TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*		*	*	*
56	06–1–98	07–1–98	4.25	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 8th day of May 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–12911 Filed 5–14–98; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–032]

Drawbridge Operation Regulations; Pocomoke River

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Route 675 (U.S. 13 Business Route) drawbridge across the Pocomoke River, mile 15.6, in Pocomoke City, Maryland. Beginning May 17, 1998, through June 16, 1998, this deviation requires three-hours advance notice for drawbridge openings from 9 a.m. through 3 p.m. on weekdays, and from 7 p.m. on Fridays through 6 a.m. on Mondays. This deviation is necessary to allow the contractor to paint the bridge.

DATES: This deviation is effective from May 17, 1998 through June 16, 1998.

FOR FURTHER INFORMATION: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: Textar Painting Corporation, a contractor for the Maryland Department of Transportation, requested the Coast Guard to approve a temporary deviation from the normal operation of the bridge in order to accommodate painting the structure. To paint the bridge, a barge will be used. Three-hours advance notice will be required to open the bridge during the requested time periods.

This deviation will not significantly disrupt vessel traffic, since little exists at this location, and mariners may still transit the bridge provided the three-hours advance notice is given. The regulations at 33 CFR 117.569(b) require the draw to open on signal, except between November 1 and March 31 the draw must open only if at least five hours advance notice is given.

From May 17, 1998, through June 16, 1998, this deviation requires three-hours advance notice for openings of the Route 675 Pocomoke River Drawbridge (U.S. 13 Business route) from 9 a.m. through 3 p.m. on weekdays and from 7 p.m. on Fridays through 6 a.m. on Mondays.

Dated: April 30, 1998.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 98–13015 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6013–9]

Protection of Stratospheric Ozone; Methyl Bromide

AGENCY: Environmental Protection Agency.

ACTION: Notice of clarification.

SUMMARY: This document clarifies a previous statement by EPA about the applicability of a Clean Air Act labeling rule to methyl bromide as a ''class I ozone-depleting substance.'' The labeling rule requires products ''containing'' or ''manufactured with'' a class I ozone-depleting substance to be labeled as such. This document makes clear that any product, including any agricultural product, that ''contains'' or is ''manufactured with'' methyl bromide is subject to the labeling rule's requirements. At the same time, EPA is not aware of any agricultural product that ''contains'' or is ''manufactured with'' methyl bromide, as those terms are defined by the labeling rule. In particular, raw food commodities grown for the fresh food market and produced with the use of methyl bromide do not meet the definitions of products ''containing'' or ''manufactured with'' methyl bromide and are thus not subject to the labeling rule's requirements.

DATES: The effective date of this Notice of Clarification is May 15, 1998.

ADDRESSES: Comments and data relating to the methyl bromide rule are contained in Air Docket A–92–13, U.S. Environmental Protection Agency, OAR Docket and Information Center, Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. Comments and data relating to the labeling rule are contained in Air Docket A–91–60, at the same location. Each of the dockets may be inspected between 8 a.m. and 5:30 p.m. on weekdays. The telephone number for the dockets is (202) 260–7548; the fax number is (202) 260–4400. As provided in 40 CFR, Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 564–9193 or fax (202) 565–2096, Stratospheric Protection Division, USEPA, Mail Code 6205J, 401 M Street, SW., Washington, DC 20460. Overnight mail (Fed-Ex, Express Mail, etc.) should be sent to our 501 3rd Street, NW., Washington, DC 20001 street address.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Stratospheric Ozone Protection

Added in 1990, Title VI of the Clean Air Act (''CAA'' or ''Act'') establishes a comprehensive program to protect stratospheric ozone, which helps shield the earth from harmful ultraviolet radiation. In particular, it requires EPA to list substances that have a significant potential to deplete stratospheric ozone as class I ozone-depleting substances, and to require their phaseout by a specified date. It also provides for a multi-faceted regulatory program to minimize the use and release of ozone-depleting substances prior to their phaseout.

