

requirements. The August 9, 2000 revisions include a complete restructuring of the Wyoming Air Quality Standards and Regulations (WAQSR) from a single chapter into thirteen separate chapters. In addition to restructuring the regulations, the State's August 9, 2000 revisions also update the definition in Chapter 3, Section 6 Volatile organic compounds (previously Chapter 1, Section 9) and include revisions to Chapter 6, Section 4 Prevention of significant deterioration (PSD) (previously Chapter 1, Section 24). The August 7, 2001 revisions include the addition of a credible evidence provision and another update to the definition of VOC. The August 13, 2001 revisions include changes to the State's particulate matter regulations. EPA is proposing to partially approve these SIP revisions because they are consistent with Federal requirements. EPA is proposing to partially disapprove the provisions of the State's submittal that allow the Administrator of the Wyoming Air Quality Division (WAQD) to approve alternative test methods in place of those required in the SIP, because such provisions are inconsistent with section 110(i) of the Clean Air Act (Act) and the requirement that SIP provisions can only be modified through revisions to the plan that must be approved by EPA. EPA is proposing these actions under section 110 of the Act. We are not acting on Chapter 8, Section 4 Transportation Conformity (part of the August 9, 2000 submittal) or on the PM<sub>2.5</sub> revisions in Chapter 1 and Chapter 2 of the State's August 13, 2001 submittal. In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions

of the rule that are not the subject of an adverse comment.

**DATES:** Comments must be received in writing on or before March 8, 2002.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Air Quality Division, Department of Environmental Quality, 122 West 25th Street, Cheyenne, Wyoming, 82002.

**FOR FURTHER INFORMATION CONTACT:** Megan Williams, EPA, Region VIII, (303) 312-6431.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: January 3, 2002.

**Jack W. McGraw,**

*Acting Regional Administrator, Region VIII.*

[FR Doc. 02-2707 Filed 2-5-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-301195; FRL-6815-1]

RIN 2070-AC18

### Methyl Parathion and Ethyl Parathion; Proposed Revocation of Tolerances

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke certain tolerances for residues found for methyl parathion and for ethyl parathion. These actions are being taken because there are no registered uses for methyl parathion or ethyl parathion on these commodities. EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions proposed 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). By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. These tolerances would be counted among reassessments made toward the August 2002 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. These tolerances were established under section 408 of the FFDCA. EPA is proposing to revoke these tolerances because the Agency has canceled the pesticide registrations under FIFRA associated with them.

**DATES:** Comments, identified by docket control number OPP-301195, must be received on or before April 8, 2002.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301195 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 305-5776; e-mail address: [parsons.laura@epa.gov](mailto:parsons.laura@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\\_180/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_180/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 control number OPP-301195. 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.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301195 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information

Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov), or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-301195. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. Background

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

The regulatory actions proposed 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 proposed revocation of 73 tolerances of which 66 would be counted among tolerance/exemption reassessments made toward the August 2002 review deadline. The remaining seven tolerances are not found in the current baseline total of tolerances to be reassessed.

EPA is proposing to revoke certain tolerances established under section 408 of FFDCA for residues of methyl parathion and ethyl parathion. The Agency is proposing to revoke these tolerances by amending 40 CFR 180.121 to list only the remaining tolerances for methyl parathion and by creating 40 CFR 180.122 to list the remaining tolerances for ethyl parathion until they expire on December 31, 2005.

Parathion (methyl and ethyl) tolerances to be revoked 90 days after the publication of the final rule: apricots; avocados; blackberries; blueberries; boysenberries; clover; cranberries; cucumbers; currants; dates; dewberries; eggplants; endive, escarole; figs; filberts, garlic; gooseberries; guar beans; guavas; loganberries; mangos; melons; mustard seed; okra; olives;

parsnips, with or without tops; parsnip greens; peppers; pineapples; pumpkins; quinces; radishes, with or without tops; radish tops; raspberries; safflower seed; squash; strawberries; summer squash; Swiss chard; and youngberries. The tolerances for sorghum; sorghum, grain, stover; sorghum, grain, forage are proposed to be revoked from methyl parathion 90 days after publication of the final rule and for ethyl parathion on December 31, 2005. Please note that the tolerance for loganberries was inadvertently removed from the parathion tolerance listings by 66 FR 1241 (FRL-6752-6).

Methyl parathion tolerances to be revoked 90 days after the publication of the final rule: guar beans and parsley.

