Dated: December 22, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart II—[Amended]

■ 2. Section 63.781 is amended by redesignating paragraphs (b), (c) and (d) as (c), (d) and (e) respectively and adding a new paragraph (b).

§ 63.781 Applicability.

* * * * *

(b) The provisions of this subpart do not apply to coating activities subject to emission limitations or work practices under 40 CFR part 63 subpart VVVV.

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■ 3. Section 63.782 is amended by adding a definition for ''Commercial'', removing the definition of ''Pleasure craft'', and revising the definition of ''Ship'':

§ 63.782 Definitions.

* * * * *

Commercial means any enterprise or activity that receives compensation for products and/or services rendered.

* * * * *

Ship means all marine or fresh-water vessels that are either 20 meters or more in length regardless of the purpose for which the vessel is constructed or used, or that are less than 20 meters in length and are designed and built specifically for military or commercial purposes. This definition includes, but is not limited to, all military and Coast Guard vessels, commercial cargo and passenger (cruise) ships, ferries, tankers, container ships, patrol and pilot boats, yachts, and dredges. For purposes of this subpart, offshore oil and gas drilling platforms are not ships.

* * * * *

■ 4. Section 63.784(a) is revised to read as follows:

§ 63.784 Compliance dates.

(a) Each owner or operator of an existing affected source shall comply within two years after the effective date of this subpart, except that the owner or operator of an existing affected source that conducts shipbuilding and ship repair operations that first became subject to this NESHAP on [date of publication of this direct final rule and FR cite], shall comply with the requirements of this subpart, as they apply to those operations, by December 31, 2007.

* * * * *

[FR Doc. E6–22426 Filed 12–28–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0769; FRL–8093–6]

Zeta–Cypermethrin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide zeta–cypermethrin, in or on almond, hulls; animal feed, nongrass, group 18, forage; animal feed, nongrass, group 18, hay; berry, group 13; cilantro, leaves; food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments; fruit, pome, group 11; fruit, stone, group 12; grape; grass, forage, group 17; grass, hay, group 17; nut, tree, group 14; peanut; rapeseed; sunflower; sunflower, refined oil; turnip, greens; vegetable, cucurbit, group 9; and vegetable, root and tuber, group 1, except sugar beet. FMC Corporation and Interregional Research Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective December 29, 2006. Objections and requests for hearings must be received on or before February 27, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0769. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov* or, if only available in hard copy, at the OPP Regulatory Public Docket in Room S–4400, One Potomac Yard (South Building), 2777 South Crystal Drive, Arlington, VA 22202–3553. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Linda DeLuise, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; telephone number: (703) 305–5428; e–mail address: *deluise.linda@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers andfarmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document

electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e–CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0769 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 27, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0769, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Room S-4400, One Potomac Yard (South Building), 2777 South Crystal Drive, Arlington, VA 22202-3553. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of November 8, 2000 (65 FR 67003) (FRL–6750–2); August 2, 2002 (67 FR 50430) (FRL–7185–9); July 16, 2003 (68 FR 42030) (FRL–7314–7); March 16, 2005 (70 FR 12874) (FRL–7705–2); May 10, 2006 (71 FR 27243) (FRL–8067–8); and August 25, 2006 (71 FR 50414) (FRL–8088–9), EPA issued notices pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 1F3994; PP 2F6444; PP 3E6677; PP 3F6577; PP 4F6893; and PP 5F6896) by FMC Corporation, 1735 Market Street, Philadelphia, PA 19103-7597 and Interregional Research Project Number 4 (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902-3390. These petitions requested that 40 CFR 180.418 be amended by establishing a tolerance for residues of the insecticide zeta-cypermethrin, (S)-cyano(3-phenoxyphenyl)methyl (±)-cis-trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate), in or on barley, grain at 0.5 parts per million (ppm) (5F6896); barley, hay at 2 ppm (5F6896); barley, straw at 4 ppm (5F6896); berries group at 0.5 ppm (5F6896); canola, meal at 0.05 ppm (5F6896); canola, oil at 0.6 ppm (5F6896); canola, seed at 0.05 ppm (5F6896); cilantro at 10 ppm (3E6677); cucurbit vegetables at 0.1 ppm (2F6444); food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments at 0.05 ppm (4F6893); fruit, pome, group 11 at 0.6 ppm (3F6577); fruit, stone, group 12 at 0.9 ppm (3F6577); grapes at 1 ppm (5F6896); grass, forage at 7 ppm (5F6896); grass, hay at 22 ppm (5F6896); grass, straw at 8 ppm (5F6896); grass, screenings at 12 ppm (5F6896); juice, grape at 0.05 ppm (5F6896); nongrass animal feed, forage at 10 ppm (5F6896); nongrass animal feed, hay at 33 ppm (5F6896); peanuts at 0.05 ppm (2F6444); raisins at 0.2 ppm (5F6896); root and tuber vegetables, roots at 0.1 ppm (2F6444); sunflower at 0.2 ppm (1F3994); sunflower oil at 0.2 ppm (1F3994); tree nut group, nutmeat at 0.05 ppm (5F6896); tree nut group, hulls at 3 ppm (5F6896); and turnip greens at 14 ppm (3E6677). These notices included a summary of the petition prepared by FMC Corporation, the registrant, and IR-4. There were no comments received in response to these notices of filing.

