

3. What specific categories of existing fixed assets have asset retirement obligations that would be recognized and measured under such requirements? Please provide an approximation of the additional asset retirement obligation liability that would be recognized under this requirement, the net income effect, and other related financial consequences. Please explain.

4. Under the Uniform Systems of Accounts, what existing or new balance sheet accounts should be used to record the capitalized asset retirement costs? Also, what existing or new primary plant account(s) should be used to record the capitalized asset retirement costs? Please explain.

5. What records should be maintained to support the capitalized asset retirement costs and related liability for the asset retirement obligations? Please explain.

6. Under the Uniform Systems of Accounts, what existing or new accounts for depreciation expense and accumulated depreciation should be used to record depreciation on the capitalized asset retirement costs? Please explain.

7. What detailed depreciation records are needed for the capitalized asset retirement costs? Please explain.

8. Under the Uniform Systems of Accounts, what existing or new accounts should be used to record liabilities for asset retirement obligations and the related time value of money (accretion expense)? Please explain.

9. What records should be maintained to support the entries and the amounts included in the liability account so that companies can furnish complete information for each specific liability related to each property that gives rise to a liability for an asset retirement obligation? Please explain.

10. How does the accounting for asset retirement obligations impact the Uniform Systems of Accounts' definitions for Depreciation, Service Value, Net Salvage, Salvage Value, Cost of Removal and Service Life?<sup>6</sup> Please explain.

11. What revisions should be made to the Uniform Systems of Accounts' definitions for Depreciation, Service Value, Net Salvage, Salvage Value, Cost of Removal and Service Life as a result the accounting for asset retirement to differentiate between the cost of removal that is not recognized as a liability for cost of removal versus the cost of removal recognized as a liability for an asset retirement obligation? Please explain.

12. What are the implications of the accounting for asset retirement obligations on depreciation procedures (group method versus component method)? Please explain.

13. How should a regulated entity account for the transition adjustment related to the adoption of accounting for asset retirement obligations? Please explain.

14. At the date of adoption of the accounting pronouncement, how would a jurisdictional entity account for asset retirement obligations associated with plant or facilities that have been closed or abandoned (i.e. retired but not physically removed)? Please explain.

15. If an existing component part of a larger system asset has a legal obligation associated

with its retirement, and the component's useful life is shorter than the life of the larger system asset of which it is a part, must a liability for the asset retirement obligation be recognized for the component and the asset retirement costs be depreciated over the component useful life? At the date of adoption will there be sufficient information and records related to such components to recognize and measure the related asset retirement obligations? Please explain.

16. How should any balances remaining at the date of settlement of liabilities for asset retirement obligations be accounted for? Please explain.

17. How will the recognition of asset retirement obligations affect the Commission's accounting for capital and operating leases? Under the Uniform Systems of Accounts, what new or existing balance sheet and income statement accounts should be used by a lessor and lessee to account for asset retirement obligations associated with either capital leases or operating leases? Please explain.

18. Does "spent nuclear fuel" and "storage casks used for interim storage of spent fuel" result in legal asset retirement obligations?<sup>7</sup> If so, under the Uniform Systems of Accounts, what new or existing balance sheet and income statement accounts should be used to record the amounts related to the asset retirement obligations for "spent nuclear fuel" and the "storage cask used for interim storage of spent fuel"? Please explain.

19. What are the issues involved in reconciling the new accounting requirements for asset retirement obligations with existing rate practices which may recover asset retirement obligations, all or in part, through general rates, depreciation or negative salvage (or decommissioning) allowances? How should the transition to the new rule reflect that such costs (i.e., negative salvage) may have already been recovered in existing rates?

20. What are the implications of asset retirement obligations accounting model that may result in higher total expenses in the later years of an asset's life than in earlier years because of compounding interest effect?

21. For rate making purposes, how can interim events involving system components, such as asset retirements, sales or spin downs be properly reflected if the asset retirement obligations were not recognized for the components?

[FR Doc. 02-8133 Filed 4-3-02; 8:45 am]

**BILLING CODE 6717-01-P**

<sup>7</sup>Nuclear fuel discharged from reactors at the end of useful life is referred to as spent fuel and is highly radioactive. It is stored either in storage pools or dry cask storage facilities, until a repository is made available for permanent disposal. The U.S. Department of Energy (DOE) is to provide for the ultimate disposal of spent fuel waste under the Nuclear Waste Policy Act of 1982, as amended. To fund the DOE's contractual obligations, each nuclear utility pays an ongoing fee, in addition to a one-time payment to cover disposal of fuel utilized prior to April 7, 1983.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-301226; FRL-6828-8]