Ethyl parathion tolerances to be revoked 90 days after the publication of the final rule: apples; artichokes; beets, greens; beets, with or without tops; broccoli, Brussel sprouts; carrots; cauliflower; celery; cherries; collards; grapes; kale; kohlrabi; lettuce; mustard greens; nectarines; peaches; pears; plums, fresh prunes; rutabaga tops; rutabagas, with or without tops; spinach; tomatoes; turnip greens; turnips, with or without tops; and vetch. Please note that these commodities were removed from the methyl parathion listing by 66 FR 1241 (FRL-6752-6).

Ethyl parathion tolerances to be removed 90 days after the publication of the final rule, but tolerances for methyl parathion will remain: almonds; almond hulls; beets, sugar; beets, sugar, tops; cabbage; dried beans; dried peas; peas, forage; grass, forage; hops; oats; onions; peanuts; pecans; rape seed (canola); rice; rye; sweet potatoes; walnuts; and white potatoes.

Ethyl parathion tolerances to be removed on December 31, 2005: alfalfa, fresh; alfalfa, hay; barley; corn; corn, forage; cotton, undelinted seed; rapeseed; sorghum; sorghum, grain, stover; sorghum, grain, forage; soybean; soybean, hay; sunflower, seed; and wheat. Except for the tolerances on sorghum products as noted above, these tolerances remain for methyl parathion.

#### *B. Why is this Action being Proposed?*

EPA is proposing to revoke tolerances for residues of methyl parathion and ethyl parathion on certain commodities listed in 40 CFR 180.121 for which FIFRA registrations no longer exist. The tolerances have been expressed as "joint" tolerances; therefore, the tolerance on each commodity must be revoked for both pesticides. Unit II.C. provides a list of tolerances which will be maintained for methyl parathion. All tolerances of ethyl parathion are

proposed for revocation by or before December 31, 2005.

The uses of ethyl parathion were canceled for all but nine crops per the 1991 Ethyl Parathion Settlement Agreement (December 13, 1991 (56 FR 65061) (FRL-4003-9), January 29, 1992 (57 FR 3296) (FRL-4044-9) and February 20, 1992 (57 FR 6168) (FRL-4049-2)). Use on the remaining nine crops was canceled with the 2000 Memorandum of Agreement between the registrants and EPA (September 13, 2001 (66 FR 47667) (FRL-6801-9)). EPA believes that no one needs these tolerances for domestic use and has no information on the need for these tolerances for imported foods.

Several uses of methyl parathion were canceled as per the August 2, 1999, Agreement between the EPA and the registrants. The notice of these cancellations was published in the **Federal Register** October 27, 1999 (64 FR 57877) (FRL-6387-8). Since these cancellations were based on dietary risk, the tolerances for the commodities were revoked in accordance with section 408(l)(2) of FFDCA January 5, 2001 (66 FR 1241) (FRL-6752-6). The tolerances proposed for revocation in this notice are generally the result of the "joint tolerances" with ethyl parathion; there have been no domestic registrations for many years. Tolerances for the commodities listed in Unit II.C. are not affected by this proposal.

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 providing the Agency is able to make the appropriate safety finding under FFDCA. However, where there is no need to retain a tolerance solely for import purposes, the Agency believes it is appropriate to propose to revoke such tolerances.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe

based on a number of factors, including an assessment of the aggregate exposure to the pesticide and of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain or retain needed tolerances or to register needed new uses. To avoid these trade-restricting situations, the Agency is proposing to revoke tolerances for residues on crop uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should note that additional data may be needed to support retention. In the case of ethyl parathion, there are several gaps in the Agency's data base including the developmental neurotoxicity study; these data gaps must be fulfilled in order to retain ethyl parathion tolerances. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require the submission of the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerances at issue.

#### *C. What Tolerances are Not Proposed for Revocation?*

The registrations of methyl parathion for use on several commodities were canceled in the **Federal Register** of October 27, 1999 (64 FR 57877), pursuant to the August 2, 1999 Settlement Agreement between EPA and the registrants. The Settlement Agreement allowed only the following uses to be maintained: Alfalfa, almonds, barley, cabbage, corn, cotton, dried beans, dried peas, grass, hops, lentils, oats, onions, peanuts, pecans, rape seed (canola), rice, rye, soybeans, sugar beets, sunflower, sweet potatoes, walnuts, wheat, and white potatoes. The 29 tolerances associated with these methyl parathion uses are not proposed for revocation.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq.*, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods (21 U.S.C. 346(a)). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be "adulterated," you may not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under section 3, section 5, or section 18 of FIFRA (7 U.S.C. *et seq.*) Food-use pesticides not registered in the United States (U.S.) have tolerances for residues of pesticides in or on commodities imported into the U.S..

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). This includes monitoring for pesticide residues in or on commodities imported into the U.S..

#### *E. What Can I Do If I Wish the Agency to Maintain a Tolerance that the Agency Is Proposing to Revoke?*

Consistent with FFDCA section 408, EPA will consider maintaining any of the tolerances that EPA is proposing to revoke in this proposed rule if the Agency determines that there is a need for such tolerance. If you wish that the Agency maintain any of the tolerances that are proposed for revocation in this document, submit to the Agency comments explaining the need for the tolerance(s). All comments must be submitted within 60 days of issuance of this proposal.

If EPA receives a timely comment explaining a need for a tolerance in response to this proposal and determines that there is a need for such tolerance, EPA will not proceed to revoke the tolerance based on the current proposal and will reassess what regulatory action, if any, is appropriate.

Further, EPA will determine, based on the information provided in the comments and any other available information, whether additional data and/or information are needed to support continuation of the tolerance. If so, the Agency will take steps to ensure the submission of any necessary data and/or information and may issue an order in the **Federal Register** in accordance with FFDCA section 408(f), if needed. The order would specify the deadline by which an interested party must submit to EPA a written notice that it will submit the necessary data and/or information. The order would also specify the necessary data and/or information and time frames for their submissions. If any of the submissions required in the order is not made by the specified deadlines, EPA would likely issue a final rule revoking the tolerance in question.

If EPA does not receive any indication of a need for one or more tolerances proposed for revocation in this document, EPA will consider the comments that are submitted in response to this proposal and, if appropriate, issue a final rule revoking such tolerance(s). You may file an objection within 60 days of EPA's issuance of a final rule revoking the tolerance(s). If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule in any subsequent proceedings.

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

EPA is proposing to make revocations of these tolerances effective 90 days following publication of a final rule in the **Federal Register** except for the 14 ethyl parathion tolerances for which EPA is proposing an effective revocation/expiration date of December 31, 2005. EPA intends to delay the effectiveness of the final revocations for 90 days following publication of a final rule to ensure that all affected parties receive notice of EPA's action. EPA believes that the affected commodities should have cleared the channels of trade before the effective date of the proposed revocations. However, if EPA is presented with information that there would be existing stocks still available for use after the expiration date and that the information is verified, EPA will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks, please submit comments as described in Unit I. of this proposal.

#### *G. What Is the Contribution to Tolerance Reassessment?*

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August 2006. As of November 19, 2001, EPA has assessed over 3,830 tolerances. The regulatory actions in this document pertain to the proposed revocation of 73 tolerances of which 66 would be counted among tolerance/exemption reassessments made toward the August 2002 review deadline. The remaining seven tolerances are not found in the current baseline total of tolerances to be reassessed.

### **III. Are The Proposed Actions Consistent with International Obligations?**

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

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. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. 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. How Do the Regulatory Assessment Requirements Apply to this Proposed Rule?

This rule is proposing to revoke specific 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 action has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, of Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), (Public Law 104-113), section 12(d) (15 U.S.C. 272 note). 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 proposed 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 cancelled pesticides. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present proposed revocations that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. 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 proposed 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 proposed 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 proposed 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."

#### List of Subjects in 40 CFR Part 180

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

Dated: January 18, 2001.

**Marcia E. Mulkey,**

*Director, 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. 321(q), 346(a) and 371.

2. By revising § 180.121 paragraph (a) to read as follows:

#### § 180.121 Methyl parathion; tolerances for residues.

(a) Tolerances are established for residues of the insecticide parathion O, O-Dimethyl-O-p-nitrophenyl thiophosphate (the methyl homolog of parathion) in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa (fresh) .....	1.25
Alfalfa (hay) .....	5
Almonds .....	0.1
Almond hulls .....	3
Barley .....	1
Beans, dried .....	1
Beets, sugar .....	0.1
Beets, sugar, (tops) .....	0.1
Cabbage .....	1
Corn .....	1
Corn, forage .....	1
Cotton, seed .....	0.75
Grass (forage) .....	1
Hops .....	1
Oats .....	1
Onions .....	1
Peanuts .....	1
Peas, dried .....	1
Pea, forage .....	1
Pecans .....	0.1
Potatoes .....	0.1
Rape, seed .....	0.2
Rice .....	1
Soybeans .....	0.1
Soybean hay .....	1
Sunflower seed .....	0.2
Sweet potatoes .....	0.1