The proposed tolerances were later amended as follows: almond, hulls at 6 ppm (5F6896); animal feed, nongrass, group 18, forage at 8 ppm (5F6896); animal feed, nongrass, group 18, hay at 40 ppm (5F6896); berry, group 13 at 0.8 ppm (5F6896); cilantro, leaves at 10 ppm (3E6677); food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments at 0.05 ppm (4F6893); fruit, pome, group 11 at 2 ppm (3F6577); fruit, stone, group 12 at 1 ppm (3F6577); grape at 2 ppm (5F6896); grass, forage, group 17 at 10 ppm (5F6896); grass, hay, group 17 at 35 ppm (5F6896); nut, tree, group 14 at 0.05 ppm (5F6896); peanut at 0.05 ppm (2F6444); rapeseed at 0.2 ppm (5F6896); sunflower at 0.2 ppm (1F3994); sunflower, refined oil at 0.5 ppm (1F3994); turnip, greens at 14 ppm (3E6677); vegetable, cucurbit, group 9 at 0.2 ppm (2F6444); and vegetable, root and tuber, group 1, except sugar beet at 0.1 ppm (2F6444).

For various reasons, EPA has decided not to establish several of the proposed tolerances. The proposed tolerances for canola meal, canola oil, grape juice and raisins oil are not being established because grape and canola processing studies indicate that residues in these processed commodities do not concentrate above the tolerance level in raw commodity. The proposed tolerances in barley grain, hay and straw are not being established because there was an inadequate number of residue field trials submitted in support of these tolerances. The proposed tolerances for grass screenings and grass straw are not being established because these commodities are not significant livestock feed items.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://*

www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of zeta-cypermethrin, in or on almond, hulls at 6 ppm; animal feed, nongrass, group 18, forage at 8 ppm; animal feed, nongrass, group 18, hay at 40 ppm; berry, group 13 at 0.8 ppm; cilantro, leaves at 10 ppm; food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments at 0.05 ppm; fruit, pome, group 11 at 2 ppm; fruit, stone, group 12 at 1 ppm; grape at 2 ppm; grass, forage, group 17 at 10 ppm; grass, hay, group 17 at 35 ppm; nut, tree, group 14 at 0.05 ppm; peanut at 0.05 ppm; rapeseed at 0.2 ppm; sunflower at 0.2 ppm; sunflower, refined oil at 0.5 ppm; turnip, greens at 14 ppm; vegetable, cucurbit, group 9 at 0.2 ppm; and vegetable, root and tuber, group 1, except sugar beet at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The toxicology database for zeta-cypermethrin/cypermethrin is complete, and there are no data gaps. The specific quality is relatively high and the toxicity profile of zeta-cypermethrin can be characterized for all effects, including potential developmental, reproductive, neurotoxic, carcinogenic and mutagenic effects.

