

burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

#### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 19, 2002.

#### A. Stanley Meiburg,

*Acting Regional, Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2002-0155; FRL-7191-4]

#### Acephate, Amitraz, Carbaryl, Chlorpyrifos, Cryolite, et al.; Tolerance Revocations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This document revokes certain tolerances for residues of the

pesticides acephate, amitraz, carbaryl, chlorpyrifos, cryolite, disulfoton, ethalfluralin, ethion, ethoprop, fenthion, fluralin, methamidophos, metribuzin, oxamyl, phorate, phosalone, phosmet, pirimiphos-methyl, profenofos, propiconazole, tetrachlorvinphos, thiram, and tribufos because these specific tolerances are either no longer needed or are associated with food uses that are no longer registered in the United States. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions in this document pertain to the revocation of 140 tolerances. Because ten tolerances were previously reassessed, 130 tolerances would be counted as reassessed. Also, EPA is announcing that six goat and sheep tolerances at 0 ppm for amitraz are considered to be reassessed. Therefore, a total of 136 tolerance reassessments would be counted among tolerance/exemption reassessments made toward the August, 2002 review deadline.

**DATES:** This regulation is effective October 29, 2002; however, certain regulatory actions will not occur until the date specified in the regulatory text. Objections and requests for hearings, identified by docket ID number OPP-2002-0155, must be received by EPA on or before September 30, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0155 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8037; e-mail address: nevola.joseph@epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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 Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register—Environmental Documents**." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0155. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well

as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

## II. Background

### A. What Action is the Agency Taking?

This final rule revokes certain FFDCA tolerances for residues of the pesticides acephate, amitraz, carbaryl, chlorpyrifos, cryolite, disulfoton, ethalfuralin, ethion, ethoprop, fenthion, fluvalinate, methamidophos, metribuzin, oxamyl, phorate, phosalone, phosmet, pirimiphos-methyl, profenofos, propiconazole, tetrachlorvinphos, thiram, and tribufos in or on specified commodities listed in the regulatory text because the tolerances are no longer needed or because these pesticides are not registered under FIFRA for uses on those commodities within the United States. However, comments were received regarding a need for EPA to retain certain tolerances, including a comment that there was a need for EPA to retain certain methamidophos tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Today's final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed above if, (1) prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds,

commenters retract the comment identifying a need for the tolerance to be retained, (2) EPA independently verifies that the tolerance is no longer needed, or (3) the tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

In the **Federal Register** of April 15, 2002 (67 FR 18150) (FRL-6834-1), EPA issued a proposed rule to revoke the tolerances listed in this final rule. Also, the April 15, 2002 proposal provided a 60-day comment period in which public comment was invited for consideration and for support of tolerance retention under FFDCA standards.

In response to the document published in the **Federal Register** of April 15, 2002, EPA received comments on ethion, fenthion, methamidophos, pirimiphos-methyl, and profenofos, as follows:

1. *Ethion*—i. *Comment by Private Citizen*. A comment was received from a private citizen who inquired whether the ethion tolerances for cattle, fat; cattle, meat byproducts; cattle, meat (fat basis); citrus pulp, dehydrated; and citrus fruits, which were each proposed for revocation with an expiration date were also modified.

*Agency Response*. EPA is revoking the ethion tolerances for citrus, dried pulp and fruit, citrus in 40 CFR 180.173 with no further modification at this time. Additionally, EPA is taking no action on the ethion milk and cattle tolerances in 40 CFR 180.173 at this time.

EPA is revoking the tolerances for citrus, dried pulp and fruit, citrus in 40 CFR 180.173 with an expiration/revocation date of October 1, 2008. In the ethion RED, EPA recommended that the citrus tolerances should be revoked, but also be raised during the period before they expire (from 10.0 to 25.0 ppm for dehydrated pulp and from 2.0 to 5.0 ppm for citrus fruits) based on the available citrus field trial and processing data. However, while the citrus tolerances were proposed to be revoked and raised in the codification section of the April 15, 2002 rule (67 FR 18150), the preamble for ethion stated only that the tolerances were proposed to be revoked and did not mention raising these tolerances in the interim period. Therefore, in a future publication in the **Federal Register**, EPA will propose to raise the tolerances for citrus, dried pulp and fruit, citrus during the period before they expire to 25.0 and 5.0 ppm, respectively.

EPA is not taking action on the milk and cattle tolerances at this time in order to verify whether a cancellation order for one cattle ear tag product was completed. In addition, while the cattle tolerances were proposed to be revoked

and lowered in the codification section of the April 15, 2002 rule (67 FR 18150), in the preamble for ethion, the rule had stated only that the tolerances were proposed to be revoked. Therefore, in a future publication in the **Federal Register**, EPA will propose to revoke and lower the cattle tolerances during the period before they expire on October 1, 2008 to 0.2 ppm and propose to revoke the milk tolerance on October 1, 2008.

ii. *Comments from Cheminova, Inc., Florida Citrus Mutual (FCM) and Florida Fruit and Vegetable Association (FFVA)*. Comments were received from Cheminova, FCM and FFVA who each requested that the revocation of the tolerance for ethion on citrus and animal products be set no earlier than October 1, 2008 to allow treated citrus fruit to travel through juice processing and channels of trade, as well as to allow animal commodities (from animals fed treated dehydrated citrus pulp) through channels of trade. Cheminova and FFVA noted that fruit in a citrus grove legally treated with ethion in December 2004 could remain on the tree and not be picked until May or June 2005. Cheminova and FCM noted that the bulk (90% to 95%) of Florida citrus products are made into processed juice products. Cheminova also noted that because so much of the citrus crop in Florida is grown for juice, citrus legally treated with ethion may remain in the channels of trade for several years. Both FCM and FFVA specifically stated that fruit processed for frozen concentrated orange juice could conceivably be stored for up to 24 months before being moved into the channels of trade and could take an additional 12 months before reaching the consumer.

*Agency Response*. EPA agrees that citrus and animal feed (citrus, dried pulp) with legal residues of ethion can take several years to clear channels of trade. With a last legal use date of December 31, 2004, the Agency agrees with the commenters that the expiration date of October 1, 2008 for the citrus and animal tolerances is reasonable. Therefore, EPA is revoking the tolerances in 40 CFR 180.173 for residues of ethion including its oxygen analog (S-[[diethoxyphosphinothioyl]thio]methyl] O,O-diethyl phosphorothioate) in or on goats, fat; goats, mbypp; goats, meat; hogs, fat; hogs, mbypp; hogs, meat; horses, fat; horses, mbypp; horses, meat; sheep, fat; sheep, mbypp; and sheep, meat with an expiration/revocation date of October 1, 2008.