RIN 2070-AC18

### Methoxychlor; Proposed Revocation of Tolerances

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke specific tolerances for residues of methoxychlor because (1) all registrations of pesticides containing methoxychlor are suspended or canceled, and (2) there are insufficient data to find the pesticide safe in accordance with section 4(b)(2)(A) of the Federal Food, Drug, and Cosmetic Act (FFDCA). The primary registrant of methoxychlor (Kincaid Enterprises, Inc.) has failed to submit the necessary data required to support continued registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of pesticide products containing methoxychlor. As a result, all methoxychlor products are currently suspended. The regulatory actions proposed in this document contribute toward the Agency's 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 proposed in this document pertain to the proposed revocation of 79 tolerances and/or exemptions which would be counted among tolerance/exemption reassessments made toward the August 2002 review deadline.

**DATES:** Comments, identified by docket control number OPP-301226, must be received on or before June 3, 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-301226 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Beth Edwards, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

<sup>6</sup> 18 CFR Parts 101, 201 and 352 (2001).

Ave, NW., Washington, DC 20460; telephone number: (703) 305-5400; e-mail address: edwards.beth@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	Crop production
	112	
	311	Animal production
	32532	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-301226. 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-301226 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-301226. 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.

#### F. What Can I Do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not

proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA will issue a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. 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. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## II. Background

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

The Agency is not able to make a finding that existing tolerances for methoxychlor are safe. Based on currently available information, the Agency has significant concerns with the effects of methoxychlor on human health and the environment. Furthermore, as of mid 2000, all product registrations of methoxychlor are either suspended due to registrants' noncompliance with a Data Call-In notice issued under FIFRA section 3(c)(2)(B) or canceled pursuant to registrants voluntary cancellation request under FIFRA section 6(f). EPA believes that all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have already been exhausted. A detailed description of the events leading to the methoxychlor suspension follows.

On December 9, 1988, EPA issued the Guidance for the Reregistration of Pesticide Products Containing

Methoxychlor as the Active Ingredient (i.e., Methoxychlor Registration Standard). The Registration Standard included a Data Call-In Notice (DCI) issued pursuant to FIFRA section 3(c)(2)(B), which required registrants of products containing methoxychlor used as the active ingredient to develop and submit certain data. The Administrator had determined these data to be necessary to support continued registration of pesticide products containing methoxychlor as the active ingredient. Failure to comply with the requirements of a Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

Kincaid Enterprises Inc. (Kincaid) was the sole registrant who committed to produce the generic data for methoxychlor. All other registrants of end-use products requested a Generic Data Exemption (GDE) in response to the DCI. These GDE requests were granted which allowed the end-use registrants to rely on Kincaid's data.

On April 7, 1998, the Agency issued a Notice of Intent to Suspend to Kincaid because of their failure to submit certain data required by the DCI. On May 13, 1998, Kincaid requested a hearing by filing a hearing request with the Agency. On September 3, 1998, Kincaid and the Agency entered into a settlement agreement that specified the outstanding data requirements from the 1988 DCI and set forth a new schedule for their submission. The Settlement Agreement stated that if Kincaid failed to comply with any of the terms and conditions relating to any of the requirements for data generation and submission, the Agency would request that the Administrative Law Judge (ALJ) issue an order suspending the registrations of Kincaid's affected products without any opportunity for a hearing. On September 14, 1998, the ALJ issued an accelerated decision and order incorporating the Settlement Agreement. The Judge's accelerated decision and order incorporating the Settlement Agreement was entered into the public docket for the matter.

Subsequently, on December 3, 1999, Kincaid failed to satisfy certain data

requirements as required by the DCI and the ALJ's Order/Settlement Agreement. The Agency requested that the ALJ enter a suspension order and a suspension order was entered for all methoxychlor pesticide product registrations held by Kincaid. The suspension became effective on January 14, 2000. Subsequently, Kincaid missed a second deadline of March 3, 2000, for a number of other studies. The Agency filed a request to the ALJ that he amend the January 14, 2000 suspension order to include these studies, and on April 12, 2000, the ALJ amended the January 14, 2000 suspension order to include the additional overdue studies as bases for suspension.