More detailed information on the studies received and the nature of the toxic effects caused by zeta-cypermethrin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the document entitled, zeta-cypermethrin: Revised Human Health Risk Assessment for Proposed Uses on Numerous Raw Agricultural Commodities. Petitions: 3F6577, 3E6677, 2F6444, 4F6893 and 5F6896 for the Establishment of Tolerances on Various Raw Agricultural, Processed Commodities and Food Items in Food Handling Establishments. PC Code: 109702, D334263. Regulatory Action: Section 3. Risk Assessment Type: Zeta-Cypermethrin/Cypermethrin Aggregate,'' dated November 29, 2006, by going to *http://www.regulations.gov*, and searching for docket ID number EPA–HQ–OPP–2006–0769. Locate and click on the hyperlink for EPA document ID number EPA–HQ–OPP–2006–0769–0031. Double-click on the document to view the referenced information on pages 16-20.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk and estimates risk in terms of the probability of occurrence of additional cancer cases. More information can be found on the general principles EPA uses in risk characterization at *http://www.epa.gov/pesticides/health/human.htm.*

A summary of the toxicological endpoints for zeta-cypermethrin used for human risk assessment is shown below in Table 1 of this unit:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR USE IN HUMAN RISK ASSESSMENT

Exposure/Scenario	Dose Used in Risk Assessment, UF*	FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (U.S. general population including infants and children)	NOAEL = 10 mg/kg/day UF = 100x Acute RfD = 0.1 mg/kg/day	FQPA SF = 1x aPAD = acute RfD ÷ FQPA SF = 0.1 mg/kg/day	Acute neurotoxicity study - rat (zeta-cypermethrin); LOAEL = 50 mg/kg/day based on clinical signs of neurotoxicity and changes in the FOB.
Chronic Dietary (All populations)	NOAEL = 6 mg/kg/day UF = 100x Chronic RfD = 0.06 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD ÷ FQPA SF = 0.06 mg/kg/day	Chronic feeding study - dog; LOAEL = 20.4/18.1 mg/kg/day based on clinical signs of neurotoxicity and mortality in males, and decreased body weight and body weight gain in females.
Short- and Intermediate-Term Incidental Oral (1 day to 6 months)	NOAEL = 7.4 mg/kg/day	Residential LOC for MOE = 100 Occupational LOC for MOE = N/A	Developmental neurotoxicity study - rat (zeta-cypermethrin); LOAEL = 17 mg/kg/day based on decreased body weight in the offspring.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure/Scenario	Dose Used in Risk Assessment, UF*	FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Short- and Intermediate-Term Dermal (Infants and Children Only; 1 day to 6 months)	NOAEL = 7.4 mg/kg/day (dermal absorption rate = 2.5%)	Residential LOC for MOE = 100	Developmental neurotoxicity study - rat (zeta-cypermethrin); LOAEL = 17 mg/kg/day based on decreased body weight in the offspring.
Short- and Intermediate-Term Dermal (Adults, Workers; 1 day to 6 months)	None.	Occupational LOC for MOE = N/A	No systemic effects were observed in a 21-day dermal study (zeta-cypermethrin) up to 1,000 mg/kg/day and there is no developmental concern. No hazard identified to support quantification of risk.
Long-Term Dermal (≤6 months)	NOAEL = 6 mg/kg/day (dermal absorption rate = 2.5%)	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	Chronic feeding study - dog; LOAEL = 20.4/18.1 mg/kg/day based on clinical signs of neurotoxicity and mortality in males, and decreased body weight and body weight gain in females.
Short- and Intermediate-Term Inhalation (1 to 6 months)	NOAEL = 2.7 mg/kg/day (inhalation absorption rate = 100% oral equivalent)	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	21-day inhalation study - rat; LOAEL = 0.05 mg/kg/day based on decreases in body weight and salivation.
Long-Term Inhalation (≤6 months)	NOAEL = 2.7 mg/kg/day (inhalation absorption rate = 100% oral equivalent)	Residential LOC for MOE = 300 Occupational LOC for MOE = 300 (For the lack of an alternative study. Route-to-route estimation would result in a less protective endpoint.)	21-day inhalation study - rat; LOAEL = 0.05 mg/kg/day based on decreases in body weight and salivation.
Cancer (oral, dermal, inhalation)	Zeta-Cypermethrin has been classified as a Category C (possible human carcinogen); therefore, no quantification is required. The chronic RfD/PAD will adequately account for all chronic toxicity effects, including carcinogenicity, likely to result from exposure to this pesticide.		