In addition, EPA is revoking the tolerance for raisins and tea, dried in 180.173 with an effective date that is 90

days after publication of this final rule in the **Federal Register**. On January 14, 1998 (63 FR 2163)(FRL-5755-9), EPA consolidated certain food and feed additive tolerance regulations in 40 CFR parts 185 and 186 to part 180, including the raisins and tea, dried tolerances for ethion from 185.2750 into 180.173. On February 5, 1998 (63 FR 5907)(FRL-5743-9), the Agency proposed to revoke the tolerances for raisins and tea, dried in 40 CFR 180.173. The Agency did not receive any comment on the proposed revocation of these two tolerances. However, on October 26, 1998, EPA published a final rule in the **Federal Register** (63 FR 57067) (FRL-6035-6) which inadvertently did not remove the raisins and tea, dried tolerances from the table of entries found in 40 CFR 180.173. Now, EPA is finalizing that action.

2. *Fenthion—Comment by Bayer Corporation*. A comment was received from Bayer Corporation in which Bayer stated that it is not appropriate to revoke the fenthion milk and animal tolerances (fat, meat, and meat byproducts for cattle and hogs) in 40 CFR 180.214 with the proposed expiration date of April 1, 2003 because these tolerances are also necessary for use of fenthion drug products, insecticides for cattle use, one of which is a pour-on. Bayer stated that while it stopped manufacturing these animal drug products on September 28, 2000, one product can be used on livestock until it expires on September 28, 2004. Also, Bayer noted that treated commodities would take an additional 18 months to move through trade channels and requested an expiration date of April 1, 2006 as more appropriate.

*Agency Response*. To address Bayer's concern, the Agency is revoking the tolerances in 40 CFR 180.214 for residues of fenthion and its cholinesterase-inhibiting metabolites in or on cattle, fat; cattle, meat; and cattle (mbyp) with an expiration/revocation date of April 1, 2006 to allow sufficient time for treated commodities to pass through channels of trade. In a follow-up communication, Bayer stated that (1) no swine uses were associated with the two fenthion animal drug products and (2) the two fenthion animal drug products were for use on non-lactating dairy cattle. For these reasons, Bayer noted that there is no need to extend the milk or hog tolerances. Therefore, EPA is revoking the tolerances in 40 CFR 180.214 for hogs, fat; hogs, meat; hogs (mbyp); and milk with an expiration/revocation date of April 1, 2003, which allows sufficient time for treated commodities to pass through channels of trade.

Also, EPA is revising commodity terminology in 40 CFR 180.214 to conform to current Agency practice as follows: "cattle (mbyp)" to "cattle, meat byproducts;" "hogs, fat" to "hog, fat;" "hogs, meat" to "hog, meat;" and "hogs, mbyp" to "hog, meat byproducts."

3. *Methamidophos—i. Comment by Canadian Horticultural Council (CHC)*. A comment was received from the CHC, who requested the retention of methamidophos (trade name Monitor) tolerances for broccoli, Brussels sprouts, cabbage, cauliflower, and lettuce to allow importation of those methamidophos-treated food commodities.

*Agency Response*. Because a comment was received which expressed a need for the retention of specific tolerances for import purposes, EPA will not revoke the tolerances in 40 CFR 180.315 for broccoli, Brussels sprouts, cabbage, cauliflower, and lettuce at this time. EPA will follow-up to see that data requirements are met. When the submitted data have been reviewed, EPA will re-evaluate these tolerances under FFCA.

ii. *Comment by Private Citizen*. A comment was received from a private citizen who asked that the Agency comment on Brussels sprouts, cauliflower, and lettuce codified in 40 CFR 180.108 under acephate with regard to the metabolite methamidophos in light of the proposed revocations in 40 CFR 180.315 for those tolerances.

*Agency Response*. There are active registrations for acephate, which degrades to methamidophos residues, on Brussels sprouts, cauliflower, and lettuce head. These tolerances are codified at 40 CFR 180.108 for residues of methamidophos (O,S-dimethyl phosphoramidothioate) as no more than 0.5 ppm, 0.5 ppm, and 1.0 ppm, respectively. However, while there are no active registrations for use of methamidophos on Brussels sprouts, cauliflower, and lettuce, there are tolerances for those commodities codified at 40 CFR 180.315 for residues of methamidophos at 1.0 ppm. To achieve compatibility with CODEX (0.5 ppm for cauliflower and 1.0 ppm for lettuce head) and to remove duplicate tolerances, EPA proposed to revoke the cauliflower (1.0 ppm) and lettuce (1.0 ppm) tolerances for methamidophos in § 180.315. Methamidophos residues from the use of acephate on Brussels sprouts, cauliflower, and lettuce head would have remained covered under 40 CFR 180.108. In a future publication in the **Federal Register**, EPA will propose to revise the acephate tolerances in 40 CFR 180.108 by consolidating that portion concerning residues of

methamidophos from acephate use to be recodified with other methamidophos tolerances under § 180.315.

EPA is revoking the tolerances in 40 CFR 180.315(a) for residues of methamidophos in or on beets, sugar, roots; and beets, sugar, tops. On July 2, 1997, EPA published a notice in the **Federal Register** (62 FR 35812) (FRL-5724-7) under section 6(f)(1) of FIFRA announcing its receipt of requests from the registrants to terminate the use of methamidophos on all crops except cotton and potatoes, and to cancel all methamidophos 24(c) food-use registrations not labeled for use on tomatoes only, and provided a period for public comment. On December 23, 1997 (62 FR 67071) (FRL-5764-2), EPA published a notice in which the Agency responded to comments received and approved those terminations and cancellations, effective December 31, 1997. The Agency determined that after December 31, 1997 only persons other than the registrants were allowed to sell and distribute existing stocks, which EPA believed to be relatively small. More than four years has passed, which the Agency believes to be sufficient time for exhaustion of those stocks and for treated commodities to have cleared channels of trade.

Because a petition submitted by the registrant to the Agency for use on peppers regarding a FIFRA section 24(c) registration is pending and because of the possibility that existing labels for section 24(c) registrations may not yet have been amended regarding deletion of cucumbers, eggplant, and melons, the Agency will not address cucumbers, eggplant, melons, and peppers at this time. However, EPA is revising commodity terminology in 40 CFR 180.315 to conform to current Agency practice as follows: "cottonseed" to "cotton, undelinted seed;" "cucumbers" to "cucumber;" "melons" to "melon;" "peppers" to "pepper;" "potatoes" to "potato" and "tomatoes" to "tomato." EPA is also removing the "(N)" designation from the "cotton, undelinted seed" and "potato" entries to conform to current Agency administrative practice ("N" designation means negligible residues).