B. Labeling Rule

Section 611 of the Act prohibits the introduction into interstate commerce of any product containing a class I substance or manufactured with a process using a class I substance, unless it bears a warning statement indicating that the product contains or is manufactured with ozone-depleting substances. To implement this and other provisions of section 611, EPA issued a final rule on February 11, 1993, at 58 FR 8136, which established labeling requirements for, among other things, products containing, or manufactured with a process that uses, a class I ozone-depleting substance (the ''labeling rule.'')

The labeling rule defines a ''product containing'' a class I substance as a ''product including, but not limited to, containers, vessels, or pieces of equipment, that physically holds a controlled substance [i.e., a class I or II ozone-depleting substance] at the point of sale to the ultimate consumer which remains within the product.'' The rule also defines ''manufactured with a controlled substance'' as follows:

> [T]he manufacturer of the product itself used a controlled substance directly in the product's manufacturing, but the product itself does not contain more than trace quantities of the controlled substance at the point of introduction into interstate commerce. The following situations are excluded from the meaning of the phrase ''manufactured with'' a controlled substance:
>
> (1) Where a product has not had physical contact with the controlled substance;
>
> (2) Where the manufacturing equipment or the product has had physical contact with a controlled substance in an intermittent manner, not as a routine part of the direct manufacturing process;
>
> (3) Where the controlled substance has been transformed, except for trace quantities; or
>
> (4) Where the controlled substance has been completely destroyed.

The current labeling requirements are codified at 40 CFR Part 82, Subpart E (including sections 82.100–82.124).[1]

Section 82.102(a) of the labeling rule specifically provides that, in the case of any substance designated as a class I substance after February 11, 1993, the labeling requirements are applicable beginning one year after the designation of such substance, unless the rulemaking designating such substance provides otherwise.

C. Methyl Bromide Rule

EPA issued a final rule on December 10, 1993, at 58 FR 65018, pursuant to sections 602 and 604 of the CAA, listing methyl bromide as a class I ozone-depleting substance and establishing a phaseout date for its production and importation (the ''methyl bromide rule.'') Methyl bromide is used as a pesticide and fumigant.

The labeling rule became applicable to methyl bromide on January 1, 1995, one year following the effective date of its designation as a class I substance. In the preamble to the methyl bromide rule, EPA discussed the applicability of the labeling rule to methyl bromide. With respect to containers of methyl bromide, EPA stated that such containers would be subject to the labeling rule. With respect to agricultural products, EPA ''determined that activities involved in growing, harvesting, storing and transporting food are part of an agricultural process that falls outside the intent of Congress to require labeling on products 'manufactured with' a class I or II substance'' (58 FR at 65043, col. 3.) Based on this determination, EPA concluded that ''products treated with methyl bromide would not require labeling.'' Id.

In reaching its conclusion, EPA recognized that ''the general purpose of alerting consumers that certain goods were produced in a manner that may cause harm to stratospheric ozone could apply to certain agricultural products for which methyl bromide is used.'' Id. The Agency nevertheless concluded that the labeling requirement applicable to products ''manufactured with'' a class I substance was reasonably interpreted not to apply to agricultural products because ''such products are grown and not manufactured.'' Id. EPA cited Webster's Ninth New Collegiate Dictionary (1983) for the ordinary definition of the word ''manufacture'' as making something from raw materials by hand or by machinery, which would not include the growing of fruits and vegetables. The Agency also stated that it believed Congress did not anticipate labeling of raw agricultural products given the practical difficulty of labeling such products, many of which are sold without any packaging at all.

D. Litigation

In February, 1994, the National Resources Defense Council, together with other parties, challenged this as well as other aspects of the methyl bromide rule by filing a petition in the U.S. Court of Appeals for the D.C. Circuit. EPA is issuing this clarification pursuant to a settlement agreement in that case.

II. Clarification

The need for this clarification arises out of the breadth of some of the Agency's statements taken out of context. In isolation, statements that ''products treated with methyl bromide'' and ''agricultural products'' do not require labeling could be interpreted to mean that any agricultural product is exempt from the labeling rule, regardless of whether and how methyl bromide was used in its production. EPA's discussion of the applicability of the labeling rule to methyl bromide addressed specific activities and types of products. Read in context, the Agency's statements are properly limited to the specific activities and products it addressed. The purpose of this notice is to confirm the limits of those statements and clarify the extent to which the labeling rule is applicable to methyl bromide.