*UF = uncertainty factor; FQPA SF = any additional safety factor retained to account for data deficiencies or residual concerns unique to the FQPA; NOAEL = no observed adverse effect level; LOAEL = lowest observed adverse effect level; PAD = population adjusted dose (a = acute, c = chronic); RfD = reference dose; MOE = margin of exposure; LOC = level of concern; and N/A = not applicable.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. Tolerances have been established (40 CFR 180.418) for the residues of zeta-cypermethrin, (S)-cyano(3-phenoxyphenyl)methyl (±)-cis-trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate), in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from zeta-cypermethrin in food. Modeled drinking water estimates were included in both the acute and chronic dietary exposure analyses as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one-day or single exposure.

The Agency conducted an unrefined acute dietary exposure assessment using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™, Version 2.03). This analysis evaluated the individual food consumption as reported by respondents in the USDA 1994-1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The acute analysis is based on Tier 1 assumptions of tolerance-level residues for existing uses and Agency-recommended tolerance levels for the numerous proposed new uses and 100% crop treated (CT) for all commodities.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment, the DEEM-FCID™ analysis evaluated the individual food consumption data as reported by respondents in the USDA 1994-1996 and 1998 nationwide CSFII and accumulated exposure to the chemical for each commodity.Anticipated residues (averages for crop field trials) were calculated for the numerous proposed new uses from field trial data. 100% CT was assumed for all proposed new uses except for non-grass animal feed; and grass fodder, forage and hay. For existing uses, anticipated residues are based on USDA PDP monitoring data, crop field trial data and empirical processing factors and may be considered refined.

iii. *Cancer*. Zeta-cypermethrin was classified as a group ''C'' (possible human carcinogen), based on an increased incidence of lung adenonas and adenomas plus carcinomas combined in female mice. The evidence was not considered strong enough to warrant a quantitative estimation of human cancer risk. Risk assessments based on endpoint selected for the chronic population adjusted dose (cPAD) will be protective of any potential carcinogenic risk from exposure to zeta-cypermethrin for the U.S. general population and all population subgroups, including infants and children. Additionally, EPA relied

on the chronic exposure assessment in assessing cancer risk.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must, pursuant to section 408(f)(1), require that data be provided 5 years after the tolerance is established, modified or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. For the present action, EPA will issue such data call-ins for information relating to anticipated residues as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Such data call-ins will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of the FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

For cypermethrin: broccoli, 6%; bulb crops, 16%; cabbage, 3%; cauliflower, 13%; celery, 1%; cole crops, 3%; collards, 9%; cotton, 5%; garlic, 13%; greens, mustard, 8%; greens, turnips, 4%; kale, 13%; lettuce, 26%; onions, 15%; pecans, 5%; and spinach, 2%.

For zeta-cypermethrin: bulb crops, 4%; cabbage, 1%; carrots, 1%; cole crops, 1%; corn, field, <1%; cotton, 4%; lettuce, 17%; onions, 13%; peanuts, <1%; pecans, 9%; sorghum, <1%; soybeans, <1%; sweet corn, <1%; and wheat, winter, <1%.

The Agency believes that the three conditions, listed in Unit III.C.1.iv., have been met with regard to the PCT estimates. With respect to Condition 1, PCT estimates for existing uses are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. EPA estimates projected percent crop treated (PPCT) for a new pesticide use by assuming that the PCT during the pesticide's initial 5 years of use on a specific use site will not exceed the average PCT of the market leader (i.e., the one with the greatest PCT) on that site over the three most recent surveys. Comparisons are only made among pesticides of the same pesticide types (i.e., the dominant insecticide on the use site is selected for comparison with the new insecticide). The PCTs included in the average may be each for the same pesticide or for different pesticides since the same or different pesticides may dominate for each year selected. Typically, EPA uses data from the U.S. Department of Agriculture/National Agricultural Statistics Service (USDA/NASS) as the source for the PCT data because they are publicly available. When a specific use site is not surveyed by USDA/NASS, EPA uses proprietary data and calculates the estimated PCT.