Commodity	Parts per million
Walnuts .....	0.1
Wheat .....	1

\* \* \* \* \*

3. By adding § 180.122 to read as follows:

**§ 180.122 Parathion; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the insecticide parathion (O, O-Diethyl-O-p-nitrophenyl thiophosphate) in or on the following raw agricultural commodities:

Commodity	Parts per million	Date of expiration
Alfalfa (fresh) ....	1.25	12/31/05
Alfalfa (hay) .....	5	12/31/05
Barley .....	1	12/31/05
Corn .....	1	12/31/05
Corn, forage .....	1	12/31/05
Cotton, seed .....	0.75	12/31/05
Rape, seed .....	0.2	12/31/05
Sorghum .....	0.1	12/31/05
Sorghum, fodder .....	3	12/31/05
Sorghum forage .....	3	12/31/05
Soybeans .....	0.1	12/31/05
Soybean hay .....	1	12/31/05
Sunflower seed .....	0.2	12/31/05
Wheat .....	1	12/31/05

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

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

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

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 600**

**[I.D. 012802C]**

**Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)**

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

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** NMFS announces that the Regional Administrator proposes to issue EFPs that would allow up to four

federally permitted vessels in the limited access multispecies fishery to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. The vessels would collect catch data to support the development of trawl mesh selectivity curves for the Southern New England (SNE) yellowtail flounder fishery. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments on this action must be received at the appropriate address or fax number (see **ADDRESSES**) on or before February 21, 2002.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Rhode Island EFP Proposal". Comments may also be sent via facsimile (fax) to (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:**

Regina L. Spallone, Fishery Policy Analyst, (978) 281-9221, e-mail regina.l.spallone@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The State of Rhode Island Department of Environmental Management, Division of Fish and Wildlife (applicant) submitted an application for EFPs on December 20, 2001. The EFPs will facilitate the collection of additional catch data that will support the development of trawl mesh selectivity curves for the SNE yellowtail flounder fishery. The catch data will supplement the data collected under EFPs in 2001, which were determined to be inconclusive due to the temporal nature of SNE yellowtail abundance in the study area and the resulting small sample size. The applicant intends to provide the trawl mesh selectivity curves to fisheries managers as a tool for matching the

minimum legal yellowtail flounder size with the size of yellowtail flounder retained by the appropriate mesh size.

In June 2001, NMFS granted a request for EFPs to the State of Rhode Island Department of Environmental Management (applicant). The applicant investigated the selectivity of 6.0-inch (15.2-cm) diamond, 6.5-inch (16.5-cm) square, 6.5-inch (16.5-cm) diamond, and 7.0-inch (17.8-cm) square mesh codends using alternate tow methods for yellowtail flounder in southern Rhode Island waters during the summer of 2001. The applicant's intent was to investigate alternative measures that would achieve the mortality reductions for this stock of fish needed to achieve Sustainable Fisheries Act objectives to be met in the Northeast Multispecies Fishery Management Plan. The New England Fishery Management Council's (Council) Plan Development Team (PDT) has indicated that, in order to rebuild this stock of yellowtail flounder, fishing mortality must be reduced 50 to 70 percent from its current level. To address these reductions, the PDT and the Council's Groundfish Oversight Committee (Committee) have developed a wide range of management measures, including trip limits, increases in the minimum fish and/or mesh sizes, year-round and/or seasonal area closures, and day-at-sea (DAS) reductions. Of those measures being considered, the applicant has expressed specific concern over the potential implementation of area closures as such closures would likely have a severe impact on the SNE commercial fishing community. Therefore, the applicant is seeking additional information that may support minimum fish and/or mesh size measures as alternatives to closures.

Under the EFP approved last year, the applicant developed selectivity curves upon which to base the lengths for yellowtail flounder at 50-percent retention (L50's). In summary, they were:

Shape	Mesh size, inches (cm)	Retention size, inches (cm)
Diamond	6.0	14.7
	(15.2)	(37.3)
	6.5	15.6
Square	(16.5)	(39.6)
	6.5	13.0
	(16.5)	(33.0)
	7.0	14.3
	(17.8)	(36.3)

However, additional analyses of the mean number of yellowtail flounder retained that were in compliance with