Because Kincaid failed to submit the data in violation of the 1988 DCI and the accelerated decision and order incorporating the Settlement Agreement and was no longer in compliance with the DCI, registrants of methoxychlor end-use products who were previously eligible for the GDE were also considered to be in noncompliance with the 1988 DCI requirements as amended by the accelerated decision and order incorporating the Settlement Agreement. Letters were mailed to all end-use registrants on April 14, 2000, notifying them that their GDEs for products containing methoxychlor were revoked. The letters explained that if these data requirements were not satisfied within 30 days, registrants who had received the DCI would be subject to a Notice of Intent to Suspend and those whose registrations had been granted subsequent to issuance of the DCI would be subject to a Notice of Intent to Cancel. No data were received. Notices of Intent to Suspend were issued on June 26, 2000. No Notices of Intent to Cancel were necessary because all products registered after the issuance of the DCI were voluntarily canceled. No hearings were requested, and therefore, pursuant to sections 3(c)(2)(B)(iv) and 6(e)(2), the proposed suspensions became final. The data requirements that are overdue are as follows:

Guideline	Study	Due Date
Guideline 161-3	Photodegradation - soil	12/3/99
Guideline 163-1	Leaching/adsorption/desorption	12/3/99
Guideline 83-3	Teratogenicity - rat	3/3/00
Guideline 83-3	Teratogenicity - rabbit	3/3/00
Guideline 162-2	Anaerobic metabolism	3/3/00
Guideline 171-4	Storage stability	3/3/00
Guideline 171-4	Magnitude of residue - meat, milk	3/3/00
Guideline 85-1	General metabolism	9/3/01

Additional data requirements that are still outstanding are:

Guideline	Study	Due Date
Guideline 83-1	Chronic toxicity - rodent	9/3/02
Guideline 83-1	Chronic toxicity - non-rodent	9/3/02
Guideline 83-2	Oncogenicity - rat	9/3/02
Guideline 83-2	Oncogenicity - mouse	9/3/02
Guideline 83-4	Two-generation reproduction	9/3/02

The Agency has significant concerns about the effects of methoxychlor on human health and the environment. Methoxychlor is being used by the U.S. and the Organization for Economic Cooperation and Development (OECD) as one of the key chemicals in validating components of the Endocrine Disruption Screening Program. Methoxychlor has been discussed extensively in the public literature in connection with endocrine disruption. Kupfer and Bulger (Ref. 5) found that both methoxychlor and metabolites have estrogen-like activity with several metabolites having proestrogen activity. They used an *in vitro* system involving rat liver microsomes and nicotinamide adenine dinucleotide phosphate (NADPH) for a metabolizing system with estrogen receptors from immature rat uteri as a detection system.

Gray et al. (Ref. 3) investigated the effects of methoxychlor on the pubertal development and reproductive function in the male and female rat (Long-Evans hooded) by dosing rats from gestation, weaning, lactation, through puberty with either 25, 50, 100, or 200 milligrams/kilograms/day (mg/kg/day) of methoxychlor. In females they found an acceleration of vaginal opening, abnormal estrus cycle, inhibition of luteal function and a blockage of implantation. In males they found an inhibition of somatic growth and accessory gland weight, elevated pituitary and serum prolactin levels, and a suppression of testicular Leydig cell function. Some of these effects occurred at levels as low as 25 mg/kg/day. These observations are consistent with the earlier reports that methoxychlor mimics estrogen both *in vivo* and *in vitro*.

Goldman et al. (Ref. 2) investigated the subchronic effects of methoxychlor on the rat (Long-Evans hooded) reproductive system by dosing for 8 weeks with 25 mg/kg or 50 mg/kg of methoxychlor by oral gavage. No effect was observed on the pituitary weight, serum lutenizing hormone (LH), follicle stimulating hormone (FSH), or prolactin levels and the pituitary LH of FSH concentrations. Pituitary prolactin levels were increased at both levels. There was an increase in gonadotropin-releasing hormone (GnRH) levels in the mediobasal hypothalamus at the high-

dose level. The authors determined that the reproductive effects of methoxychlor are mediated in part by an increase in prolactin release which in turn influences the hypothalamic levels of GnRH. This may be considered an early effect of methoxychlor on the rat reproductive system.

Cummings and Gray (Ref. 1) of the U.S. EPA Health Effects Research Laboratory found that methoxychlor affects the decidual cell response of the rat uterus, suggesting a direct effect of the compound on the uterus with no effects on uterine weight, serum progesterone levels, or corpora lutea maintenance. Long-term exposure to methoxychlor reduced fertility and induced fetotoxicity. The effects of reduced fertility and fetotoxicity were noted in a 3-generation reproduction study. Although the available data for these three studies were limited, it is apparent that methoxychlor at 1,000 parts per million (ppm) produced reproductive effects in the form of reduced fertility index, reduced litter size, and reduced viability index.

Khera et al. (Ref. 4) on the teratogenicity of methoxychlor found that treatment of pregnant rats with either technical grade or formulation of methoxychlor produced maternal toxicity in the form of reduced body weight gain at all doses tested (50 to 300 mg/kg/day). Developmental toxicity was noted as fetotoxicity at doses of 200 and 400 mg/kg/day and as a dose-related increase of wavy ribs at 100, 200, and 400 mg/kg/day.

Methoxychlor is a member of the organochlorine class of pesticides. Other members of this class include DDT, chlorobenzilate, dicofol, and ethylan. Less closely related members of the class include lindane, dieldrin, endrin, chlordane, heptachlor, aldrin, endosulfan, depon, and toxaphene (Ref. 6). Methoxychlor was developed as a replacement for DDT and is a structural analog of DDT. Methoxychlor has also been identified as a persistent bioaccumulative toxic substance. Since there are data gaps for all of the major studies, there is no way to assess the safety of the existing tolerances to either the adult populations and especially to infants and children. Existing data concerning methoxychlor suggest significant hazards resulting from

exposure to the pesticide, such that the Agency cannot (in the absence of exculpatory data) determine that there is a reasonable certainty of no harm (see Unit II.B., below).

On February 19, 2002, the Agency received a letter from Kincaid indicating that the company intends to formally request the cancellation of all crop uses for methoxychlor; however, the company intends to support the use of methoxychlor on livestock.

#### *B. 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 FIFRA (7 U.S.C. *et seq.*). Food-use pesticides not registered in the United States have tolerances for residues of pesticides in or on commodities imported into the United States.

FFDCA section 408(b)(2)(A) provides that the Administrator may establish or leave in effect a tolerance for a pesticide chemical residue in or on a food only if the Administrator determines that the tolerance is safe. The section further provides that the term "safe," with respect to a tolerance for a pesticide chemical residue, means that the Administrator has determined that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary

exposures and all other exposures for which there is reliable information. For the reasons stated in Unit II.A., above, existing data concerning methoxychlor suggest significant hazards resulting from exposure to the pesticide, such that the Agency cannot (in the absence of exculpatory data) determine that there is a reasonable certainty of no harm. In addition, EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. The same principles apply to uses that have been suspended but not canceled. 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 or suspended 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.

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 an assessment 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 the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, 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 needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops

uses for which FIFRA registrations no longer exist or have been suspended, 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 be aware that additional data may be needed to support retention. 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 that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

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

EPA is proposing that the tolerances for methoxychlor be revoked upon publication of the final rule. EPA believes that all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have already been exhausted since such products have been suspended since June 26, 2000. Similarly, the Agency believes that commodities legally treated with methoxychlor have by this time cleared the channels of trade. Consequently, these tolerances are no longer needed. If you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration (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 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 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 March 8, 2002, EPA has reassessed over 3,910 tolerances. This document proposes to revoke 79 tolerances which would be counted as reassessments in a final rule toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996. For reassessment counting purposes, sweet potatoes and yams are counted as one tolerance and "with or without tops" is counted as two tolerances each for beets, radishes, rutabagas, and turnips.

### **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. 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/fedrgrstr/>.

#### IV. References

1. Cummings, A.M. and L.E. Gray. 1987. Methoxychlor affects the decidual cell response of the uterus but not other progestational parameters in female rats. *Toxicol. Appl. Pharmacol.* 90(2): 330–336.
2. Goldman, J.M., R.L. Cooper, G.L. Rehnberg, J.F. Hein, W.K. McElroy, and L.E. Gray Jr. 1986. Effects of low subchronic doses of methoxychlor on the rat hypothalamic-pituitary reproductive axis. *Toxicol. Appl. Pharmacol.* 86(3): 474–483.
3. Gray, L.E. Jr., J. Ostby, J. Ferrell et al. 1989. A dose-response analysis of methoxychlor-induced alterations of reproductive development and function in the rat. *Fund. Appl. Toxicol.* 12(1): 92–108.
4. Khera, K.S., C. Whalen, and G. Trivett. 1978. Teratogenicity studies on linuron, malathion, and methoxychlor in rats. *Toxicol. Appl. Pharmacol.* 45(2): 435–444.
5. Kupfer, D. and W.H. Bulger. 1987. Metabolic activation of pesticides with proestrogenic activity. *Fed. Proc.* 46(5): 1864–1869.
6. Ware, G.W. 1982. *Fundamentals of Pesticides*, Thompson Publications.

#### V. Regulatory Assessment Requirements

In this proposed rule, EPA 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 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 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 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 canceled pesticides. Furthermore, for the pesticides named in this proposed rule, 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 proposed 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: March 27, 2002.

**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.

#### § 180.120 [Removed]

2. Section 180.120 is removed.

[FR Doc. 02–8155 Filed 4–3–02; 8:45 am]

BILLING CODE 6560–50–S