The estimated PPCT, based on the average PCT of the market leader, is appropriate for use in the chronic dietary risk assessment. This method of estimating a PPCT for a new use of a registered pesticide or a new pesticide produces a high-end estimate that is unlikely, in most cases, to be exceeded during the initial 5 years of actual use. Predominant factors that bear on whether the estimated PPCT could be exceeded include pest pressure concerns, relative efficacies, pest prevalence and other factors. Although PPCT data (estimates) for crop group 18: nongrass animal feeds (forage and hay) and crop group 17: grass forage, fodder and hay are limited, estimates are provided (PPCT) for alfalfa hay, other hay and pasture/rangeland. The estimate for pasture/rangeland may understate the PPCT for grasses since the rangeland component probably receives less treatment than the pasture component (the latter which contains more grass than does rangeland). It is unlikely that actual PCT for zeta-cypermethrin will exceed the estimated PPCT for this chemical on each of these 3 crops during the next 5 years.

As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which zeta-cypermethrin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for zeta-cypermethrin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of zeta-cypermethrin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the PRZM/EXAMS (surface water) and SCI-GROW (ground water) models, the estimated environmental concentrations (EECs) of zeta-cypermethrin for acute exposures are estimated to be 1.04 parts per billion (ppb) for surface water and 0.0036 ppb for ground water. The EECs for chronic exposures are estimated to be 0.013 ppb for surface water and 0.0036 ppb for ground water.

The estimated drinking water concentrations (EDWCs) for zeta-cypermethrin were calculated based on 6 aerial applications of cypermethrin at a maximum application rate of 0.10 lbs. a.i./acre/season to Brassica leafy vegetables with a 7–day re-treatment interval (RTI). Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model (DEEM-FCID™, Version 2.03). For acute dietary risk assessment, the peak water concentration value of 1.04 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the annual average concentration of 0.013 ppb was used to assess the contribution to drinking water.

The ground water screening concentration is 0.0036 ppb. These values generally represent upper-bound estimates of the concentrations that might be found in surface water and ground water due to the use of cypermethrin on Brassica leafy vegetables, which has the highest application rate among both cypermethrin and zeta-cypermethrin on all crops over which the chemicals are applied.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides and/or flea and tick control on pets).

For zeta-cypermethrin/cypermethrin, there is a potential for exposure in residential settings during application by homeowners who use products containing zeta-cypermethrin/cypermethrin. There is a potential for exposure in residential settings from entering areas treated with zeta-cypermethrin/cypermethrin, such as residential lawns, indoor surfaces and spaces, outdoor surfaces, and animal premises that could lead to non-occupational exposure to adults and children. As a result, risk assessments have been completed for residential handler scenarios and for post-application scenarios.

Short- and intermediate-term dermal exposure risk assessments were not conducted for adults, due to the lack of an appropriate toxicity endpoint of concern for this population subgroup. Short- and intermediate-term dermal exposure risk assessments were not conducted for infants and children because no potential exposure to infants and children is anticipated under the residential handler scenarios.

A long-term dermal exposure assessment was not conducted, since there is no potential for long-term exposures via the proposed uses of zeta-cypermethrin. There is potential for short- and intermediate-term inhalation exposure in residential handler settings during the application process for adult homeowners who use products containing zeta-cypermethrin.

Short- and intermediate-term inhalation exposure assessments were not conducted for infants and children because no potential exposure to infants and children is anticipated under the residential handler scenarios. A long-term inhalation exposure assessment was not conducted, since there are no potential long-term exposures via the proposed uses of zeta-cypermethrin.

These residential risk assessments assumed the maximum application rates allowed by product labels and that residents would wear shorts and short-sleeved shirts with no gloves when applying zeta-cypermethrin. It was also assumed that the size of a lawn or garden treated by a homeowner is 0.5 acres.There is also a potential for exposure in residential settings from entering areas treated with zeta-cypermethrin, such as residential lawns, indoor surfaces and spaces and outdoor surfaces that could lead to non-occupational exposures to adults and children.

The post-application risk assessment included high-end assumptions for factors such as exposure duration and skin surface area. The 0.15 lb. a.i./acre application rate for turf was used in the model to estimate post-application residential exposure of toddlers. Since this rate is equal to or higher than many of the agricultural application rates, this scenario is protective of any exposure of farm children via spray drift from agricultural zeta-cypermethrin/cypermethrin applications. Such use of the Agency's Standard Operating Procedures for Residential Assessment results in reasonable worst case estimates of risks.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Cypermethrin is a member of the pyrethroid class of pesticides. Although all pyrethroids alter nerve function by modifying the normal biochemistry and physiology of nerve membrane sodium channels, EPA is not currently following a cumulative risk approach based on a common mechanism of toxicity for the pyrethroids. Although all pyrethroids interact with sodium channels, there are multiple types of sodium channels and it is currently unknown whether the pyrethroids have similar effects on all channels.

