a maximum permissible level for residues of thiamethoxam and its metabolite, (CGA-322704) in this food commodity. The tolerance will expire and is revoked on June 30, 2008.

DATES: This regulation is effective February 11, 2005. Objections and requests for hearings must be received on or before April 12, 2005.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket identification (ID) number OPP–2005–0015. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., 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 either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *madden.barbara@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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions discussed above. 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 Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined

residues of the insecticide thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine and its metabolite CGA-322704 (N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N''-nitro-guanidine), in or on artichoke, globe at 0.40 parts per million (ppm). This tolerance will expire and is revoked on June 30, 2008. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the 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 the 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 the 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 the 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 the 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 the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Thiamethoxam on Artichokes and FFDCA Tolerances

The proba bug is a native insect and it normally occurs on coyote brush and *Baccharis pilularis*. It was first reported to cause crop damage to artichokes in 1996 on a localized field of Mulligan Hill Ranch in Castorville, California. The saliva of the proba bug contains phyto-toxins that are the primary cause of plant injury. The injury results in death of leaf tissue. Further, affected stalks are weakened and cannot support bud development causing the bud to drop. Methidathion, which is registered for use on artichokes, is highly effective in controlling proba bug however, its use is restricted to use on the vegetative stage of artichoke. The State has included a restriction not allowing applications of thiamethoxam to the vegetative stage of the plant. Other insecticides registered for use on artichokes have proven ineffective in controlling this pest. EPA has authorized under FIFRA section 18 the use of thiamethoxam on artichoke for control of proba bug in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of thiamethoxam and its metabolite, (CGA-322704) in or on artichoke. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of the 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 the FFDCA. Although this tolerance will expire and is revoked on June 30, 2008, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on artichoke after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. 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.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether thiamethoxam and its metabolite, (CGA-322704) meets EPA's registration requirements for use on artichoke or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of thiamethoxam by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for thiamethoxam, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D) of the FFDCA, 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 thiamethoxam and its metabolite, CGA-32270 and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for combined residues of thiamethoxam and its metabolite, (CGA-322704) in or on artichoke, globe at 0.40 ppm.

On January 5, 2005 the Agency published in the **Federal Register** (70 FR 708) (FRL–7689–7), a Final Rule establishing tolerances for combined residues of thiamethoxam and its metabolite in or on legume vegetables, root vegetables (except sugar beet), strawberries, bushberries, juneberries, lingonberries, salal, cranberries, spearmint, peppermint, rapeseed, mustard, flax, safflower, crambe, borage, and potatoes. When the Agency conducted risk assessments to determine the potential human health risks from use of thiamethoxam and its

metabolite to support the tolerances on legume vegetables, root vegetables (except sugar beet), strawberries, bushberries, juneberries, lingonberries, salal, cranberries, spearmint, peppermint, rapeseed, mustard, flax, safflower, crambe, borage, and potatoes (PP # 2E6363, 3E6781, 3E6800, 3E6805, 3E6806, 3E6807, 4E6819), these risk assessments also assessed the use of thiamethoxam on artichokes under section 18 of FIFRA. Therefore, establishing the artichoke tolerance will not change the most recent estimated aggregate risks resulting from use of thiamethoxam, as discussed in the January 5, 2005 **Federal Register** (70 FR 708). Refer to the January 5, 2005 **Federal Register** (70 FR 708) document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon those risk assessments and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessments.

Acute dietary risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In conducting the acute dietary risk assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID^{T}), which incorporates food consumption data as reported by respondents in the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. For the acute exposure assessments the residues of concern are thiamethoxam and its metabolite (CGA-322704) also know as clothianidin. The assessment for thiamethoxam assumed that 100% of the registered and proposed crops were treated and that all treated crops and livestock had residues of concern at the tolerance level. The general U.S. population and all population subgroups have exposure and risk estimates which are below the Agency's level of concern (i.e., the aPADs are all below 100%). The most highly exposed subgroup is children 1 to 2 years of age. The exposure estimate for children 1 to 2 years of age is 0.01099 milligram/kilogram (mg/kg)/day, which is equivalent to 11% of the aPAD. In addition, there is potential for acute dietary exposure to thiamethoxam in drinking water. After calculating drinking water levels of comparison (DWLOCs) and comparing them to the estimated environmental concentrations (EECs) for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in Table 1 of this unit:

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO THIAMETHOXAM

Population Subgroup	aPAD (mg/kg)	% aPAD/(Food)	Surface Water EEC/(ppb)	Ground Water EEC/(ppb)	Acute DWLOC/(ppb)
General U.S. population	0.1	4	11.4	5	3400
All infants < 1 year old	0.1	10	11.4	5	900
Children 1–2 years old	0.1	11	11.4	5	890
Females 13–49 years old	0.1	2	11.4	5	2900

In conducting the chronic dietary risk assessment EPA used DEEM-FCID™, which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. For the chronic exposure assessments the residues of concern are thiamethoxam and its metabolite clothianidin. The chronic analysis for thiamethoxam was based on anticipated residues in the form of average field trial residue values, and the analysis included percent crop estimates. The general U.S. population and all population subgroups have exposure and risk estimates which are below the Agency's level of concern (i.e., the cPADs are all below 100%). The most highly exposed subgroup is children 1 to 2 years of age. The exposure estimate for children 1 to 2 years of age is 0.000103 mg/kg/day, which is equivalent to 17% of the cPAD. There are no residential uses for thiamethoxam that result in chronic residential exposure. In addition, there is potential for chronic dietary exposure to thiamethoxam in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 2 of this unit:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO THIAMETHOXAM

Population/Subgroup	cPAD/mg/kg/day	%/cPAD/(Food)	Surface Water EEC/(ppb)	Ground/Water EEC/(ppb)	Chronic/DWLOC (ppb)
U.S. Population	0.0006	6	0.77	1.94	20
All infants < 1 year old	0.0006	11	0.77	1.94	5.4
Children 1–2 years old	0.0006	17	0.77	1.94	5
Females 13–49 years old	0.0006	5	0.77	1.94	17

Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiamethoxam is not registered 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 do not exceed the Agency's level of concern.

Thiamethoxam has been classified as a likely carcinogen for humans based on increased incidence of hepatocellular adenomas and carcinomas in male and female mice. Quantification of risk based on most potent unit risk: Male mouse liver adenoma and/or carcinoma combined tumor rate. The upper bound estimate of unit risk, Q1* $(mg/kg/day)^{-1}$ is 3.77×10^{-2} in human equivalents. The residue of concern for the cancer analysis is thiamethoxam, per se. The residues of its metabolite clothianidin were removed from the cancer analysis because the metabolite was found to be ''not likely to be carcinogenic to humans'' when it was evaluated as an active ingredient. The cancer analysis was based on average field trial residue values as well as percent crop treated estimates. The estimated dietary exposure to the U.S. population is 0.000263 mg/kg/day. In conducting the aggregate cancer risk assessment, only dietary and drinking water pathways of exposure were considered. At this time, there are no uses for thiamethoxam that would result in any non-occupational, non-dietary exposure (i.e., there are no dermal or inhalation routes of exposure that should be included in an aggregate assessment). A DWLOC was derived for the general U.S. population based on EPA's level of concern for cancer or a risk in the range of 1 in 1 million. The DWLOC is compared to the estimated environmental concentrations of thiamethoxam in surface water and ground water and is used to determine whether or not aggregate cancer exposures are likely to result in risk estimates that exceed EPA's level of concern. Table 3 of this unit summarizes the drinking water estimated concentrations of thiamethoxam in surface water and ground water and the associated DWLOC for cancer:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CANCER EXPOSURE TO THIAMETHOXAM

Population/Subgroup	Maximum/ Exposure/ mg/kg/day	Food/Exposure/mg/kg/day	Maximum/ Water/Exposure/mg/kg/day	Cancer/ DWLOC/ ppb	Ground/ Water/EEC/ ppb	Surface/ Water/EEC/ ppb
General U.S. population	7.96×10^{-5}	7.96×10^{-5}	7.96×10^{-5}	1.87	1.94	0.31

For cancer, the DWLOC is slightly less than the ground water EEC. However, the cancer DWLOC is based on a conservative estimate of dietary exposure. Available information from actual prospective ground water monitoring data demonstrates that actual thiamethoxam residues in groundwater occur at or below 0.05 ppb. This interim analysis suggests that actual long-term residues of thiamethoxam in ground water will be significantly less than the levels predicted by the screening concentration in ground water (SCIGROW) model. A significant decrease in the level of thiamethoxam in drinking water results in an aggregate risk estimate that is unlikely to exceed EPA's level of concern for cancer. Further, the DWLOC numerical computation was done using a cancer risk figure of 1 in 1 million although EPA has repeatedly found that risk figures marginally higher than 1 in 1 million fall within the range of a 1 in 1 million risk.

6. *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, and to infants and children from aggregate exposure to thiamethoxam residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (aqueous acetonitrile solvent extraction, liquid-liquid partitioning and solid-phase extraction cleanup, and high pressure liquid concentration/ ultraviolet (HPLC/UV) analysis) 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

There are no international residue limits for thiamethoxam.

VI. Conclusion

Therefore, the tolerance is established for combined residues of thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine and its metabolite (N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N''-nitro-guanidine), in or on artichoke, globe at 0.40 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2005–0015 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 12, 2005.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). 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.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in**ADDRESSES**. Mail your copies, identified by the docket ID number OPP–2005–0015, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a 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(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Statutory and Executive Order Reviews

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). 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); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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: January 30, 2005.

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 180.565 is amended by alphabetically adding the commodity ''Artichoke'' to the table in paragraph (b) to read as follows:

§ 180.565 Thiamethoxam; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Artichoke, globe	0.40	6/30/08

* * * * * * *

* * * * *

[FR Doc. 05–2715 Filed 2–10–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7871–9]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds one new site to the NPL Federal Facilities Section.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be March 14, 2005.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, *see* section II, ''Availability of Information to the Public'' in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone (703) 603–8852, State, Tribal and Site Identification Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail Code 5204G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

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