requirements. The Agency will require that the above studies be submitted within 2 years of the date of promulgation of the final rule in the Federal Register. When the Agency receives these studies, it will reassess this exemption from the requirement of a tolerance. However, based upon the data considered in support of the petition and the restriction on exposure offered by a time limitation, the Agency does not believe that this proposed exemption from the requirement of a tolerance poses a risk to human health or the environment.

Upon adoption, this exemption from the requirement of a tolerance will expire 2 years and 9 months after promulgation of the final rule in the Federal Register. Residues will not be considered actionable if a pesticide containing this inert ingredient is legally applied during the term of a conditional registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, and in accordance with the acceptable labeling under a conditional registration. This exemption from the requirement of a tolerance will be revoked if any data indicate such revocation is necessary to protect the public health.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this proposal be referred to an Advisory Committee in accordance with section 408(e) of FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [PP 3E4254/P658]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch.

A record has been established for this rulemaking under docket number [PP 3E4254/P658] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12866.

This action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), the Administrator has determined that regulations establishing new inert ingredient tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

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 5, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1168 is added to subpart D to read as follows:

§ 180.1168 Polybutene; exemption from the requirement of a tolerance.

A time-limited exemption from the requirement of a tolerance is established for residues of polybutene (CAS Reg. No. 9003–29–6), molecular weight (in amu) 320 or greater, not to exceed 35 percent of the pesticide formulation when used as an inert ingredient (sticker and spreading agent) in pesticide formulations applied to growing crops only. This time-limited exemption from the requirement of a tolerance will expire on April 26, 1999.

[FR Doc. 96–18391 Filed 7–23–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 5F4508/P673; FRL–5385–2]

RIN 2070–AC18

Avermectin B1 and Its Delta-8,9-Isomer; Proposed Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA proposes to establish a tolerance for combined residues of the insecticide Avermectin B_1 and its delta-8,9-isomer in or on the raw agricultural commodity potatoes. The proposed regulation to establish a maximum permissible level for residues of the insecticide was requested in a petition submitted by the Merck Research Laboratories, Division of Merck Co., Inc.

DATES: Comments, identified by the docket number [PP 5F4508/P673], must be received on or before August 23, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR part 2. A copy of the comment 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. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 5F4508/P673]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305-6100, e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On April 19, 1995, Merck Research Laboratories, Inc. submitted a pesticide petition (PP 5F4508) requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish a tolerance for combined residues of the insecticide avermectin B_1 and its delta-8,9-isomers in or on the raw agricultural commodity (RAC) potatoes at 0.002 parts per million (ppm). On February 20, 1996, at the request of EPA, Merck amended the pesticide petition proposing an increase in the tolerance from 0.002 ppm to 0.005 ppm based on the limits of the analytical methodology testing.

The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of this tolerance are discussed in detail in related documents published in the Federal Register of May 31, 1989 (54 FR 23209) (for cottonseed) and August 2, 1989 (54 FR 31836) (for citrus).

The Agency used a two-generation rat reproduction study with an uncertainty factor of 300 to establish a Reference Dose (RfD). The 300-fold uncertainty factor was utilized for (1) inter- and intra-species differences, (2) the extremely serious nature (pup death) observed in the reproduction study, (3) maternal toxicity (lethality) no-observable-effect level (NOEL) (0.05 mg/kg/day), and (4) cleft palate in the mouse developmental toxicity study with isomer (NOEL = 0.06 mg/kg/day). Thus, based on a NOEL of 0.12 mg/kg/day from the two-generation rat reproduction study and an uncertainty factor of 300, the RfD is 0.0004 mg/kg/body weight(bwt)/day.

A chronic dietary exposure/risk assessment has been performed for avermectin B_1 using the above RfD. Available information on anticipated residues and 100% crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on the tolerance-level residues. The ARC for established tolerances and the current action is estimated at 0.000017 mg/kg/bwt/day and utilizes 4.2 percent of the RfD for the U.S. population. For non-nursing infants less than 1 year old (the sub-group population with the highest exposure level) the ARC for established tolerances and the current action is estimated at 0.000040 mg/kg bwt/day and utilizes 10.0% of the RfD. Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

Because of the developmental effects seen in animal studies, the Agency used the mouse teratology study (with a NOEL of 0.06 mg/kg/day for developmental toxicity for the delta-8,9 isomer) to assess acute dietary exposure and determine a margin of exposure (MOE) for the overall U.S. population and certain subgroups. Since the toxicological end point pertains to developmental toxicity, the population group of interest for this analysis is women aged 13 and above, the subgroup which most closely approximates women of child bearing ages. The MOE is calculated as the ratio of the NOEL to the exposure. For this analysis, the Agency calculated the MOE for the high-end exposures for women ages 13 and above. The MOE is 120. Generally speaking, MOEs greater than 100 for developmental toxicity do not raise concerns.

The metabolism of the chemical in plants and animals for the use is adequately understood. The established tolerances for cattle meat, meat byproducts, milk and fat are adequate to cover the increased dietary burden from the addition of the feed items potato culls and processed potato waste. There is no reasonable expectation of finite residues in poultry and swine, therefore no tolerances are necessary at this time. Adequate analytical methodology (HPLC-Fluorescence Methods) is available for enforcement purposes. Prior to publication in the Pesticide Analytical Manual, Vol II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson-Davis Hwy., Arlington, VA 22202, (703) 305–5232.

The tolerances established by amending 40 CFR part 180 will be adequate to cover residues in or on potatoes. There are presently no actions pending against the continued registration of this chemical. Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number, [PP 5F4508/P673].

A record has been established for this rulemaking under docket number [PP 5F4508/P673](including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m.,

Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The official record of this rulemaking, as well as the public version, as described above, will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSEES** at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determinations was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: July 10, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation of part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.449 the table in paragraph (b) is amended by adding alphabetically an entry for the commodity ''potatoes,'' to read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
* * * * *	
Potatoes	0.005
* * * * *	

[FR Doc. 96–18392 Filed 7–23–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 071596E]

Fisheries of the Northeastern United States; Amendment 9 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comments.

SUMMARY: NMFS issues this notice to advise that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 9 to the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) for Secretarial review and is requesting comments from the public. Amendment 9 would initiate management measures for the black sea bass fishery.

DATES: Comments must be received on or before September 12, 1996.

ADDRESSES: Send comments to Dr. Andrew A. Rosenberg, Regional Director, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope ''Comments on the Black Sea Bass Fishery.''

Copies of proposed Amendment 9, its Regulatory Impact Review (RIR) and the Initial Regulatory Flexibility Analysis contained within the RIR, and the Final Environmental Impact Statement are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment for review, immediately make a preliminary evaluation of whether the amendment is sufficient to warrant continued review, and publish a notice