EPA does not have a clear understanding at this time of effects on key downstream neuronal function (e.g., nerve excitability). Further, EPA has not determined how these key events interact to produce their compound-specific patterns of neurotoxicity. There is ongoing research by the Agency's Office of Research and Development and pyrethroid registrants to evaluate the differential biochemical and physiological actions of pyrethroids in mammals. This research is expected to be completed by 2007. When available, the Agency will consider this research and make a determination of common mechanism as a basis for assessing cumulative risk. Information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism can be found on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional ten-fold margin of safety for infants and children in the case of threshold effects to account for pre- and/or post-natal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10x when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Pre-natal and post-natal sensitivity*. In the last tolerance rulemaking for zeta-cypermethrin, February 12, 2002 (67 FR 6422), EPA removed the FQPA 10x safety factor based on its conclusion that the data showed no concern for increased sensitivity due to pre- and/or post-natal exposure and that the lack of a required developmental neurotoxicity (DNT) study in the rat did not raise residual concerns regarding the safety of children, because the DNT study had not been required based on special concern for the developing fetuses or young. After release of its revised policy statement on the FQPA children's safety factor, EPA revisited its FQPA safety factor decision and determined that, given the lack of certainty regarding the results of the then absent DNT study, it was necessary to retain the full 10x FQPA safety factor as a database uncertainty factor. In 2005, that additional safety factor was incorporated into the preliminary risk assessment for cypermethrin and zeta-cypermethrin in connection with the reregistration and tolerance reassessment decision for these pesticides.With the subsequent receipt and evaluation of the DNT study for

zeta-cypermethrin (2005, MRID 46670402), the toxicology database for FQPA assessment is now complete.

In the acute and subchronic neurotoxicity studies, clinical signs of neurotoxicity typical of pyrethroids were observed (i.e., gait abnormalities, decreased motor activity, notable changes in the functional observational battery (FOB) and tremors); however, no neuropathology was observed. In the other guideline studies, tremors and gait abnormalities were observed in both dogs and rats following oral exposure, and similar clinical signs were seen in the rat inhalation study. There is no evidence of increased susceptibility of fetuses following *in utero* exposure in the developmental toxicity studies in rats or rabbits or in the offspring following pre- and/or post-natal exposure in the 2-generation rat reproduction study.

In the DNT study, there was limited evidence of increased susceptibility of the offspring. No toxicity was observed in the maternal animals at the highest dose tested, while decreased body weight, decreased subsession motor activity and changes in brain morphometry were seen in the offspring at this same dose. An in-depth analysis of the effects seen in the pups revealed that these effects were of low concern because: Body weight decreases were seen only during late lactation (post-natal days 13-21) when the pups are potentially exposed to higher levels of the chemical via both milk and feed; the decreases in motor activity are not considered biologically significant since they were seen only in the subsession data (not in total or ambulatory counts), only in one sex (females), only on post-natal day 21 (not in measurements taken at three other time periods) and the differences did not reach statistical significance; and the sole brain morphometric change (statistically significant increase in the mean vertical thickness of the cortex) was determined to occur in isolation, only in female pups on day 21, and was not considered biologically significant because when the values of individual treated animals were compared with individual control animals, the incidence and magnitude of the change suggested a low concern.No statistically or biologically significant changes were seen in any other brain areas in male or female pups at any time period. Thus, the only biologically significant effect observed in the DNT study was the change in offspring body weights.

Based on these factors, the limited susceptibility seen in the DNT was determined to be of low concern. Therefore, there are no residual uncertainties for pre- and/or postnatal toxicity. There are no residual uncertainties identified in the exposure databases. The chronic and cancer dietary food exposure assessments utilize anticipated residues calculated from field trial data and PCT data for all commodities. Although refined, the assessments are based on reliable data and will not underestimate exposure/risk. The drinking water exposure is based on conservative modeling estimates. The residential exposure assessment utilizes residential SOPs for the adult handler and post-application scenarios and to assess post-application exposure to children, as well as incidental oral ingestion by toddlers. The residential SOPs are based on reasonable worst-case assumptions and will not likely underestimate exposure/risk. These assessments are unlikely to underestimate the potential exposure to infants and children resulting from the use of zeta-cypermethrin/cypermethrin.