4. *Pirimiphos-methyl—Comment by Schering-Plough Animal Health Corporation*. A comment was received from Schering-Plough, who requested that the current pirimiphos-methyl tolerances for cattle be retained. Schering-Plough stated that the insecticide is currently used in ear tag products as part of an integrated pest management program to control horn flies and face flies on beef and non-lactating dairy cattle and calves. Also,

Schering-Plough noted that a 1996 magnitude of residue study from dermal application for a pour-on product was submitted to EPA, but was returned pending completion of the organophosphate cumulative risk assessment process. In addition, Schering-Plough asked that the Agency provide a consistent and level playing field to all sponsors; i.e., EPA should not include one sponsor's proposed use for pre-treatment of grain storage bins (Product and Chemistry Chapter of June 1, 1998), while at the same time exclude or delay approval of another proposed use such as for a cattle-pour-on product in their assessment. Finally, Schering-Plough noted that EPA actions to revoke or lower cattle tolerances would be an inefficient use of resources because Schering-Plough expects to submit an application for registration of a pirimiphos-methyl pour-on product for cattle, including a completed dermal magnitude of residue study.

*Agency Response.* In the proposal of April 15, 2002, EPA concluded that the current tolerance on "cattle meat" was no longer needed because the Agency has a reasonable expectation that no detectable pirimiphos-methyl residues of concern would be found in cattle meat as a result of cattle exposure via existing uses of pirimiphos-methyl. (Results from ruminant and poultry feeding studies, and residue trials conducted on stored grains, indicated that residues in certain livestock commodities could be classified under 40 CFR 180.6(a)(3); i.e., there is no reasonable expectation of finite residues). Schering-Plough noted that the proposal to revoke the cattle meat tolerance was based on the Agency's review of livestock feeding studies, not from a magnitude of residue study from dermal application. Schering-Plough requested retention of the cattle meat tolerance and stated it would submit a registration application for a new use (pour-on product formulation) for cattle, including a dermal metabolism study for pirimiphos-methyl. EPA maintains that a cumulative risk assessment for all organophosphate active ingredients must be completed before the acceptance of new registrations can occur for pirimiphos-methyl. Whether dermal exposure results for pirimiphos-methyl would have the same metabolic pattern as oral dosing is not known. At this time, EPA will not take action on the tolerance for "cattle, meat" in 40 CFR 180.409. EPA will continue to deliberate the issue, but may finalize the revocation of the cattle meat tolerance in a future publication in the **Federal Register**.

Because the tolerances are no longer needed, EPA is revoking the tolerances in 40 CFR 180.409(a)(1) for combined residues of pirimiphos-methyl, O-[2-diethylamino-6-methyl-4-pyrimidinyl] O,O-dimethyl phosphorothioate, the metabolite O-[2-ethylamino-6-methyl-pyrimidin-4-yl] O,O-dimethyl phosphorothioate and, in free and conjugated form, the metabolites 2-diethylamino-6-methyl-pyrimidin-4-ol, 2-ethylamino-6-methyl-pyrimidin-4-ol, and 2-amino-6-methyl-pyrimidin-4-ol in or on eggs; goats, meat; hogs, meat; horses, meat; milk, fat (0.1 ppm (N) in whole milk; poultry, mby; poultry, meat; and sheep, meat.

According to the pirimiphos-methyl Interim Reregistration Eligibility Decision (IREED), residues in sorghum milling fractions are no longer included in Table 1, "Raw Agricultural and Processed Commodities and Livestock Feeds Derived From Field Crops," of OPPTS 860.1000 (EPA 712-C-96-169, Residue Chemistry Test Guidelines, August 1996); i.e., sorghum milling fractions are no longer considered a significant feed item, and the tolerance is no longer needed. Therefore, EPA is revoking the tolerance in § 180.409(a)(2) for sorghum milling fractions (except flour). For reassessment counting purposes, the tolerance for sorghum milling fractions will count as two to reflect the two tolerances (in 40 CFR 185.4950 and 186.4950) that had existed on August 3, 1996, when FQPA was enacted.

EPA is removing the tolerances in § 180.409(a)(2) for corn milling fractions (except flour); and corn oil. In the IRED, the Agency concluded that based on processing studies pirimiphos-methyl residues did not concentrate in these processed commodities and therefore these tolerances are no longer needed. Because the use of pirimiphos-methyl on corn remains, any residues in or on these processed corn commodities will remain covered by the existing tolerance for corn. For reassessment counting purposes, the Agency will not count removal of the tolerances for corn oil and corn milling fractions (except flour) as reassessments in this final rule.

In addition, EPA is revising commodity terminology in 40 CFR 180.409 to conform to current Agency practice as follows: "cattle, mby" to "cattle, meat byproducts;" "goats, fat" to "goat, fat;" "goats, mby" to "goat, meat byproducts;" "hogs, fat" to "hog, fat;" "hogs, mby" to "hog, meat byproducts;" "horses, fat" to "horse, fat;" "horses, mby" to "horse, meat byproducts;" "sheep, mby" to "sheep, meat byproducts;" and "sorghum, grain" to "sorghum, grain, grain." Also

in § 180.409, EPA is revising "cattle, kidney and liver" to "cattle, kidney" and "cattle, liver;" "goats, kidney and liver" to "goat, kidney" and "goat, liver;" "hogs, kidney and liver" to "hog, kidney" and "hog, liver;" "horses, kidney and liver" to "horse, kidney" and "horse, liver;" and "sheep, kidney and liver" to "sheep, kidney" and "sheep, liver."

5. *Profenofos—Comment by Private Citizen.* A comment was received from a private citizen who inquired whether the proposal of April 15, 2002 revised the tolerance expression in 40 CFR 180.404. The commenter noted that a change in tolerance expression to profenofos *per se* was recommended in the profenofos IRED of August, 2000 because profenofos is considered a residue of toxicological concern.

*Agency Response.* EPA did not propose to revise the tolerance expression in 40 CFR 180.404 at this time. The change in the tolerance expression as recommended in the IRED for profenofos will be proposed in the near future.

EPA is revoking the tolerances in 40 CFR 180.404 for hogs, fat; hogs, mby; and hogs, meat. The Agency concluded that there is no reasonable expectation of finite residues for hog commodities (meat, fat, and meat byproducts) for profenofos based on feeding studies and the tolerances are no longer needed according to 40 CFR 180.6(a)(3).

Also, EPA is revoking the tolerance in § 180.404 for cottonseed hulls because the tolerance is no longer needed. Based on a cottonseed processing study, EPA determined that the current and interim cottonseed tolerances are each adequate to cover cottonseed hulls.

No comments were received by the Agency concerning the following.

6. *Acephate.* EPA is revoking the tolerances in 40 CFR 180.108 for combined residues of acephate and its cholinesterase-inhibiting metabolite O,S-dimethylphosphura-midithioate in or on grass (pasture and range) and grass hay because no active registrations exist which cover those commodities. On April 17, 1998 (63 FR 19254)(FRL-5782-6), July 8, 1998 (63 FR 36897)(FRL-5797-1), July 22, 1998 (63 FR 39287)(FRL-5799-9), and January 27, 1999 (64 FR 4099)(FRL-6051-8), EPA had published notices in the **Federal Register** under section 6(f)(1) of FIFRA announcing its receipt of requests from registrants to cancel or amend certain product registrations and delete certain acephate uses, including the grass pasture and rangeland use for acephate. EPA approved the registrants' requests for voluntary cancellation of those specific product registrations and

deletion of certain uses, including the use for grass (pasture and rangeland), and allowed a period of 18 months (in the 1998 notices) and 12 months (in the 1999 notice) for registrants to sell and distribute those specific existing stocks affected. The Agency believes that end users have had sufficient time (at least 18 months beyond the endpoint for sale and distribution by registrants) to exhaust those existing stocks and for treated commodities to have cleared the channels of trade.

7. *Amitraz*. Apple and horse commodity tolerances are currently codified in 40 CFR 180.287 at 0 ppm; i.e., no finite tolerance is established for apple and horse commodities for amitraz. Also, there is currently no registered use of amitraz on apples or horse commodities. Because the tolerances are no longer needed, the Agency is revoking the tolerances in 40 CFR 180.287 for residues of amitraz and its metabolites in or on apples; horses, fat; horses, mby; and horses, meat. The EPA believes that sufficient time has passed for the possibility of any stocks to have been exhausted and for the possibility of any treated commodities to have cleared channels of trade.

Also, there is a pending petition to establish tolerances for the dermal use of amitraz. Currently, there are six tolerances in 40 CFR 180.287 for goats, fat; goats, mby; goats, meat; sheep, fat; sheep, mby; and sheep, meat at 0 ppm. EPA has been able to identify no past or current registrations of amitraz for use on goat or sheep commodities. However, due to the pending petition, EPA is not taking final action on those six tolerances at this time. EPA believes that there is no risk of exposure to amitraz under these tolerances because the tolerance permits no detectable amount of the pesticide chemical to remain on the raw agricultural commodity when it is offered for shipment and therefore the tolerances present a reasonable certainty of no harm to human health. In accordance with FQPA, the Agency considers those six goat and sheep tolerances at 0 ppm to be reassessed.

In addition, the Agency is revising commodity terminology in 40 CFR 180.287 to conform to current Agency practice as follows: "beeswax" to "honeycomb." On June 21, 2002 (67 FR 42391)(FRL-7180-1), EPA published a final rule in the **Federal Register** concerning tolerance nomenclature, which revised the terminology of certain commodity terms listed under 40 CFR part 180, subpart C in order to establish a uniform listing, including the entry for "hop, dried cone" to "hop, dried cones."

8. *Carbaryl*. In the U.S., there are no current uses of the insecticide carbaryl in or on cotton, forage; barley; oats; or rye. The Agency approved the registrant's requests for voluntary amendment of various carbaryl product labels to delete use on oats and rye in 1996, barley in 1997, and cotton forage in 1999. Therefore, EPA is revoking the tolerances in 40 CFR 180.169 for residues of carbaryl, including its hydrolysis product 1-naphthol, calculated as 1-naphthyl N-methylcarbamate in or on barley, grain; barley, green fodder; barley, straw; cotton, forage; oat, fodder, green; oat, grain; oat, straw; rye, fodder, green; rye, grain; and rye, straw. The Agency believes that sufficient time has passed for stocks to have been exhausted and for treated commodities to have cleared channels of trade.

9. *Chlorpyrifos*. Because beans, lima, forage; beans, snap, forage; sorghum milling fractions (sorghum flour is used exclusively in the U.S. as a component for drywall, not as either a human or animal feed item); bean, forage; and pea forage; are no longer considered to be significant feed items, the tolerances are no longer needed. Therefore, EPA is revoking the tolerances in 40 CFR 180.342(a)(1) for beans, lima, forage; beans, snap, forage; and sorghum milling fractions and in § 180.342(a)(2) for bean, forage and pea forage.

Because there are currently no current registered uses for combined residues of chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol on dates, mushrooms, and seed and pod vegetables; and for residues of chlorpyrifos on caneberries and sugarcane, EPA is revoking the tolerances for mushrooms and seed and pod vegetables in 40 CFR 180.342(a)(1), caneberries and sugarcane in § 180.342(a)(2), and dates in § 180.342(c)(1). EPA believes that sufficient time has passed for stocks to have been exhausted and for treated commodities to have cleared channels of trade.

In addition, the Agency is revising commodity terminology to conform to current Agency practice as follows: In 40 CFR 180.342(a)(1) "beans, snap" to "bean, snap, succulent;" in 40 CFR 180.342(a)(2) "sweet potato" to "sweet potato, roots;" and in 40 CFR 180.342(c)(1) "grapes" to "grape" and "leeks" to "leek."

On June 21, 2002 (67 FR 42391)(FRL-7180-1), EPA published a final rule in the **Federal Register** concerning tolerance nomenclature, which revised the terminology of certain commodity terms listed under 40 CFR part 180, subpart C in order to establish a uniform

listing, including the entries for "sorghum, fodder" to "sorghum, grain, stover"; and "sorghum, grain" to "sorghum, grain, grain."

10. *Cryolite*. EPA is revoking tolerances in 40 CFR 180.145 for residues of fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on beets, roots; radish, roots; rutabaga, roots; and turnip, roots. The registrant(s) of cryolite requested voluntary cancellation for use on beets, radishes, rutabagas, and turnips. Rutabagas were removed from cryolite labels prior to 1988. Beets were removed from cryolite labels in 1988. On September 25, 1996 a FIFRA section 6(f)(1) notice of receipt of a request to voluntarily delete radish and turnip uses from cryolite registrations was published in the **Federal Register** (61 FR 50294) (FRL-5394-2), with a use deletion date of December 24, 1996. EPA believes that sufficient time has passed for stocks to have been exhausted and for treated commodities to have cleared channels of trade.

11. *Disulfoton*. On June 4, 1997, EPA published a notice in the **Federal Register** (62 FR 30578) (FRL-5715-8) under section 6(f)(1) of FIFRA announcing its receipt of requests for amendments to delete disulfoton uses for pineapples, rice, and sugar beets. EPA approved the request, effective December 1, 1997, and allowed the registrants to sell or distribute products under the previously approved labeling for 18 months (June 1, 1999). More than two and one-half years has passed, which the Agency believes to be sufficient time for exhaustion of those stocks and for treated commodities to have cleared channels of trade. Because no active registrations exist for use of disulfoton in or on those commodities, the EPA is revoking the tolerances in 40 CFR 180.183(a)(1) for residues of disulfoton and its cholinesterase-inhibiting metabolites in or on beets, sugar, roots; beets, sugar, tops; pineapples; rice; and rice, straw; and the tolerances in § 180.183(a)(2) for residues of disulfoton, calculated as demeton, in dehydrated sugar beet pulp and in pineapple bran.

The commodity "bean, vines" is no longer considered to be a significant animal feed item and the tolerance is no longer needed. Therefore, EPA is revoking the tolerance for bean, vines in 40 CFR 180.183.

On February 7, 2001, EPA published a notice in the **Federal Register** (66 FR 9317)(FRL-6765-9) under section 6(f)(1) of FIFRA announcing its receipt of requests for amendments to delete disulfoton uses for corn, oats, and

pecans. EPA approved the request, effective March 9, 2001, and allowed the registrants to sell or distribute product under the previously approved labeling for 18 months (ending September 9, 2002). EPA believes that those stocks should be exhausted within 12 months of that date (September 9, 2003). Because no active registrations exist for the use of disulfoton in or on those commodities, EPA is revoking the tolerances in 40 CFR 180.183(a)(1) for the combined residues of disulfoton and its cholinesterase-inhibiting metabolites, calculated as demeton, in or on corn, field, fodder; corn, field, forage; corn, grain; corn, pop; corn, pop, fodder; corn, pop, forage; corn, sweet, fodder; corn, sweet, forage; corn, sweet, grain (K+CWHR); oats, fodder, green; oats, grain; oats, straw; and pecans with an expiration, revocation date of December 9, 2003. The Agency believes that this revocation date permits users to exhaust stocks and allows sufficient time for passage of treated commodities through the channels of trade.

In addition, EPA is revising commodity terminology in 40 CFR 180.183(a) to conform to current Agency practice as follows: "beans, dry" to "bean, dry, seed;" "beans, lima" to "bean, lima;" "coffee beans" to "coffee, bean;" "corn, field, fodder" to "corn, field, stover;" "corn, pop, fodder" to "corn, pop, stover;" "corn, sweet, fodder" to "corn, sweet, stover;" "cottonseed" to "cotton, undelinted seed;" "hops" to "hop, dried cones;" "oats, grain" to "oat, grain;" "oats, straw" to "oat, straw;" "peas" to "pea;" "peas, vines" to "pea, field, vines;" "pecans" to "pecan;" "peppers" to "pepper;" "potatoes" to "potato;" "sorghum, fodder" to "sorghum, grain, stover;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" "tomatoes" to "tomato;" and "wheat, fodder, green" to "wheat, hay." Also in 180.183, EPA is revising "corn, grain" to "corn, field, grain;" "corn, pop" to "corn, pop, grain;" "corn, sweet, grain (K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "oats, fodder, green" to "oat, hay;" and "sugarcane" to "sugarcane, cane."

On June 21, 2002 (67 FR 42391)(FRL-7180-1), EPA published a final rule in the **Federal Register** concerning tolerance nomenclature, which revised the terminology of certain commodity terms listed under 40 CFR part 180, subpart C in order to establish a uniform listing, including the entries for "peanuts" to "peanut;" "sorghum, grain" to "sorghum, grain, grain;" and "soybeans" to "soybean."

12. *Ethalfuralin*. When EPA establishes tolerances for residues in or on raw agricultural commodities, consideration must be given to the possible residues of those pesticides in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticide residues (40 CFR 180.6). When considering this possibility, the EPA can conclude that (1) finite residues will exist in meat, milk, poultry, and/or eggs; (2) there is a reasonable expectation that finite residues will exist; or (3) there is a reasonable expectation that finite residues will not exist. In 1994, the ethalfuralin RED recommended revocation for egg, milk, fat, meat, and meat byproduct tolerances based on animal metabolism data (submitted since the time that the tolerances were originally established) from which EPA concluded that there is no reasonable expectation of finite residues for meat, fat, and meat byproduct commodities and the associated tolerances are not required according to 40 CFR 180.6(a)(3). Those feeding studies used exaggerated amounts of the pesticide and did not show measurable residues in animal tissues. Therefore, the Agency is revoking the tolerances in 40 CFR 180.416 for residues of ethalfuralin in or on goats, fat; goats, meat; and goats, mbypp.

13. *Ethoprop*. EPA is revoking the tolerance for okra in 40 CFR 180.262(c). There is currently no registered use of ethoprop on okra. EPA has not been able to identify a past registration of ethoprop for use on okra since an regional tolerance was established in 1987 and believes that the use was canceled years ago. Therefore, the Agency believes that sufficient time has passed for stocks to have been exhausted and for treated commodities to have cleared channels of trade.

14. *Fluvalinate*. With the exception of honey, which is linked to the active registration for use in/on beehives, there are no active food-use registrations for the insecticide fluvalinate. The use of fluvalinate on cotton was voluntarily canceled in 1991. Cotton had been the only animal feed use for fluvalinate; therefore, the animal commodity tolerances are no longer needed. EPA believes that sufficient time has passed for exhaustion of those stocks and for treated commodities to have cleared channels of trade. Therefore, EPA is revoking the tolerances in 40 CFR 180.427(a) for residues of fluvalinate in or on cattle, fat; cattle, mbypp; cattle, meat; cottonseed; cottonseed hulls; cottonseed oil (crude and refined); eggs; goat, fat; goat, mbypp; goat, meat; hogs,

fat; hogs, mbypp; hogs, meat; horses, fat; horses, mbypp; horses, meat; milk; poultry, fat; poultry, mbypp; poultry, meat; sheep, fat; sheep, mbypp; and sheep, meat.

Also, a tolerance for coffee was established in 1989 based on a FIFRA section 24(c) registration and use of fluvalinate on coffee was restricted to Hawaii. In May 1990, the registration was canceled. Therefore, the Agency is revoking the tolerance in 40 CFR 180.427(c) for residues of fluvalinate in or on coffee.

15. *Metribuzin*. The Agency is revoking the tolerance in 40 CFR 180.332 for residues of metribuzin and its triazinone metabolites in or on potato waste, processed (dried). Because potato waste, processed (dried) is no longer considered a significant feed item, the tolerance is no longer needed. The EPA had issued a RED for metribuzin, approved on May 20, 1997, but the potato waste, processed (dried) tolerance was since identified not to be a significant feed item.

16. *Oxamyl*. Because peanut, forage; pineapples, forage; and soybean straw commodities are no longer considered to be significant feed items, the associated tolerances are no longer needed. Therefore, EPA is revoking the tolerances in 40 CFR 180.303 for the sum of the residues of the insecticide oxamyl (methyl-N-dimethyl-N-[(methylcarbamoyl)-oxy]-1-thioxamimidate) and its oxime metabolite N,N-dimethyl-N-hydroxy-1-thioxamimidate calculated as oxamyl in or on peanut, forage; pineapple, forage; and soybean straw.

17. *Phorate*. Because these commodities are no longer considered significant livestock feed items and therefore the associated tolerances are no longer needed, EPA is revoking the tolerances in 40 CFR 180.206 for combined residues of phorate and its cholinesterase-inhibiting metabolites in or on bean, vines and peanut, vines.

Because current product labels do not allow feeding livestock with peanut hay treated with phorate, the tolerance is no longer needed. Therefore, the Agency is revoking the tolerance in 40 CFR 180.206 for peanuts, hay. In addition, sufficient sugar beet processing data are available that indicate phorate residues of concern do not concentrate in dried sugar beet pulp. Therefore, that tolerance is no longer needed and EPA is revoking the tolerance in 40 CFR 180.206 for beet, sugar, dried pulp.

18. *Phosalone*. EPA is revoking the tolerance in 40 CFR 180.263 for residues of phosalone in or on almond, hulls because that tolerance is no longer needed. In 1986, 1987, and 1991,

registrations for phosalone use on almonds were canceled. There are no U.S. registrations. While a tolerance for almonds exists for importation purposes only, the tolerance for "almond, hulls" is not needed for import purposes. Almond hulls are a livestock feed item and are not imported, nor do countries with registered uses for phosalone on almonds export significant quantities of livestock commodities to the U.S.

19. *Phosmet*. EPA is revoking the tolerances in 40 CFR 180.261 for the sum of the residues for N-(mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog N-(mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorothioate) in or on corn, fresh (inc. sweet K+CWHR); corn, fodder; corn, forage; and corn, grain because no active registrations exist which cover those commodities. Previously, on April 17, 1996 (61 FR 16779)(FRL-5360-5), EPA had published a notice in the **Federal Register** under section 6(f)(1) of FIFRA announcing its receipt of requests from the registrant to delete certain product label uses, including the corn use for phosmet. EPA approved the registrant's request for an amendment to delete the corn use from its label effective July 16, 1996, and allowed the registrant to sell and distribute affected existing stocks for 18 months; i.e., until January 16, 1998. EPA believes that end users have now had sufficient time (more than 4 years) to exhaust those stocks and for treated commodities to have cleared channels of trade.

20. *Propiconazole*. EPA is revoking the tolerance in 40 CFR 180.434 for grass, seed screenings because that commodity is no longer considered a significant feed item and therefore the tolerance is no longer needed. Also, because a tolerance for stonefruit group at 1.0 ppm already exists for the combined residues of propiconazole and its metabolites determined as 2,4-dichlorobenzoic acid (expressed as parent compound) in 40 CFR 180.434, the EPA believes that each of the individual tolerances in § 180.434 at 1.0 ppm for apricots, nectarines, peaches, plums, and prunes, fresh are unnecessary duplicates and therefore is removing them. The use of propiconazole on those commodities will be covered by the remaining group tolerance. For reassessment counting purposes, the Agency will not count removal of those fruit tolerances as reassessments because the use will remain covered by the existing "stonefruit group" tolerance. In addition, the EPA is revising the commodity terminology for in 40 CFR 180.434 to conform to current Agency

practice as follows: "grass, hay (straw)" to "grass, hay" and "grass, straw;"

21. *Tetrachlorvinphos*. EPA is revoking tolerances in 40 CFR 180.252(a) for residues of tetrachlorvinphos in or on alfalfa and sheep, fat. All registered uses of tetrachlorvinphos on food or feed plant commodities, including alfalfa, were canceled in 1987. In June 1995, EPA had issued a RED for tetrachlorvinphos which recommended revoking the tolerances for "alfalfa" and "sheep, fat" because there were no registered uses associated with those commodities. On August 27, 1997 (62 FR 45416) (FRL-5737-4), the EPA published the registrant's request for voluntary cancellation for the remaining tetrachlorvinphos product that could have had the sheep use. EPA believes that end users have now had sufficient time to exhaust those stocks and for treated commodities to have cleared channels of trade.

22. *Thiram*. EPA is revoking the tolerances in 40 CFR 180.132 for celery, onions (dry bulb), tomatoes, and "bananas (from preharvest and postharvest application) of which not more than 1 part per million shall be in the pulp after peel is removed and discarded." On November 6, 1996, the EPA published a notice in the **Federal Register** (61 FR 57419)(FRL-5570-5) under section 6(f)(1) of FIFRA announcing its receipt of requests for amendments to delete certain uses, including bananas, celery, onions (dry bulb), and tomatoes from the thiram technical label, effective February 4, 1997. The Agency allowed a period of 18 months for the registrant to sell or distribute product under previously approved labeling. The Agency believes that end users have had sufficient time to exhaust product under the previously approved labeling and for treated commodities to have cleared channels of trade. For tolerance reassessment counting purposes, the EPA will count bananas as 2 tolerances (banana, with peel, pre- and post-harvest at 7.0 ppm and banana, pulp at 1.0 ppm). In addition, the EPA is revising commodity terminology in 40 CFR 180.132 to conform to current Agency practice as follows: "apples" to "apple," "peaches" to "peach," and "strawberries" to "strawberry."

23. *Tribufos*. EPA is revoking the tolerance in 40 CFR 180.272 for residues of tribufos (S,S,S-tributyl phosphorotrithioate) in or on cottonseed hulls because the tolerance is no longer needed, based on a cottonseed processing study, which showed that while residues of tribufos in cottonseed had been present, no concentration of

tribufos residues occurred during normal processing procedures in cottonseed meal, hulls, crude and refined oils.

#### *B. What is the Agency's Authority for Taking this Action?*

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

#### *C. When Do These Actions Become Effective?*

EPA is revoking certain tolerances for disulfoton with an expiration/revocation date of December 9, 2003. The Agency is revoking most ethion tolerances with an expiration/revocation date of October 1, 2008. The Agency is also revoking fenthion tolerances for cattle with an expiration/revocation date of April 1, 2006 and fenthion tolerances for hogs and milk with an expiration/revocation date of April 1, 2003.

However, other actions (including any commodity terminology revisions concerning tolerances for disulfoton, ethion, or fenthion, as well as revocations and commodity terminology revisions concerning tolerances for other pesticides mentioned in this final rule) become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days following publication of this final rule to ensure that all affected parties receive notice of EPA's actions. Consequently, for these other actions, the effective date is October 29, 2002. For this final rule, tolerances that were revoked because registered uses did not exist concern uses which have been canceled for many years. Therefore, commodities containing these pesticide residues should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

#### *D. What is the Contribution to Tolerance Reassessment?*

By law, EPA is required by August 2002 to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996. EPA is also required to assess the remaining tolerances by August, 2006. As of July 17, 2002, EPA has reassessed over 5,680 tolerances. This final rule revokes 140 tolerances, four of which were previously counted as reassessed for cryolite during a registration decision action on December 5, 1997 (62 FR 64294) (FRL-5756-5), three of which were previously counted as reassessed for ethalfuralin during a registration decision action on January 17, 2002 (67 FR 2333) (FRL-6818-6), one of which was previously reassessed in the metribuzin RED of 1997, and two tolerances were previously counted as reassessed for disulfoton in a notice published on May 22, 2002 (67 FR 35991)(FRL-7178-9). Of the 140 tolerance revocations, 130 tolerances are considered reassessed in this final rule. Additionally, EPA considered six goat and sheep tolerances at 0 ppm for amitraz to be reassessed. Therefore, a total of 136 tolerance reassessments count toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996. However, the Agency does not consider the removal of 5 propiconazole and 2 pirimiphos-methyl tolerances as reassessments and they are not counted as such in this final rule.

#### **III. Are There Any International Trade Issues Raised by this Final Action?**

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum

Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the internet at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations," then select "Regulations and Proposed Rules" and then look up the entry for this document under "**Federal Register**—Environmental Documents." You can also go directly to the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

#### **IV. Objections and Hearing Requests**

##### *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-2002-0155 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 September 30, 2002.

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 (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. 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) 260-4865.

2. *Objection/hearing fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IV.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP-2002-0155, 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. In person or by courier, bring a copy to the location of

the PIRIB described in Unit I.B.2. 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).

#### **V. Regulatory Assessment Requirements**

This final rule will revoke tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) 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 due to its lack of significance, this final 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 as required by 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 other 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis.

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 FFDCA section 408(n)(4). 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.

#### **VI. Submission to Congress and the Comptroller General**

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: July 22, 2002.

**Marcia E. Mulkey,**  
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 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), 346(a) and 371.

**§ 180.108 [Amended]**

2. Section 180.108 is amended by removing the entries for “Grass (pasture and range)” and “Grass hay” from the table in paragraph (a)(1).

3. Section 180.132 is revised to read as follows:

**§ 180.132 Thiram; tolerances for residues.**

(a) *General.* Tolerances for residues of the fungicide thiram (tetramethyl thiuram disulfide) in or on raw agricultural commodities are established as follows:

Commodity	Parts per million
Apple .....	7.0
Peach .....	7.0
Strawberry .....	7.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

**§ 180.145 [Amended]**

4. Section 180.145 is amended by removing the entries for “Beet, roots”; “Radish, roots”; “Rutabaga, roots”; and “Turnip, roots” from the table in paragraph (a)(1).

**§ 180.169 [Amended]**

5. Section 180.169 is amended by removing the entries for “Barley, grain”; “Barley, green fodder”; “Barley, straw”; “Cotton, forage”; “Oat, fodder, green”; “Oat, grain”; “Oat, straw”; “Rye, fodder, green”; “Rye, grain”; and “Rye, straw” from the table in paragraph (a)(1).

6. Section 180.173 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.173 Ethion; tolerances for residues.**

(a) *General.* \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Cattle, fat .....	2.5	None
Cattle, meat (fat basis) .....	2.5	None
Cattle, meat byproducts .....	1.0	None
Citrus, dried pulp .....	10.0	10/1/08
Fruit, citrus .....	2.0	10/1/08
Goat, fat .....	0.2	10/1/08
Goat, meat .....	0.2	10/1/08
Goat, meat byproducts .....	0.2	10/1/08
Hog, fat .....	0.2	10/1/08
Hog, meat .....	0.2	10/1/08
Hog, meat byproducts .....	0.2	10/1/08
Horse, fat .....	0.2	10/1/08
Horse, meat .....	0.2	10/1/08
Horse, meat byproducts] .....	0.2	10/1/08
Milk fat (reflecting (N) residues in milk) .....	0.5	None
Sheep, fat .....	0.2	10/1/08
Sheep, meat .....	0.2	10/1/08
Sheep, meat byproducts .....	0.2	10/1/08

\* \* \* \* \*

7. Section 180.183 is amended by revising paragraph (a) to read as follows:

**§ 180.183 [O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the insecticide O,O-diethyl S-[2-

(ethylthio)ethyl] phosphorodithioate and its cholinesterase-inhibiting metabolites, calculated as demeton, in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/Revocation Date
Barley, grain .....	0.75	None
Barley, straw .....	5.0	None
Bean, dry, seed .....	0.75	None
Bean, lima .....	0.75	None
Bean, snap .....	0.75	None
Broccoli .....	0.75	None
Brussels sprouts .....	0.75	None
Cabbage .....	0.75	None
Cauliflower .....	0.75	None
Coffee, bean .....	0.3	None
Corn, field, forage .....	5.0	12/9/03
Corn, field, grain .....	0.3	12/9/03
Corn, field, stover .....	5.0	12/9/03
Corn, pop, forage .....	5.0	12/9/03
Corn, pop, grain .....	0.3	12/9/03
Corn, pop, stover .....	5.0	12/9/03
Corn, sweet, forage .....	5.0	12/9/03
Corn, sweet, kernel plus cob with husks removed .....	0.3	12/9/03

Commodity	Parts per million	Expiration/Revocation Date
Corn, sweet, stover .....	5.0	12/9/03
Cotton, undelinted seed .....	0.75	None
Hop, dried cones .....	0.5	None
Lettuce .....	0.75	None
Oat, grain .....	0.75	12/9/03
Oat, hay .....	5.0	12/9/03
Oat, straw .....	5.0	12/9/03
Peanut .....	0.75	None
Pea .....	0.75	None
Pea, field, vines .....	5.0	None
Pecan .....	0.75	12/9/03
Pepper .....	0.1	None
Potato .....	0.75	None
Sorghum, forage .....	5.0	None
Sorghum, grain, grain .....	0.75	None
Sorghum, grain, stover .....	5.0	None
Soybean .....	0.1	None
Soybean, forage .....	0.25	None
Soybean, hay .....	0.25	None
Spinach .....	0.75	None
Sugarcane, cane .....	0.3	None
Tomato .....	0.75	None
Wheat, hay .....	5.0	None
Wheat, grain .....	0.3	None
Wheat, straw .....	5.0	None

\* \* \* \* \*

**§ 180.206 [Amended]**

8. Section 180.206 is amended by removing the entries for “Bean, vines”; “Beet, sugar, dried pulp”; “Peanut,

hay”; and “Peanut, vines”; from the table in paragraph (a).

9. Section 180.214 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.214 Fenthion; tolerances for residues.**

(a) *General.* \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Cattle, fat .....	0.1	4/1/06
Cattle, meat .....	0.1	4/1/06
Cattle, meat byproducts .....	0.1	4/1/06
Hog, fat .....	0.1	4/1/03
Hog, meat .....	0.1	4/1/03
Hog, meat byproducts .....	0.1	4/1/03
Milk .....	0.01	4/1/03

\* \* \* \* \*

**§ 180.252 [Amended]**

10. Section 180.252 is amended by removing from the table in paragraph (a)(1) the entries for “Alfalfa” and “Sheep, fat.”