As noted above, EPA addressed specific activities and products in its discussion of the labeling rule's applicability to methyl bromide. The Agency determined that ''activities involved in growing, harvesting, storing and transporting food'' do not constitute manufacturing under the labeling rule, and that Congress did not intend raw agricultural products such as fruits and vegetables to be labeled. From those determinations, EPA concluded that ''products treated with methyl bromide would not require labeling.''

EPA's conclusion is appropriate for the specific activities and products addressed. Growing and harvesting, as the Agency explained, do not constitute manufacturing, since they do not fit the

[1] In a January 19, 1995, rulemaking (60 FR 4010), the labeling rule was revised. Among other revisions, the definition of ''manufactured with'' was amended to indicate that a product ''manufactured with'' a controlled substance does not contain more than trace quantities of the controlled substance. The definition was also amended to expand the situations that are excluded from the phrase ''manufactured with'' to include where a *product* has physical contact with a controlled substance only in an intermittent manner and not as a routine part of the direct manufacturing process and where the controlled substance has been completely destroyed.

ordinary definition of manufacturing as making something from raw materials by hand or by machinery. Indeed, agricultural crops are generally considered ''raw materials'' that may or may not be made into something else by hand or by machine. (See, for example, the definition of ''raw material'' in Webster's Ninth New Collegiate Dictionary (1990): ''wheat * * * is a raw material for the flour mill.'') As a result, use of methyl bromide as a pesticide in growing a crop does not make the harvested crop a product ''manufactured with'' methyl bromide.

Generally speaking, use of methyl bromide as a fumigant in storing or transporting also does not make a product ''manufactured with'' methyl bromide. The labeling rule's definition of ''manufactured with'' specifies that the manufacturer of the product itself uses a class I substance ''directly in the product's manufacturing.'' Storing and transporting are generally not part of a direct manufacturing process, although they may precede or follow such a process. By themselves, storing and transporting also do not meet the ordinary definition of manufacturing, since neither entails making something from raw materials by hand or by machine. Instead, they simply provide for the safekeeping or movement of a product, either raw or manufactured.

Further, the labeling rule requires that a product be labeled by the time it enters interstate commerce (section 82.124.) If a product has not been ''manufactured with'' methyl bromide by the time it enters interstate commerce, it does not become ''manufactured with'' methyl bromide by virtue of being treated with methyl bromide in storage or shipment following its entry into interstate commerce. Section 82.104(n) of the rule defines the possible points of entry into interstate commerce as the ''release of a product from the facility in which the product was manufactured, the entry into a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance.'' Obviously, these points of entry will often precede storage or shipment of a product in the United States.

In the methyl bromide rule preamble, EPA also discussed the applicability of the labeling rule to particular products. The particular products addressed by EPA—raw agricultural products, including fruits and vegetables—result from particular activities that EPA determined do not constitute manufacturing—growing, harvesting, storing and transporting. It thus follows that they are not products ''manufactured with'' methyl bromide.

For the reasons given above, EPA believes that its discussion in the methyl bromide rulemaking of the labeling rule's applicability to methyl bromide was appropriate for the specific activities and products addressed. However, some members of the public have raised concerns that the discussion may be read to imply that an agricultural product is not subject to the labeling rule even when it contains or is manufactured with methyl bromide. The point of today's notice is to remove any such inadvertent implication.

The labeling rule applies to any product that ''contains'' or is ''manufactured with'' a class I ozone-depleting substance. Methyl bromide has been classified as a class I ozone-depleting substance. Therefore, any product containing or manufactured with methyl bromide is subject to the labeling rule's requirements in the same way as a product containing or manufactured with any other class I substance. For the reasons stated above, use of methyl bromide in growing, harvesting, storing or shipping a crop does not constitute ''manufacturing with'' methyl bromide and so would not subject the crop to the labeling requirement for products ''manufactured with'' a class I substance. But use of methyl bromide in the direct manufacturing process of a product would subject that product to the requirement.

EPA, however, is not aware of any agricultural product that ''contains'' or is ''manufactured with'' methyl bromide, as those terms are defined by the labeling rule. The definition of ''product containing'' specifies that the product ''physically holds a controlled substance at the point of sale.'' To EPA's knowledge, no agricultural product so holds methyl bromide, nor is it likely that any would, given the volatility of methyl bromide. One of methyl bromide's advantages as a pesticide and fumigant is that it leaves virtually no residues on or in products treated with it. In any event, section 82.106(b)(1) of the labeling rule exempts from its requirements products containing no more than trace quantities of a controlled substance remaining as a residue where the controlled substance serves no useful purpose in or for the product itself. With respect to containers of methyl bromide itself, EPA made clear in the methyl bromide rule that such containers are subject to the labeling requirement for products ''containing'' a class I substance.

As noted above, EPA is also not aware of any agricultural products ''manufactured with'' methyl bromide. EPA has issued several applicability determinations related to the labeling rule. Five of them addressed whether particular uses of a class I substance constitute ''manufacturing with'' the substance. EPA found that these particular uses did not constitute ''manufacturing with'' a class I substance because the class I substance did not have physical contact with the product or was used in an intermittent, non-routine manner (which section 82.104(o)(2) of the rule exempts from the definition of ''manufactured with.'') These applicability determinations are available in the docket for the labeling rule.

Methyl bromide is currently used as a post-harvest pest control tool for raisins. Grapes are typically allowed to dry in the field and are harvested as raisins. They are then typically sold to a packer who treats the raisins with methyl bromide when held in storage. This use of methyl bromide would not require that the raisins be labeled. Storage of the raisins is not manufacturing, nor is it a part of any manufacturing process. Moreover, storage generally occurs after the raisins have been introduced into interstate commerce.

In the case of other dried fruits and nuts, methyl bromide is used in a similar manner. To EPA's knowledge, methyl bromide is not a direct part of any dried fruit or nut ''manufacturing'' process, but is used as a storage or pre-shipment pest control tool. Since these uses are not part of a direct manufacturing process, labeling is not required.

Methyl bromide is also used to treat empty food processing facilities for pest control. An example of such use is the periodic fumigation of flour mills when they are empty. In these cases, food products are typically removed from the facility prior to the methyl bromide treatment, which takes place on an as-needed basis (typically once or twice a year, depending on pest levels.) The methyl bromide used in these cases has no physical contact with any food products that are manufactured in the facility, so labeling is not required. Even if food products were present in the facility during the methyl bromide treatment, labeling would not be required if the treatment is done on an intermittent or infrequent basis.

EPA may not be aware of the details of all of the processes involving use of methyl bromide. There may be uses that are part of the direct manufacturing process for a product and that are not otherwise exempt from the labeling rule's definition of ''manufactured

with.'' Any such use of methyl bromide would subject the resulting product to the labeling rule. Similarly, any product ''containing'' methyl bromide, as that phrase is defined by the labeling rule, is subject to the rule.

III. Submission to Congress and the General Accounting Office

The Congressional Review Act (''Act''), 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule.

IV. Additional Information

For more information on methyl bromide, please contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST). **Federal Register** publications can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. Each of the final rules referred to in this Notice may also be retrieved from EPA's Ozone Depletion World Wide Web site, at http://www.epa.gov/docs/ozone/ .

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 8, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–12851 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300640; FRL–5784–8]

RIN 2070–AB78

Tebufenozide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of tebufenozide in or on peppers (bell and non-bell) . This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on peppers (bell and non-bell). This regulation establishes a maximum permissible level for residues of tebufenozide in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on September 30, 1999.

DATES: This regulation is effective May 15, 1998. Objections and requests for hearings must be received by EPA on or before July 14, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300640], 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–300640], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may 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 5.1/6.1 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–300640]. 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: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367, e-mail: ertman.andrew@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 the insecticide tebufenozide, in or on peppers (bell and non-bell) at 0.5 part per million (ppm). This tolerance will expire and is revoked on September 30, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities 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 published in the **Federal Register** of November 13, 1996 (61 FR 58135) (FRL–5572–9).

New 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) 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) 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