3. *Conclusion*. Based on the data discussed above, the FQPA safety factor can be removed (i.e., reduced to 1x) due to the completeness of the toxicology database, the lack of residual concerns regarding pre- and/or post-natal toxicity and the reliance on exposure data unlikely to underestimate exposure to the pesticide. Thus, a FQPA safety factor of 1x is appropriate for zeta-cypermethrin.

E. Aggregate Risks and Determination of Safety

The Agency currently has two ways to estimate total aggregate exposure to a pesticide from food, drinking water and residential uses. First, a screening assessment can be used, in which the Agency calculates drinking water levels of comparison (DWLOCs) which are used as a point of comparison against EDWCs. The DWLOC values are not regulatory standards for drinking water, but are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. More information on the use of DWLOCs in dietary risk assessments can be found at *http://www.epa.gov/oppfead1/trac/science/screeningsop.pdf.*

More recently, the Agency has used another approach to estimate aggregate exposure through food, drinking water and residential pathways. In this approach, modeled surface and ground water EDWCs are directly incorporated into the dietary exposure analysis, along with food. This provides a more realistic estimate of exposure because actually body weights and water consumption from the CSFII are used. The combined food and water exposures are then added to estimated exposure from residential uses to calculate aggregate risks. The resulting exposure and risk estimates are still considered to be high end, due to the assumptions used in developing drinking water modeling inputs.

1. *Acute risk*. Using the exposure assumptions discussed in Unit III.C.1.i., the acute dietary exposure from food and drinking water to zeta-cypermethrin will occupy 30% of the aPAD for the U.S. general population and 54% of the aPAD for children (1-2 years old), the most highly exposed population subgroup.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to zeta-cypermethrin from food and drinking water will utilize 1% of the cPAD for the U.S. general population and 3% of the cPAD for children (1-2 years old), the most highly exposed population subgroup.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus average (chronic) exposure levels to food and water (considered to be a background exposure level).Zeta-cypermethrin is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for zeta-cypermethrin. Short-term risks were estimated for toddlers' incidental oral exposures outdoors on turf and indoors on treated surfaces. The latter were based on uses of cypermethrin, due to its higher application rate compared to zeta-cypermethrin. Short-term risks for adult dermal exposure were not evaluated because no short-term dermal endpoint applicable to the adult population was identified.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, water and residential exposures aggregated result in aggregate MOEs of 8,600 for the U.S. general population; 8,500 for all infants (<1 year old); and 780 for children (1-2 years old), the population subgroup at greatest exposure. These aggregated MOEs do not exceed the Agency's LOC for aggregate exposure to food, water and residential uses.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Intermediate-term exposure is not expected from residential uses of zeta-cypermethrin.

5. *Aggregate cancer risk for U.S. population*. The Agency considers the chronic aggregate risk assessment, making use of the cPAD, to be protective of any aggregate cancer risk. See Unit III.E.2. for more detail.

6. *Determination of safety*. Based on these risk assessments, estimates of acute aggregate, chronic aggregate and short-term aggregate (food, water and residential uses) risk do not exceed EPA's level of concern. As a result, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. general population and all population subgroups, including infants and children from aggregate exposure to zeta-cypermethrin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement analytical methodology for cypermethrin and; therefore, zeta-cypermethrin residues is available in PAM Volume II. PAM Volume II lists Methods I and II for the determination of residues of cypermethrin *per se* in/on plant and livestock commodities, respectively. Both are gas chromatography (GC) methods with electron capture detection and have undergone successful Agency method tryout. Method I has a detection limit of 0.01 ppm and Method II has detection limits of 0.005 ppm for milk and 0.01 ppm for livestock tissues.These methods are not stereo specific; thus no distinction is made between residues of cypermethrin (all 8 stereoisomers) and zeta-cypermethrin (an enriched isomer form of cypermethrin). Agency reviews of recent zeta-cypermethrin petitions (PP 8F4970, PP 4F3012, PP 9F6040, PP 9F6037 and PP 0F6207) required the petitioner to submit a revised section F to add the phrase ''and its inactive R-isomers'' after the chemical name zeta-cypermethrin in the tolerance expression, since the PAM Volume II method is not stereospecific.