(c) *Tolerances with regional registrations.* [Reserved]

\* \* \* \* \*

**§ 180.263 [Amended]**

13. Section 180.263 is amended by removing the entry for “Almond, hulls” from the table.

iii. By alphabetically adding entries for “Honeycomb” and “Hop, dried cones” to the table in newly designated paragraph (a).

iv. By adding and reserving with headings paragraphs (b), (c), and (d).

**§ 180.287 Amitraz; tolerances for residues.**

(a) *General.* \* \* \*

**§ 180.261 [Amended]**

11. Section 180.261 is amended by removing from the table in paragraph (a) the entries for “Corn, fresh (inc. sweet K+CWHR)”; “Corn, fodder”; “Corn, forage”; and “Corn, grain.”

**§ 180.272 [Amended]**

14. Section 180.272 is amended by removing from the table in paragraph (a) the entry for “Cotton, hulls.”

15. Section 180.287 is amended as follows:

Commodity	Parts per million
* * * * *	*
Honeycomb .....	6.0
Hop, dried cones .....	60.0
* * * * *	*

12. Section 180.262 is amended by removing the text of paragraph (c) and reserving paragraph (c) with a heading, to read as follows:

i. By redesignating the existing text as paragraph (a) and adding a heading.

ii. By removing the entries from table in newly designated paragraph (a) for “Apple”; “Beeswax”; “Hop, dried cone”; “Horse, fat”; “Horse, meat byproducts”; and “Horse, meat.”

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

**§ 180.262 Ethoprop; tolerances for residues.**

\* \* \* \* \*

**§ 180.303 [Amended]**

16. Section 180.303 is amended by removing from the table in paragraph (a)(1) the entries for "Peanut, forage"; "Pineapple, forage"; and "Soybean straw."

17. Section 180.315 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.315 Methamidophos; tolerances for residues.**

(a) *General.* \* \* \*

Commodity	Parts per million
Broccoli .....	1.0
Brussels sprouts ....	1.0
Cabbage .....	1.0
Cauliflower ..	1.0
Cotton, undelinted seed .....	0.1
Cucumber ...	1.0
Eggplant .....	1.0
Lettuce .....	1.0
Melon .....	0.5
Pepper .....	1.0
Potato .....	0.1
Tomato .....	1.0

\* \* \* \* \*

**§ 180.332 [Amended]**

18. Section 180.332 is amended by removing from the table in paragraph (a) the entry for "Potato waste, processed (dried)."

19. Section 180.342 is amended as follows:

i. By removing the entries for "Bean, lima, forage"; "Bean, snap, forage"; "Mushroom"; "Seed and pod vegetables" and "Sorghum milling fractions" from the table in paragraph (a)(1).

ii. By changing "Bean, snap" to "Bean, snap, succulent"; "Sorghum, fodder" to "Sorghum, grain, stover"; and "Sorghum, grain" to "Sorghum, grain, grain"; in the table in paragraph (a)(1).

iii. By removing the entries for "Bean, forage"; "Caneberries"; "Pea forage"; and "Sugarcane" from the table in paragraph (a)(2).

iv. By changing "Sweet potato" to "Sweet potato, roots" in the table in paragraph (a)(2).

v. By revising paragraph (c)(1).

The section, as amended, reads as follows:

**§ 180.342 Chlorpyrifos; tolerances for residues.**

\* \* \* \* \*

(c) *Tolerances with regional registrations.* (1) Tolerances with regional registration, as defined in § 180.1(n), are established for the

combined residues of chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol in or on the following food commodities:

Commodity	Parts per million
Asparagus ...	5.0
Grape .....	0.5
Leek (of which no more than 0.2 ppm is chlorpyrifos) .....	0.5

\* \* \* \* \*

**§ 180.404 [Amended]**

20. Section 180.404 is amended by removing the entries for "Cotton, hulls"; "Hog, fat"; "Hog, meat byproducts"; and "Hog, meat" from the table in paragraph (a).

21. Section 180.409 is amended by revising the table in paragraph (a)(1); removing paragraph (a)(2); and redesignating paragraph (a)(3) as paragraph (a)(2) to read as follows:

**§ 180.409 Pirimiphos-methyl; tolerances for residues.**

(a) *General.* (1) \* \* \*

Commodity	Parts per million
Cattle, fat ....	0.2
Cattle, kidney .....	2.0
Cattle, liver ..	2.0
Cattle, meat byproducts	0.2
Corn .....	8.0
Goat, fat .....	0.2
Goat, kidney	2.0
Goat, liver ...	2.0
Goat, meat byproducts	0.2
Hog, fat .....	0.2
Hog, kidney	2.0
Hog, liver ....	2.0
Hog, meat byproducts	0.2
Horse, fat ....	0.2
Horse, kidney .....	2.0
Horse, liver	2.0
Horse, meat byproducts	0.2
Kiwifruit .....	5.0
Poultry, fat ...	0.2
Sheep, fat ...	0.2
Sheep, kidney .....	2.0
Sheep, liver	2.0
Sheep, meat byproducts	0.2
Sorghum, grain, grain .....	8.0

\* \* \* \* \*

**§ 180.416 [Amended]**

22. Section 180.416 is amended by removing the entries for "Goat, fat"; "Goat, meat"; and "Goat, meat byproducts" from the table in paragraph (a).

23. Section 180.427 is amended by revising the table in paragraph (a); removing the text in paragraph (c); and reserving paragraph (c) with a heading to read as follows:

**§ 180.427 Fluvalinate; tolerances for residues.**

(a) *General.* \* \* \*

Commodity	Parts per million
Honey .....	0.05

\* \* \* \* \*

(c) *Tolerances with regional registrations.* [Reserved]

\* \* \* \* \*

**§ 180.434 [Amended]**

24. Section 180.434 is amended by revising the table in paragraph (a) as follows:

i. By removing the entries for "Apricot," "Grass, seed screenings," "Nectarine," "Peach," "Plum," and "Plum, prune, fresh."

ii. By changing "Grass, hay (straw)" to "Grass, hay" and "Grass, straw;".

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-7252-4]

**Michigan: Final Authorization of State Hazardous Waste Management Program Revision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is granting Michigan final authorization of revisions to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA). EPA published a proposed rule on February 28, 2002 at 67 FR 9225 and provided for public comment. The public comment period ended on April 15, 2002. We received comments from two commenters, addressed below. No further opportunity for comment will be provided. EPA has determined that Michigan's revisions satisfy all requirements for final authorization.

**EFFECTIVE DATE:** Final authorization for the revisions to Michigan's hazardous