B. International Residue Limits

No specific CODEX, Canadian or Mexican maximum residue limits (MRLs) or tolerances have been established for zeta-cypermethrin. There are CODEX MRLs for cypermethrin residues in/on various plant and livestock commodities and the CODEX and U.S. tolerances are in harmony with respect to MRL/tolerance expression in that both regulate the parent compound, cypermethrin, since enforcement methods do not distinguish between cypermethrin and zeta-cypermethrin. During review of residue data associated with the current pesticide petitions (zeta-cypermethrin), attempts were made to harmonize residue levels whenever possible.

V. Conclusion

Therefore, the tolerance is established for residues of zeta-cypermethrin, (S)-cyano(3-phenoxyphenyl)methyl (±)-cis-trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate), in or on almond, hulls at 6 ppm; animal feed, nongrass, group 18, forage at 8 ppm; animal feed, nongrass, group 18, hay at 40 ppm; berry, group 13 at 0.8 ppm; cilantro, leaves at 10 ppm; food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments at 0.05 ppm; fruit, pome, group 11 at 2 ppm; fruit, stone, group 12 at 1 ppm; grape at 2 ppm; grass, forage, group 17 at 10 ppm; grass, hay, group 17 at 35 ppm; nut, tree, group 14 at 0.05 ppm; peanut at 0.05 ppm; rapeseed at 0.2 ppm; sunflower at 0.2 ppm; sunflower, refined oil at 0.5 ppm; turnip, greens at 14 ppm; vegetable, cucurbit, group 9 at 0.2 ppm; and vegetable, root and tuber, group 1, except sugar beet at 0.1 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule 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, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations 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 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). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175 requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This

rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: December 21, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.418 is amended by alphabetically adding commodities to the table in paragraph (a)(2) to read as follows:

§ 180.418 Cypermethrin and an isomer zeta-cypermethrin; tolerances for residues.

(a)* * *

(2) * * *

Commodity	Parts per million
* * * * *	
Almond, hulls	6
Animal feed, nongrass, group 18, forage	8
Animal feed, nongrass, group 18, hay	40
* * * * *	
Berry, group 13	0.8
* * * * *	
Cilantro, leaves	10
* * * * *	
Food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments	0.05
Fruit, pome, group 11	2
Fruit, stone, group 12	1
* * * * *	
Grape	2
Grass, forage, group 17	10
Grass, hay, group 17	35
* * * * *	
Nut, tree, group 14	0.05
* * * * *	
Peanut	0.05
* * * * *	
Rapeseed	0.2
* * * * *	
Sunflower	0.2
Sunflower, refined oil	0.5
* * * * *	
Turnip, greens	14
* * * * *	
Vegetable, cucurbit, group 9	0.2
* * * * *	
Vegetable, root and tuber, group 1, except sugar beet	0.1
* * * * *	

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BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075–1217–02; I.D. 121806C]

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category

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

ACTION: Temporary rule; tilefish Part-time permit category closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the Part-time permit category for the 2007 fishing year has been harvested. Commercial vessels fishing under the Part-time tilefish category may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2007 fishing year (through October 31, 2007). Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, December 29, 2006, through 2400 hrs local time, October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Brian R. Hooker, Fishery Policy Analyst, at (978) 281–9220.

SUPPLEMENTARY INFORMATION: Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the Golden Tilefish Management Unit. The Golden Tilefish Management Unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36′ N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the U.S.-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access Incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories: Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2007 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2007 fishing year. Thus, the Part-time permit category quota for the 2007 fishing year, which is equal to 19 percent of the TAL, was specified at 360,098 lb (163,338 kg). However, due to an over-harvest in the 2006 fishing year, the quota for the Part-time permit category was adjusted downward by 92,935 lb (42,155 kg) to 267,163 lb (121,183 kg). Notification of the 2007 Part-time permit category quota for the 2007 fishing year was published in the **Federal Register** on October 31, 2006 (71 FR 63703).

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective